

CANDIDATE : ADV REAN STRYDOM SC

APPLICANT: REAN STRYDOM SC

COURT FOR WHICH APPLICANT APPLIES: GAUTENG DIVISION OF THE HIGH COURT

1 The candidate's appropriate qualifications

1.1 The candidate holds the following degrees:

1.1.1 BComm LLB – University of Stellenbosch;

1.1.2 LLM – Constitutional Law – Rand Afrikaans University (1994); and

1.1.3 LLM – Corporate Law – Rand Afrikaans University (2004).

1.2 The candidate is appropriately qualified for the position for which he applied.

2 Whether the candidate is a fit and proper person

2.1 The candidate is a senior member of the Johannesburg Society of Advocates, having been awarded senior status on 1 October 2010. The candidate is a member in good standing and there are no disciplinary or other proceedings pending or anticipated against him. During his membership the candidate was never convicted of any offence or disciplinary matter.

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 obtained LLM degrees in Constitutional Law and Corporate Law respectively.

4.2 The judgments delivered by the candidate, which are attached to his application, displays his knowledge of the law. The candidate often starts his judgments by defining the core legal concepts. The candidate takes care in his judgments to research and consider the law and sets out the basis for his legal findings.

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

5.1 The candidate's commitment to values of the Constitution is evident from the judgments he delivered in the following matters, which are attached to his application:

5.2 *Foundation of Love Social and Welfare and Department of Social Development and 2 Others*

5.2.1 In this matter the candidate demonstrated alertness to the constitutionally entrenched principle of the best interest of the child.

The Applicant sought, inter alia, the return of 11 children removed from its premises by the Third Respondent.

5.2.2 The candidate held that the Applicant has failed to indicate to the Court that it would be in the best interest of the children to be returned to its premises. The candidate proceeded to dismiss the Applicant's application.

5.3 *Keobakile F Babuli and 3 Others vs National Director of Public Prosecutions and 1 Other*

5.3.1 In this matter the Appellants appealed against their convictions and sentences. The candidate considered the reliance of the Court a quo on the extra-curial statement of the co-accused to convict the Appellants. The candidate held that our Constitution does not permit the admission of an extra-curial statement by an accused against a co-accused as it infringes upon an accused's fundamental rights which are protected by the Bill of Rights.

5.4 There is no reason to doubt the candidate's commitment to the values of the Constitution.

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

6.1 None.

6.2 The candidate indicates in paragraph 9.4 of the Questionnaire for Candidates for Judicial Appointment that one appeal taken against his judgment was dismissed and another was withdrawn before it was heard.

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

- 7.1 The candidate has been at the Bar for approximately 38 years.
- 7.2 The candidate states that he has appeared in the majority of High Courts in South Africa, the Supreme Court of Appeal as well as the Constitutional Court. In the Constitutional Court he appeared with leaders and as second senior counsel.
- 7.3 The candidate further states that 10% of his practice has been in the field of Criminal Law, 30% Administrative Law, 5% Constitutional Law and 55% general civil practice (including insolvency law, corporate law, banking law, cyber law, matrimonial law, property law and law of contract).
- 7.4 The candidate has also been one of the legal advisors for the JSE Ltd for the last 10 years.
- 7.5 Two junior members raised issues about the candidate's approach to racial and gender inclusiveness.
- 7.6 The candidate has also been involved in many matters relating to the award of tenders, the most prominent being *Allpay v SASSA, CPS and others*.
- 7.7 The candidate was a founding member of the Mpumalanga Society of Advocates in 2015. He was also a member of its first Bar Council.

8 The candidate's linguistic and communication skills

- 8.1 From a reading of the attached judgments delivered by the candidate his linguistic and communication skills appear to be good.

8.2 The said judgments are well-structured, clear, decisive and easily understandable, although repetitive in some instances.

9 The candidate's ability to produce judgments promptly

9.1 The candidate hands down judgments promptly and expeditiously. This is evident from the following judgments which are attached to the candidate's application.

9.2 The judgments from which both the date of hearing and date of judgment are evident shows that the candidate delivers judgments within a period of 3 (three) weeks.

9.3 The longest the candidate took to deliver a judgment was in the matter of *Edward Elvis Ndlovu and Minister of Police and 1 Other*. The matter was heard on 27 November 2017 and judgment was delivered on 10 January 2018.

9.4 According to the candidate there is one judgment outstanding. The matter is a full bench review and was heard in Middelburg, Mpumalanga on 15 June 2018. The candidate presided as the other members of the bench were also acting judges. The candidate was busy during the July recess writing a reportable judgment.

10 The candidate's fairness and impartiality

10.1 The judgments handed down by the candidate illustrate his fairness and impartiality. The candidate considers the position of all parties and applies a fair and independent approach to the matter at hand.

11 The candidate's independent mindedness

11.1 The candidate showed his independent mindedness in the judgment of *Hicks, Paddy and 1 Other v The State* attached to his application. In this matter the candidate prepared a dissenting judgment differing from the conclusions of Vally J.

12 The candidate's ability to conduct court proceedings

12.1 The candidate has sat as an acting judge during 2011 and again during 2013 to 2018, totalling a period of 86 weeks, and has sat about a further 15 weeks hearing part heard criminal matters.

12.2 The candidate's numerous acting appointments are an indication that he is experienced in conducting court proceedings.

13 The candidate's administrative ability

13.1 The candidate displays good administrative ability by the delivery of prompt judgments.

14 The candidate's reputation for integrity and ethical behaviour

14.1 No adverse comments have been received in this regard.

14.2 There is no reason to doubt the candidate's reputation for integrity and ethical behaviour.

15 The candidate's judicial temperament

15.1 No adverse comments have been received in this regard.

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 judgment delivered in the matter of *Keobakile F Babuli and 3 Others v National Director of Public Prosecutions*.

16.2 From paragraph 38 of the candidate's CV it appears that he has been involved in awarding 8 bursaries over the last 2 years to top students who needed financial assistance. Three out of the four students who received bursaries in the 2017 academic year are studying medicine and received R70 000.00 each. All three are from previously disadvantaged communities of which two are woman. The fourth student is from Africa with refugee status.

17 The candidate's potential

17.1 The candidate has approximately 38 years of experience which he would bring to the bench and from which he would draw from as a judge.

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

18.1 The candidate's many years of service to the legal profession and judiciary through numerous acting appointments are valued and would benefit the community at large.

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ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported decisions

None indicated.

Unreported decisions

All judgments attached to the application of the candidate which totals 20.

Judgments upheld on appeal

None.

Judgments overturned on appeal

None.