

CANDIDATE : MR RICHARD JOHN LAWRENCE

APPLICANT: RICHARD JOHN LAWRENCE

COURT FOR WHICH APPLICANT APPLIES: ELECTORAL COURT

1 The candidate's appropriate qualifications

- 1.1 The Electoral Court is established by section 18 of the Electoral Commission Act 51 of 1996.
- 1.2 In terms of section 19(1) of the Act, the Electoral Court consists of five members, all appointed by the President on the advice of the Judicial Service Commission: A judge of the Supreme Court of Appeal, two judges of the High Court and “*two other members who are South African citizens*”.
- 1.3 The candidate is applying for a position as one of the members of the Court who need not be a judge and must merely be a South African citizen.
- 1.4 The candidate is appropriately qualified for this position.
- 1.5 His academic qualifications are a BProc degree from the University of Port Elizabeth (1993) and an LLM degree (tax and company law) from the University of South Africa.
- 1.6 In addition, he was admitted as attorney in 1996 and practised as an attorney at a number of different firms from 1996 to 2014.

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1.7 From January 2015 to date, the candidate has been an acting Magistrate, in Bloemfontein.

2 Whether the candidate is a fit and proper person

2.1 There is nothing to suggest that the candidate is not a fit and proper person.

3 Whether the candidate's appointment would help to reflect the racial and gender composition of South Africa

3.1 The current composition of the Electoral Court is one Black man and two white men, with two vacancies available.

3.2 The candidate does not list his race on the application form. However, it appears from the copy of his ID document photograph provided that he is a white man. If this is so, then his appointment would not at present help to reflect either the racial or the gender composition of South Africa on that Court.

4 The candidate's knowledge of the law, including constitutional law

4.1 The candidate appears to have a good knowledge of criminal law and civil law.

4.2 The candidate states that, from 2006 to 2014, approximately 30% of his work concerned constitutional law. However, from the limited judgments and heads of argument provided, we are not able to see any particular experience or expertise in constitutional law.

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4.3 The candidate does not appear to have any prior knowledge of electoral law, save to state that he was an electoral observer in Port Elizabeth-LSSA.

5 **The candidate's commitment to the values of the Constitution**

5.1 There is nothing to suggest that the candidate is not committed to the values of the Constitution.

6 **Whether any judgments have been overturned on appeal**

6.1 The candidate has not acted as a High Court judge. He has, however, been an Acting Magistrate from 2015 to date.

6.2 It is not clear from the application whether any of the candidate's judgments have been taken on review or appeal and, if so, what the outcome may have been.

6.3 We have been unable to find any such judgments taken on review or appeal, but given the difficulty of finding Magistrates' judgments taken on review or appeal in general, this issue should perhaps be raised with the candidate during the interview.

7 **The extent and breadth of the candidate's professional experience**

7.1 The candidate was admitted as an attorney in 1996 and practised as such at a number of different firms from 1996 to 2014. In this capacity, the candidate was engaged in both criminal and civil matters.

7.2 From January 2015 to date, the candidate has been an acting Magistrate, in both the district and regional divisions in the Free

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State Province. In this capacity it appears that the candidate presided over various matters.

7.3 The candidate does not list any involvement in electoral law matters as part of his professional experience.

7.4 He records, on page 18 that he was “*Electoral Observer Port Elizabeth – LSSA*” but it is not clear when and for how long this occurred, nor precisely what it involved.

8 **The candidate’s linguistic and communication skills**

8.1 The application only includes two of the candidate’s judgments, both stemming from the same criminal trial – one dealing with conviction and the other dealing with sentence.

8.2 Though this is obviously a small sample, these judgments are well-written and easy to understand and evidence a sensitive, careful and balanced approach to the issues.

8.3 The candidate has also provided various sets of heads of argument, most of which are signed by both him and counsel. Given the multiple drafters apparently involved, it is difficult to judge the candidate’s linguistic and communication skills on the basis of those documents.

9 **The candidate’s ability to produce judgments promptly**

9.1 We have no information dealing with how promptly the candidate produces judgments.

10 The candidate's fairness and impartiality

10.1 There is nothing to suggest that the candidate is not impartial or fair.

10.2 His approach in the criminal trial in respect of which he provided two judgments appears fair and even-handed.

11 The candidate's independent mindedness

11.1 There is nothing to suggest that the candidate is not independent-minded.

12 The candidate's ability to conduct court proceedings

12.1 We have no information dealing with the candidate's ability to conduct court proceedings, save to note that, having served as an acting Magistrate for over three years, the candidate is experienced in this regard.

13 The candidate's administrative ability

13.1 We have no information dealing with the candidate's administrative ability, save to note that the candidate ran his own attorney's firm for a number of years and for five years (2011-2015) managed a school for paralegal training in Port Elizabeth.

14 The candidate's reputation for integrity and ethical behaviour

14.1 There is nothing to suggest that the candidate lacks integrity or behaves unethically.

15 The candidate's judicial temperament

15.1 We cannot comment meaningfully on the candidate's judicial temperament, save to say that his approach in the criminal trial in respect of which he provided two judgments appears fair and even-handed.

16 The candidate's commitment to human rights, and experience with regard to the values and needs of the community

16.1 We cannot comment meaningfully on the candidate's commitment to human rights and his experience with regard to the values and needs of the community.

16.2 We do note, however, that during 2011 to 2015, the candidate managed a school for paralegal training in Port Elizabeth.

17 The candidate's potential

17.1 The candidate appears to have good potential to develop as a judicial officer, as is demonstrated by his having acted as a Magistrate, attended various training programmes run by the South African Judicial Education Institute and by the other aspects of his experience and conduct already referred to.

18 The message that the candidate's appointment would send to the community at large

18.1 We have indicated above that it seems that the candidate is a white man. If that is so, the appointment of a third white man to the

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Electoral Court, out of five members would be unlikely at present to send a positive message regarding racial and gender diversity.

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ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported decisions

Given that the candidate has not acted as a High Court judge, he has not delivered any reported judgments.

Unreported decisions

We have considered only the two decisions delivered by the candidate in the matter of *The State v Molefi Tsekahali* – one on conviction and the other on sentence. These are the only two judgments supplied by the candidate and we have been unable to find any further decisions.

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