

APPLICANT: ADV THANDOLUHLE MOIRA MANKGE

**COURT FOR WHICH APPLICANT APPLIES: MPUMALANGA
DIVISION OF THE HIGH COURT, MIDDELBURG OR MBOMBELA**

1. The candidate's appropriate qualifications

1.1 The candidate is duly qualified, having obtained:

1.1.1 B Juris (University of Zululand) – 1996;

1.1.2 LLB (University of Zululand) – 2001; and

1.1.3 LLM (Human Rights and Constitutional Practice) [University of Pretoria] – 2007.

1.2 The candidate is experienced, having worked as:

1.2.1 Legal Intern at Ngobese and Associates (1996 – 1997);

1.2.2 Prosecutor (1997 – 2004);

1.2.3 Magistrate (2004 – 2013);

1.2.4 Practising advocate as a member of the Pretoria Bar (2014- to date); and

1.2.5 appointed as acting Judge at the Mpumalanga Division of the High Court (January 2019 and April 2019 – December 2019).

2. Whether the candidate is a fit and proper person

- 2.1 The applicant is a fit and proper person, because:
 - 2.1.1 the Pretoria Society of Advocates issued a certificate of good standing;
 - 2.1.2 the Legal Practice Council also issued a certificate of good standing;
 - 2.1.3 there do not appear to be any:
 - 2.1.3.1 complaints or disciplinary proceedings pending against her in her professional capacity; or
 - 2.1.3.2 criminal or civil litigation pending against her.
 - 2.1.4 The candidate contributed to the advocacy / community / transformation in that:
 - 2.1.4.1 she was a member of the Pretoria Bar Council during 2015 – 2017;
 - 2.1.4.2 she was the Provincial Secretary of the Advocates for Transformation (AFT) during 2015 – 2016; and
 - 2.1.4.3 according to her submission to the JSC (see Section 2, para 10(i) of the JSC Questionnaire), she participated in a project with the Department of Education at the Mamelodi area where she initiated a project in which she was teaching school children about basic human rights and law in the country.

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

3.1 The candidate is a black woman.

3.2 The candidate's appointment would help to transform the racial and gender composition of the bench.

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

4.1 The candidate is well-versed in the law, because:

4.1.1 She was a prosecutor and a magistrate for a period of seven and nine years, respectively. She was appointed as an acting judge at the Mpumalanga Division of the High Court during January 2019 including the period April 2019 to December 2019.

4.1.2 The candidate has also acted as a legal representative in matters involving different fields of the law, particularly in civil and criminal proceedings.

4.2 Although she has acquired knowledge in constitutional practice in her masters' degree, there is no tangible evidence that she is experienced in constitutional law.

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

5.1 The candidate is committed to the values of the Constitution, as it appears, among others, from her involvement in:

5.1.1 a project with the Department of Education at the Mamelodi area where she initiated a project in which she was teaching

school children about basic human rights and law in the country.

6. Whether any of his / her judgments have been overturned or upheld on appeal

6.1 There is at this stage no judgment that has been overturned or upheld on appeal. However, according to the candidate's submission to the JSC (see Section 2, para 9.4 (i) of the JSC Questionnaire), there is currently only one matter where leave to appeal has been granted. The appeal has not yet been heard.

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

7.1 The candidate is a proficient lawyer, as may be garnered from:

7.1.1 Her 22 years' experience as a legal practitioner, comprising:

7.1.1.1 Seven (7) years as a prosecutor;

7.1.1.2 Nine (9) years as a magistrate; and

7.1.1.3 Six (6) years as a practising advocate.

7.2 According to the candidate's submission to the JSC (see Section 2, para 6.2 of the JSC Questionnaire), her practice comprises criminal law (30%), administrative law (50%), labour law (20%), constitutional law and other areas of civil law (eg. personal injury, tax, shipping, intellectual property, family law, delictual and contract law).

7.3 She has also acted as the Judge of the High Court as mentioned above.

8. The candidate's linguistic and communication skills

8.1 The candidate is proficient in the English language and communication skills, as is apparent from:

8.1.1 The manner in which she has drafted her judgments in her capacity as acting judge and her heads of argument as counsel. Some minor grammatical errors on some of these documents is something that can be addressed.

8.1.2 The manner in which she has drafted her submission in support of her nomination also attests to her good language proficiency.

9. The candidate's ability to produce judgments promptly

9.1 The candidate is able to produce judgments promptly.

9.2 Copies of her judgments that are attached to her submission to the JSC attest to this. Six (6) out of the seven (7) judgments attached to her submission were delivered within a period of 30 court days. The seventh judgment only shows the date of the hearing and no date of judgment (see page 101 of the bundle of documents/ submission).

10. The candidate's fairness and impartiality

10.1 There are no reservations or concerns regarding the candidate's impartiality and fairness.

11. The candidate's independent mindedness

11.1 There are no reservations or concerns regarding the candidate's independent mindedness.

12. The candidate's ability to conduct court proceedings

12.1 No adverse comments have been received.

13. The candidate's administrative ability

13.1 The candidate is administratively proficient, as may be gleaned from her submission to the JSC, judgments and her heads of argument.

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

14.1 The candidate's integrity and ethical behaviour are incontrovertible. Letters of good standing from the Pretoria Society of Advocates and the Legal Practice Council support this view.

15. The candidate's judicial temperament

15.1 The candidate's integrity is indisputable having regard to letters of good standing from the Pretoria Society of Advocates and Legal Practice Council.

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

16.1 The candidate's commitment to human rights and experience regarding the values and needs of the community are apparent from her involvement in a project with the Department of Education in the Mamelodi area in which she taught school children about basic human rights and law in the country as referred to above.

17. The candidate's potential

17.1 The candidate demonstrates potential to contribute to the judiciary, having regard to her experience, capabilities, and demeanour.

17.2 The candidate has shown interest in practising law from an early age of her life and has applied her skills in the legal profession in different capacities.

17.3 She has potential to add value to the profession.

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

18.1 If the candidate is appointed, it will convey to the community at large that the judiciary:

18.1.1 consists of judges that are competent, experienced, proficient, fair and just, and open minded; and

18.1.2 judges are involved in and understand the needs of the community.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported decisions

None

Unreported decisions:

Standard Bank of South Africa Limited v Space Plan Development (PTY) LTD
(Mpumalanga Division, Mbombela, Case Number: 1262/18);

Emeline Nomsa Mokwena v Minister of Police (Mpumalanga Division, Mbombela,
Case Number: 984/2017);

Edgar Paul Classen v Andrew Spencer (Mpumalanga Division, Mbombela, Case
Number: 708/2017);

Vusumuzi John Sindane v The State (Mpumalanga Local Division, Middelburg, Case
Number: R17/2019);

Nokulunga Lucia Nkosi v Manzini Mdladla Attorneys and Others (Gauteng Division,
Mbombela Circuit Court, Case Number: 46/2017);

Nozipho Victoria Nombula v Vusi September Mahlangu and Another, (Mpumalanga
Local Division, Middleburg, Case Number: 3341/18)

*Monomatoto Investments (PTY) LTD and Others v Brainwave Projects 1953 (PTY)
LTD and Others* (Mpumalanga Division, Mbombela, Case Number:
1178/2019).

Judgments upheld on appeal

None (No judgment has gone on appeal as yet).

Judgments overturned on appeal

None (No judgment has gone on appeal as yet).