

CANDIDATE: SHEILA CHEIRAMIWA LUSHABA

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COURT FOR WHICH APPLICANT APPLIES: ELECTORAL COURT

1. The candidate's appropriate qualifications:

1.1. The candidate has the following qualifications:

1.1.1. Baccalaureus Juris, University of the North, 1996;

1.1.2. Baccalaureus Legum, University of the North, 2000

1.2. The candidate has the appropriate qualifications for the position

2. Whether the candidate is a fit and proper person:

2.1. The candidate has practiced as an attorney for over 5 years and in February 2019 was appointed as a permanent district court magistrate.

2.2. The candidate is been described by those nominating her, as a person who is dedicated to her work.

2.3. A review of transcripts from proceedings in her court provides no indication that she would not be able to fulfil the role as an Electoral Court Judge.

2.4. The candidate indicates that she has no criminal record and has never been convicted of any offence involving dishonesty, violence or any other dishonourable conduct.

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2.5. No adverse comments have been received in regard to the candidates conduct.

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

3.1. The candidate is a black woman.

3.2. The appointment of the candidate would assist in reflecting the racial and gender composition of South Africa.

3.3. Currently there are no female judges serving in the Electoral Court.

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

4.1. The candidate has only had experience within the criminal law field.

4.2. From the candidates attached judgments it is clear that she has only dealt with constitutional law insofar as it applies to criminal law and criminal procedure.

4.3. The candidate's judgments are fair.

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

5.1. The candidate indicates that she has initiated and conducted community outreach programmes, but no details in regard to these programs and her involvement are provided.

5.2. The candidate indicates that she is the Provincial coordinator of the South African Chapter of International Women Judges. No details in

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regard to the organisation or the candidate's role in the organisation have been give.

5.3. From a reading of the attached transcripts, it is clear the candidate does conduct her court in a fair manner and the rights of the accused are protected.

6. Whether any judgments have been overturned on appeal:

6.1. The candidate indicates that none of her judgements have gone on appeal or have been overturned on appeal.

6.2. No adverse comments were received in regard to the candidate's judgments.

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

7.1. The candidate began working for the National Prosecuting Authority after obtaining her LLB in 1996.

7.2. The candidate has over 16 years' experience working for the National Prosecuting Authority as a prosecutor and control prosecutor.

7.3. In October 2013, the candidate was appointed as an acting magistrate in Breyten Magistrates Court.

7.4. The candidate has over 4 years' experience as an acting magistrate in the district criminal courts in three different district divisions.

7.5. In 2017, the candidate was called to the bar, but has never practiced as an advocate.

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7.6. In February 2018, the candidate was appointed as a permanent magistrate.

7.7. The candidate is currently enrolled for an LLM in procedural law at the University of Pretoria.

7.8. The candidate has not practiced in any field of law other than criminal law.

8. The candidate's linguistic and communication skills:

8.1. The candidate attached two judgments to her application.

8.2. From these judgments, it is apparent that the candidate has a fair understanding of the English language.

9. The candidate's ability to produce judgments promptly:

9.1. The candidate indicates that she has no outstanding judgments.

9.2. No adverse comments were received in this regard.

10. The candidate's fairness and impartiality:

10.1. The candidate has attached transcripts of proceedings she has presided over. The transcripts do not show any unfairness or bias on the part of the candidate.

10.2. The candidate is described by those nominating her as a fair and impartial.

10.3. No adverse comments were received in this regard.

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11. The candidate's independent mindedness:

- 11.1. The candidate is described by those nominating her as impartial and independent.
- 11.2. There is no indication from the attached judgments that the candidate is not impartial or unable to apply her mind independently.
- 11.3. No adverse comments were received in this regard.

12. The candidate's ability to conduct court proceedings:

- 12.1. From the attached transcripts it is clear that the candidate has a good grasp of the criminal procedure and is able to conduct the court proceedings accordingly.
- 12.2. No adverse comments were received in this regard.

13. The candidate's administrative ability:

- 13.1. The candidate's judgments indicate that she is fair and impartial.
- 13.2. No adverse comments were received in this regard.

14. The candidate's reputation for integrity and ethical behaviour:

- 14.1. The candidate is described by those nominating her as fair, unbiased and impartial.
- 14.2. The candidate indicates that she has no criminal record and has never been convicted of any offence involving dishonesty, violence or any other dishonourable conduct.

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14.3. No adverse comments were received in this regard.

15. The candidate's judicial temperament:

15.1. The candidate is described as exhibiting excellent judicial temperament by those nominating her for appointment.

15.2. From a reading of the attached transcripts, there is no indication that the candidate does not have the requisite judicial temperament.

15.3. No adverse comments were 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 indicates that she has participated in community outreach programmes but no particularity is given in regard to the programs or the candidates involvement.

16.2. The candidate does serve her community in her capacity as a magistrate and there is nothing to indicate that she is not a fair magistrate.

17. The candidate's potential:

17.1. The transcripts indicate that the candidate is a fair magistrate.

17.2. The candidate does not have experience in any other field of law other than criminal law. However, the candidate's experience as a magistrate could benefit her if appointed as a judge to the Electoral Court.

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

18.1. The candidate is a black woman and her appointment will send a positive message to the community at large.

18.2. The appointment of a black woman to the Electoral Court would send the message that the judiciary is committed to transformation.

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ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported decisions

None

Unreported decisions

None

Judgments upheld on appeal

None

Judgments overturned on appeal

None