

APPLICANT: JACOBUS JOHANNES STRIJDOM SC**COURT FOR WHICH APPLICANT APPLIES: GAUTENG DIVISION OF THE HIGH COURT****1 The candidate's appropriate qualifications**

1.1 The candidate obtained the following degrees:

1.1.1 Dip.Iuris from Unisa in 1979;

1.1.2 Dip.Legum from Unisa in 1983;

1.1.3 B.Iuris from Unisa in 1986;

1.1.4 LLB from Unisa in 1993.

1.2 The candidate is appropriately qualified.

2 Whether the candidate is a fit and proper person

2.1 Neither the application nor the judgments accompanying it suggest that the candidate is not a fit and proper person and no adverse comments have been received in that regard.

2.2 One written comment was received from a member of the JSA indicating support for the candidate to be appointed to the bench.

2.3 In reviewing the application, the reviewers spoke to three further members of the JSA, one of whom indicated the candidate would be an asset to the

bench. The other two members indicated that the candidate had a good basic grasp of the law.

2.4 Of concern to the reviewers is that in the section of the application form dealing with judgments of the candidate that have been taken on appeal, the candidate failed to disclose that his judgment in the matter of *Lindley Farm 528 (Pty) Ltd v Cradle City (Pty) Ltd* (case 13868/2013 in the Gauteng Provincial Division – Pretoria) was take on appeal and was overturned by the Supreme Court of *Appeal as Cradle City (Pty) Ltd v Lindley Farm 528 (Pty) Ltd* 2018 (3) SA 65 (SCA). SAFFLI would indicate that the judgment was handed down on 6 December 2017.

2.5 Though the judgment does not criticise the candidate, it is concerning that this appeal was not disclosed in the application. It is suggested that at the candidate's interview that this be canvassed with him – there may be a perfectly innocent explanation for the failure to disclose the judgment.

2.6 Save for the concern set out above, the candidate appears to be a fit and proper person to be appointed to the Gauteng Division of the High Court.

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

3.1 The candidate is a white man.

3.2 The candidate's appointment would not further the Constitutional imperative that the judiciary reflect the racial and gender composition of South Africa.

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

4.1 The candidate was a clerk and prosecutor in 1975.

4.2 He served as a regional court prosecutor from 1976 to 1979.

4.3 He served as a magistrate from 1980 to 1985.

4.4 He served as a senior prosecutor from 1986 to 1993.

4.5 He was admitted as an advocate in 1994 and practices as such to this day. In 2010 the candidate was conferred silk.

4.6 Writer has considered the judgments listed by the candidate in his application form and the further reported judgments by the candidate. The reviews are annexed hereto. The candidate has written the following judgments which deal with constitutional or administrative law issues:

4.6.1 *Ekurhuleni Metropolitan Municipality v Glass Decorations CC and others*

4.6.2 *Zonke Monitoring Systems (Pty) Ltd v National Gambling Board and others*

4.6.3 *Modisane v The Road Accident Fund*

4.7 The candidate's application indicates that he has regularly acted as an acting judge since 2013.

4.8 The candidate generally seems to have a good grasp of legal principles and his practice would appear to focus on criminal law, though judgments dealing with other issues have been dealt with by the candidate.

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

5.1 The candidate's judgment in the Modisane matter indicates a commitment to Constitutional principles.

5.2 No further information is available on this question.

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

6.1 The candidate lists no judgments that were successfully appealed against.

6.2 As indicated above, the judgment in *Lindley Farm 528 (Pty) Ltd v Cradle City (Pty) Ltd* was overturned on appeal. The judgment was overturned on limited areas, the remainder of the judgment being upheld.

6.3 The reviewers could find no other judgments that were overturned on appeal.

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

7.1 The candidate's professional history is set out above.

7.2 The candidate has experience as an acting judge in the High Court.

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

8.1 The candidate is proficient in English and Afrikaans. He has sound linguistic and communication skills. The candidate's judgments in English

are generally well written, though some of the judgments have typographical errors.

8.2 The candidate's judgments are written in simple language and with clarity. They appear to be well-reasoned and cogent.

8.3 As is set out below, the candidate seems to have listed some matters where he acted as judge as being cases where he appeared as advocate. He also listed a judgment where he appears to have played no role. It is unclear why this was done but does raise a question about the candidate's communication skills.

9 The candidate's ability to produce judgments promptly

9.1 The candidate has indicated that he has two outstanding judgments, both stemming from June 2018. It is recommended that this is canvassed with the candidate to ensure that this is the case.

9.2 From a perusal of his reported judgments and the judgments annexed to his application, it is evident that the candidate produces his judgments promptly. The judgments are usually produced within a month after the matters were heard. Many of the judgments however do not have the date of delivery or the date that the matter was heard.

9.3 The candidate therefore *prima facie* has the ability to produce his judgments promptly.

10 The candidate's fairness and impartiality

10.1 There is nothing to suggest that the candidate would not be fair and impartial to litigating parties appearing before him. All comments received indicate that the candidate is even-handed, fair and impartial.

11 The candidate's independent mindedness

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

12 The candidate's ability to conduct court proceedings

12.1 No concerns appear from the available judgments.

12.2 No adverse comments were received.

13 The candidate's administrative ability

13.1 The candidate's record of producing judgments promptly appears to be indicative of his ability to administer his role efficiently.

13.2 Of concern is the listing of judgments under the incorrect section of the application form as set out above. This may indicate a lack of administrative ability by the candidate and should be canvassed with him.

13.3 Save for the above, no adverse comments were received.

14 The candidate's reputation for integrity and ethical behaviour

14.1 No adverse comments were received.

15 The candidate's judicial temperament

15.1 No adverse comments were received. Indeed, the verbal comments received indicated a good judicial temperament, one of the counsel who appeared before the candidate noted that even though argument got "heated", the candidate kept calm and collected.

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

16.1 Save for the judgments listed above, there is nothing to indicate the candidate's views on this.

17 The candidate's potential

17.1 The candidate has regularly acted since 2013. His judgments appear to be well-reasoned and generally sound.

17.2 There is no reason to believe that he does not have the potential required.

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

18.1 The candidate's appointment would on a balance probably send a positive message to the community.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

S v Sebejan and others 1997 (1) SACR 626 (WLD) (Incorrectly recorded as being a 1977 case by the candidate)

S v Diale and another 2013 (2) SACR 85 (GNP) (while the candidate included this judgment in his list of matters in which he appeared as an advocate, it is not clear what his involvement in this matter was).

Swart v Starbuck and others 2016 (5) SA 372 (SCA)

Masuku v S [2017] JOL 38692 (GP)

Tsabedze v Road Accident Fund [2017] JOL 38246 (GP)

Serage v S [2017] JOL 39035 (GP)

Lindley Farm 528 (Pty) Ltd v Cradle City (copy attached to application)

Ekurhuleni Metropolitan Municipality v Glass Decoration CC and others (copy attached to application)

Zonke Monitoring Systems (Pty) Ltd v National Gambling Board and others (copy attached to application)

De Klerk v The Law Society of the Northern Provinces (copy attached to application)

Modisane v The Road Accident Fund