

CANDIDATE: ADV BRAD CHRISTOPHER WANLESS SC

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**COURT FOR WHICH APPLICANT APPLIES: GAUTENG DIVISION,
PRETORIA OR GAUTENG LOCAL DIVISION, JOHANNESBURG**

1 The candidate's appropriate qualifications:

1.1 The candidate holds the following degrees:

1.1.1 BA – University of Kwazulu Natal (1983)

1.1.2 LLB – University of Kwazulu Natal (1985)

1.2 The candidate has a Diploma in Maritime Law (1987)

1.3 The candidate was a member of the Kwazulu Natal Bar between 1 December 1990 and 30 June 2016, and has been a member of the Legal Practice Council between 21 June 2019 to date of his application.

1.4 The candidate resigned from the Society of Advocates, Kwazulu Natal, on 1 July 2016,¹ and has not been removed from the roll of advocates.² It is not clear from the candidate's application whether or not he was in professional practice between July 2016 and the present date (besides the acting judge appointments during this period).

¹ certificates at page 42 and 43

² certificate at page 43

1.5 From 2012 to date the candidate has spent a total of 62 weeks acting as a judge in the Kwazulu Natal and Gauteng Divisions.³

2 Whether the candidate is a fit and proper person:

2.1 The candidate has spent a total of 62 weeks acting as a judge in the Kwazulu Natal and Gauteng Divisions.

2.2 When acting as a judge in the Gauteng division (in both the Pretoria and Johannesburg divisions), the candidate has personally paid the travel and accommodation costs associated with these acting appointments, which suggests a dedication to fulfilling the role of judge.

2.3 There are no adverse comments concerning the candidate's fitness for appointment as a Judge of the Gauteng Division.

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 appointment of a white male candidate will not advance the cause of gender or racial representation.

³ At page 17. Although at pages 7 and 26, the candidate refers to a total of 57 weeks spent as an acting judge

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

4.1 The candidate has had exposure to diverse areas of the law, from criminal law to engineering and construction law.

4.2 When practicing as an advocate, the candidate did not practice in the field of constitutional law, and none of the judgements, used in support of this application, have any bearing on this field of law. Therefore, it is difficult to determine what the candidate's knowledge of constitutional law is.

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

5.1 In his application, the candidate does not make any specific reference to his commitment to the values of the Constitution, but there is no reason to question such commitment.

5.2 Whilst practising at the Kwazulu Natal bar, the candidate mentored 9 pupil advocates, of which 8 were from previously disadvantaged backgrounds. The candidate endeavoured where possible to assist these pupil advocates, including financial assistance.

5.3 As a senior counsel, when briefed together with a junior, the junior was always a black counsel.

5.4 The candidate made himself available to assist with transformation at the Kwazulu Natal Bar and was part of an initiative in which a fee sharing arrangement with black counsel was initiated.

6 Whether any judgments have been overturned on appeal:

6.1 None.

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

7.1 In his curriculum vitae, the candidate refers to 4 reported decisions in which he appeared as counsel.

7.2 Insofar as these decisions are concerned:

7.2.1 *Westbrook v Genref Ltd 1997 (4) SA 218 (D)* - the candidate was the junior to Adv Pammenter, and the matter concerned the question of wasted costs;

7.2.2 *Venter v Nel 1997 (4) SA 1014 (D)* – was an undefended action for damages on the ground that the defendant had infected the plaintiff with HIV. According to the candidate's letters of support, he appeared in this matter *pro deo/prom amico*;

7.2.3 *Douglas Green Bellingham v Green t/a Greens Bottle Recyclers 1998 (1) SA 367 (SCA)* – was an appeal against the reduction by the Court a quo of the amount of appellant's claim against the insolvent estate. The candidate successfully dismissed the appeal; and

7.2.4 *Olivier v Olivier 1998 (1) SA 550 (D)* – concerned the adjudication of the question whether a party in divorce proceedings can rely on s 6(3) of Matrimonial Property Act 88 of

1984 for entitlement to adduce evidence of the actual value of his estate at commencement of the marriage where such value had been declared as nil in an antenuptial contract.

7.3 The extent of the questions of law considered in the 4 reported judgements referred to above, suggests some diversity in the candidate's practice, whilst at the Bar. However, the most recent reported judgement dates back approximately 21 years (1998).

7.4 The candidate has experience in both criminal and civil law (encompassing both trial and motion matters).

7.5 On the basis of what is contained in the candidate's application, it is not possible to categorically say that the candidate has extensive and diverse experience in many fields of law.

8 The candidate's linguistic and communication skills:

8.1 Considering the judgements relied upon by the candidate, he, on the whole, appears to have good linguistic and communication skills, although his use of inverted commas is inconsistent and can, at times, lead to confusion.

8.2 The candidate has not delivered a significant number of judgments, and has not published any articles, or other publications, at all.

9 The candidate's ability to produce judgments promptly:

9.1 The judgments relied upon by the candidate in support of his application were all delivered promptly.

9.2 As at 24 June 2019, the candidate had 2 outstanding reserved judgements. However, the reviewers are not certain whether these two reserved judgements have since been handed down.

9.3 On the limited information available, it would appear that the candidate has the ability to produce judgements promptly.

10 The candidate's fairness and impartiality:

10.1 No adverse comments have been received in this regard.

11 The candidate's independent mindedness:

11.1 No adverse comments have been received in this regard.

11.2 There is no record of any complaint or incident indicating a lack of independent mindedness on the part of the candidate.

12 The candidate's ability to conduct court proceedings:

12.1 No adverse information about the candidate's ability to conduct court proceedings was received.

13 The candidate's administrative ability:

13.1 No adverse comments have been received in this regard.

13.2 The candidate was a member of a committee entrusted with negotiating the renewal of the leases of various groups of advocates in Durban, Kwazulu Natal. He has served as the vice chairman of the governing body of a primary school, as well as a committee member of a retirement village.

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

14.1 No adverse comments have been received in this regard.

14.2 Letters supporting the candidate's appointment refer to the candidate as having the necessary 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 Whilst practising at the Kwazulu Natal bar, the candidate mentored 9 pupil advocates, of which 8 were from previously disadvantaged backgrounds. The candidate endeavoured where possible to assist these pupil advocates, including giving financial assistance where possible.

16.2 As a senior counsel, when briefed together with a junior, the junior was always a black counsel.

CANDIDATE: ADV BRAD CHRISTOPHER WANLESS SC

16.3 The candidate made himself available to assist with transformation at the Kwazulu Natal Bar and was part of an initiative in which a fee sharing arrangement with black counsel was initiated.

17 The candidate's potential:

17.1 The candidate is currently 57 years of age, and will have an opportunity to hone his skills as a judge in the busy Gauteng Division.

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

18.1 The candidate's appointment would not contribute to the project to transform the judiciary.

CANDIDATE: ADV BRAD CHRISTOPHER WANLESS SC

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported decisions

None reported in SA Law Reports or All SA Law Reports.

Unreported decisions

None of the judgements referred to in the candidate's application are marked "reportable".

Of the judgements referred to in the candidate's application⁴, only the following are could be found on SAFLII:

Georgiou v Tyres 2000 (Heriotdale) (Pty) Ltd, case no: 33788/2014, Gauteng Local Division;

Nedbank Limited v Jansen Van Vuuren and Jansen Van Vuuren, case no: 33222/2011, Gauteng Local Division;

PG Sharedealing (Pty) Ltd v First Realty Randburg, case no: A5058/2017, Gauteng Local Division;

Namudi v The State, case no: A562/2017, Gauteng Division, Pretoria;

Slabbert v Du Plessis, case no: A5052/2018, Gauteng Local Division; and

Pienaar v The RAF, case no: 43693/2011, Gauteng Local Division.

⁴ at page28

CANDIDATE: ADV BRAD CHRISTOPHER WANLESS SC

Judgments upheld on appeal

None

Judgments overturned on appeal

None