

*CANDIDATE: CAGNEY JOHN MUSI*

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**COURT FOR WHICH CANDIDATE APPLIES: FREE STATE DIVISION  
OF THE HIGH COURT OF SOUTH AFRICA (JUDGE PRESIDENT)**

**1 The candidate's appropriate qualifications**

1.1 The candidate has the following qualifications:

1.1.1 Dipl Iuris (UWC);

1.1.2 BA (LAW) (UWC);

1.1.3 LLB (UWC);

1.1.4 BA (HON) Public Administration (UWC); and

1.1.5 LLM (UCT)

1.2 The candidate is appropriately qualified.

1.3 The candidate is a serving Judge of the Free State Division of the High Court of South Africa.

1.4 The candidate was admitted as an attorney of the High Court of South Africa during 2001.

1.5 The candidate was appointed as Deputy Judge President of the Division with effect from January 2017.

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1.6 Before his appointment as Deputy Judge President the candidate acted as Judge President for the period 1 February 2015 until 12 April 2015; as well as during December 2016.

1.7 The candidate has also acted as Judge President in absence of the then serving Judge President during the following terms – 30 January 2017 to 2 April 2017; 18 April 2017 to 30 June 2017; 31 July 2017 to 22 September 2017 and 1 June 2018 to 31 October 2018.

## **2 Whether the candidate is a fit and proper person**

2.1 The candidate is eminently fit and proper to be appointed as Judge President of the Division.

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

3.1 The candidate's appointment as Judge President would help to reflect the racial composition of South Africa and would attest to the diverse judiciary that reflects the demographic profile of the Republic, as well as the Free State Province.

3.2 The candidate's appointment would not assist in furthering gender diversity.

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

4.1 The candidate has extensive knowledge of the law and constitutional law.

4.2 The candidate had the privilege of acting as Judge of the Constitutional Court from 1 August 2016 to 15 December 2016.

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- 4.3 The candidate has extensive experience in a wide spectrum of the legal field. The candidate was a prosecutor, District Magistrate – criminal, family and civil courts, Regional Magistrate and was admitted as attorney of the High Court of South Africa.
- 4.4 The candidate’s extensive experience includes the following appointments:
- 4.4.1 Prior to appointment, acting Judge of the High Court, Northern Cape Division, Kimberley;
- 4.4.2 Acting Judge of the Labour Court;
- 4.4.3 Acting Judge of the Labour Appeal Court;
- 4.4.4 Judge of the Labour Appeal Court;
- 4.4.5 Acting Judge of the Lesotho High Court;
- 4.4.6 Acting Judge of the Lesotho Labour Appeal Court;
- 4.4.7 Designated Acting Judge of the Lesotho Commercial Court;
- 4.4.8 As stated the candidate is currently the Deputy Judge President of the Division.
- 4.5 The candidate has undergone and received training in a Peer Facilitator’s Course; Train the Trainers – Equality Court Act; Aspirant Judges Training; Train the Trainers Course – Cybercrime.
- 4.6 The candidate has conducted training and partaken in education as listed in his curriculum vitae, attesting to his wide berth of experience.

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- 4.7 The candidate has over the span of his career as Judge written a large number of judgments. The judgments attest to the candidate's experience, knowledge of the law and his ability to deal with complicated matters.
- 4.8 The Judgment in *Liesching and Others v S and Another* 2017 (4) SA 454 (CC), also appended to the applicant's application, attests to the candidate's knowledge of the law, including the constitutional law and the candidate's imminent suitability for appointment to the position of Judge President of the Division.

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

- 5.1 The candidate displays a commitment to the values of the Constitution.
- 5.2 The candidate's commitment to the values of the constitution is apparent and undebatable. It is also evident from:
- 5.2.1 The judgments he delivers;
- 5.2.2 His daily interaction with Judges and practitioners and his interaction with people in general;
- 5.2.3 The nomination by the erstwhile Judge President of the Division, Justice Molemela;
- 5.2.4 His immense contribution and commitment to transformation in the Division;
- 5.2.5 Transforming the Magistracy;

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5.2.6 Serving as Board Member of the Law, Race and Gender research Unit, 2005.

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

6.1 *S v Van der Vyfer* – A161/2011 (the sentence was reduced from 17 years imprisonment to 12 years).

6.2 *Tladi v Mantsopa Local Municipality and Others*, A78/2011.

6.3 *TAWUSA v PUTCO* JA106/13.

6.4 Lesotho case: *Madam Justice Mahase v Prime Minister* (Const case 1/2011)

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

7.1 The extent and breadth of the candidate's professional experience should already be evident from what has been recorded.

7.2 Save for the qualifications the candidate has professional experience as prosecutor; Regional Court Control Prosecutor; District Magistrate; Regional Magistrate; admitted attorney of the High Court of the South Africa, Acting Judge of the High Court and Labour Court; Judge of the High Court of South Africa; Acting Judge of the Labour Appeal Court; Judge of the Labour Appeal Court; Acting Judge of the Constitutional Court of South Africa.

7.3 The candidate has acted as Judge in the Lesotho High Court; Acting Judge of the Lesotho Labour Appeal Court; Designated Acting Judge of the Lesotho Commercial Court.

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7.4 The candidate is currently the Deputy Judge President of the Free State Division of the High Court of South Africa.

7.5 The candidate is the most senior Judge in the Division by virtue of his appointment, but also the second most senior Judge in years of service in the Division.

7.6 The candidate served as Advisory Board Member: Canada – South Africa – Justice Linkage Project, 2002.

## **8 The candidate's linguistic and communication skills**

8.1 The candidate's linguistic and communication skills are excellent.

## **9 The candidate's ability to produce judgment promptly**

9.1 The candidate produces his judgments promptly.

9.2 The candidate had no outstanding judgments at date of submission of the application for appointment as Judge President.

## **10 The candidate's fairness and impartiality**

10.1 The candidate is well-known for being fair and impartial.

## **11 The candidate's independent mindedness**

11.1 The candidate undoubtedly has independent mindedness.

## **12 The candidate's ability to conduct court proceedings**

12.1 The candidate is a senior Judge with vast and extensive experience in presiding over matters.

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12.2 The candidate is able to conduct court proceedings.

### **13 The candidate's administrative ability**

13.1 The candidate's administrative abilities are a matter of public record.

13.2 The candidate has strong administrative abilities.

13.3 The candidate's administrative abilities have been proven and are attested to by the nomination for the position as Judge President by the erstwhile Judge President, Justice Molemela.

13.4 The Division's administration under the candidate's stewardship has been of the highest standard and this fact is attested to both by members of the Bar in their experience at Court as well as numerous members who have had the privilege to Act as Judges in the Division whilst the candidate was acting as Judge President.

13.5 The candidate's experience as listed in his curriculum vitae attests to strong administrative abilities and the recognition of those administrative abilities:

13.5.1 the candidate served in various leadership positions and serves as Board member on various bodies whilst fulfilling his normal duties diligently;

13.5.2 the candidate is currently:

13.5.2.1 the Chairperson of the Commission for the Remuneration of Public Office Bearers;

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- 13.5.2.2 a Member of the Judicial Accountability Committee (High Courts);
- 13.5.2.3 a Member of the Judicial Accountability Committee for the Lower Courts;
- 13.5.2.4 a Member of the Judicial Case Flow Management Committee;
- 13.5.2.5 Managing Editor of the South African Judicial Education Journal;
- 13.5.2.6 Chairperson of the Malibu Residents and Ratepayers Association; and
- 13.5.2.7 the Honorary President of the African Regional Group.

13.6 The candidate has, in addition to positions already recorded also served on numerous committees and associations including the Magistrates Association of South Africa both as Chairperson as well as member of the Executive Committee; the Judicial Officer's Association of South Africa, Chairperson Western Cape (2000-2001) and National President of the said association for the period 2002-2004; International Association of Magistrates and Judges, Deputy President and President of the African Regional Group.

#### **14 The candidate's reputation for integrity and ethical behaviour**

14.1 The candidate's reputation for integrity and ethical behaviour is beyond reproach.

**15 The candidate's judicial temperament**

15.1 The candidate has a sound judicial temperament.

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

16.1 The candidate's commitment to human rights is evident from his past experience and conduct already recorded, as well as from his judgments and interaction with staff, practitioners and his colleagues.

16.2 The candidate's commitment to human rights are attested to by his conduct and is beyond doubt.

16.3 The candidate has extensive experience with regards to the values and needs of the community.

16.4 In addition the candidate's pro-active conduct to address imbalances is already a matter of public record and attests to his commitment and understanding of the values and needs of the community.

**17 The candidate's potential**

17.1 The candidate does not lack experience, administrative ability or technical proficiency, but in any event, his potential to continue to make a positive contribution to the South African judiciary is beyond doubt.

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

- 18.1 The candidate enjoys the unreserved support of the Free State Society of Advocates for the position of Judge President of the Free State Division of the High Court of South Africa.
- 18.2 The candidate was appointed as Deputy Judge President of the Division and has during his tenure acted as Judge President for substantial periods in the absence of the erstwhile Judge President in her absence.
- 18.3 The candidate has the unconditional support of the erstwhile Judge President, the Honourable Justice of Appeal MB Molemela who also nominated the candidate for the position. This attests of the highest regard of the candidate's competency and suitability to be appointed to the position of Judge President.
- 18.4 The candidate has seamlessly undertaken the responsibilities of Judge President during the periods when he acted as such.
- 18.5 The candidate's appointment will demonstrate the changes that have occurred within our society and will convey the message that, with effort and commitment, achievements such as an appointment Judge President of a Division are within reach of all South Africans, regardless of gender and race.