

**APPLICANT: JUDGE SEGOPOTJE SHEILA MPHAHLELE**

**COURT FOR WHICH APPLICANT APPLIES: DEPUTY JUDGE  
PRESIDENT: MPUMALANGA DIVISION OF THE HIGH COURT OF  
SOUTH AFRICA**

**1. The candidate's appropriate qualifications**

1.1 The candidate is duly qualified, fit and proper to be appointed as the deputy Judge president: Mpumalanga Division of the High Court:

1.1.1 B. Proc Conferred in 1991 at University of Limpopo (Formerly known as University of the North); and

1.1.2 LLB Conferred 1993 at University of Limpopo (Formerly known as University of the North).

1.2 The candidate is experienced, having worked as:

1.2.1 Claims Handler at Road Accident Fund (1994 – 1995)

1.2.2 Candidate Attorney (1995 – 1998)

1.2.3 Professional Assistant at Lephoko Attorneys (1998 – 1999)

1.2.4 Attorney (1999 – 2013)

1.2.5 Insolvency Practitioner (2000 – 2013)

1.2.6 Appointed as a Judge on 02 December 2013.

## **2. Whether the candidate is a fit and proper person**

2.1 The applicant is a fit and proper person, because, the reviewers:

2.1.1 are not aware of any previous or current criminal convictions against the applicant.

2.1.2 are not aware of any civil judgments against the applicant by any court.

2.1.3 are not aware of any disciplinary proceedings by the Law Society against the applicant while she was practicing as an attorney.

2.1.4 are not aware of complaints lodged with the Master of the High Court, Pretoria whilst the applicant was practicing as an insolvency practitioner.

2.2 The Pretoria Society of Advocates has never lodged a complaint with the Judge President, Deputy Judge President or the judicial service commission against the applicant.

2.3 The candidate contributed to the advocacy / community / transformation in that: she is fully involved with the activities of uplifting young girls who are abused in the community of Mamelodi Township.

## **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.

3.3 The candidate is a member of the International Association of Women Judges (South Africa Chapter). One of the objectives of the International Association of Women Judges is to advance women's rights and equal justice for women and girls. The applicant's appointment will assist in addressing this.

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

4.1 The candidate is well-versed in the law, because she has presided over a number of cases during her term as a judge in the High Court of South Africa, Gauteng Division. The applicant sat on the bench in both the Pretoria and Johannesburg Division of the High Court. The Gauteng Division of the High Court is busy and handles a multiplicity of complicated criminal and civil matters, cases involving civil aviation, banking, insurance and the agricultural sector. The applicant has presided over some of those matters. Therefore, the experience acquired by the applicant as a judge places her in good stead to assume the role of Deputy Judge President of the High Court South Africa, Mpumalanga Division. The applicant is currently acting in that position.

4.2 There is no indication that the candidate is not experienced in any field of law.

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

5.1 The candidate is committed to the values of the Constitution.

5.2 The courts are compelled to operate within the confines of the Constitution of the Republic of South Africa Act 1 of 1996, by protecting the competing rights of litigants. One of the cases that the applicant dealt with was the right of applicants (*Oosthuizen and Another v S* (144/2018) [2018] ZASCA 92; 2018(2) SACR 237 (SCA) (1 JUNE 2018)).

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

6.1 The Supreme Court of Appeal in the case of *Oothuizen and Another v S* (144/2018) [2018] ZASCA 92; 2018(2) SACR 237 (SCA) (1 JUNE 2018) overturned the Applicant's judgment. The Supreme Court of Appeal confirmed the conviction, however, reduced the sentence handed down by the applicant in the court a quo.

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

7.1 The candidate has a clear understanding of law.

7.2 The applicant was admitted as an attorney and progressed to be appointed as a judge.

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

8.1 The candidate is proficient in her command of the English language and communication skills.

8.2 The applicant has given detailed judgments. It can be deduced from the written judgments that the language used is simple and can be understood.

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

9.1 The candidate is able to produce judgments promptly.

9.2 The determination of whether a judge has produced judgments promptly must be determined objectively based on applicable rules. The Pretoria Society of Advocates is not aware of any complaints lodged against the applicant for delaying to produce a judgment on time.

**10. The candidate's fairness and impartiality**

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

10.2 The applicant presided in the matter of *The State vs Zinhle Maditla*. Zinhle Maditla was charged by the state for premeditated murder of her four children, Minenhle 8 years of age, Blessing 7 years of age, Shaniqua aged 3 and Ethen 11 years at the time. The matter was handed to the Mpumalanga high court sitting in Middleburg. On September 9, 2019 Judge SS Mphahlele sentenced Maditla to four life sentences. The judgment was well reasoned. Judge SS Mphahlele correctly noted as follows:

*“The accused betrayed her own children. Having consumed the poison, the children did not die immediately... they died long painful deaths. What is mostly disturbing is that these acts took place at their own [haven] with their mother. As a result, I could not find exceptional reasons which justify a deviation from the prescribed minimum sentence.”*

**11. The candidate's independent mindedness**

11.1 There are no reservations or concerns that we are aware of.

11.2 The applicant has demonstrated through her judgments that she applies her mind without any bias to a particular racial group without any fear, favour or prejudice.

**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 proficient in administrative skills, and is currently the Deputy Judge President (Acting at Mpumalanga Division of the High Court). The role of Deputy Judge President involves amongst others scheduling and allocation of cases, management of Administrative matters and interfacing with other judges.

13.2 As far as the reviewers are aware, the running of the Mpumalanga Division of the High Court proceeds smoothly under the applicant, as delegated by the Judge President.

13.3 The applicant ran her legal practice to the satisfaction of the Law Society during her tenure as an attorney. The recommendation by the Judicial Services Commission and the appointment as a judge by the President, in 2013, demonstrates her competency in being able to manage personnel and interact with fellow judges.

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

14.1 The candidate's integrity and ethical behaviour are beyond reproach.

14.2 The applicant is a highly ethical individual. She is a logical and systematic person. The applicant follows rules and procedure in both her personal and professional life. It is evidenced by the fact that since her appointment as a judge, the Pretoria Society of Advocates have not received any complaints against the applicant.

**15. The candidate's judicial temperament**

15.1 The candidate's integrity is unquestionable.

15.2 The applicant conducts herself in a manner befitting of a judicial officer. The applicant has never been in the media for the wrong reasons.

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

16.1 The candidate participates in the International Association of Women Judges.

**17. The candidate's potential**

17.1 The candidate worked for the Road Accident Fund after qualifying at the University of Limpopo (Formerly known as the University of the North). The Road Accident Fund (RAF) is the statutory body responsible for compensation of claimants due to an accident caused by the negligent driving of the insured driver, should the court so find.

17.2 The applicant is experienced, having worked as an attorney, and insolvency practitioner employed by the Road Accident Fund (handling

personal injury matters dealing with large claims for damages. Furthermore, having to assess whether a claim is acceptable for the Road Accident Fund to be held liable for the negligent driving of insured drivers.)

17.3 The applicant has worked in different capacities with the law firms named in her detailed Curriculum Vitae, until the applicant established her law firm in 1999. The applicant has practised in the field of property law, employment law, and litigation in both magistrate courts and high courts. The applicant administered insolvency estates whilst she was a managing member of the Merithing Trust CC during the period 2000 – 2013. According to her CV, she was a solvency practitioner while at the same time practicing as an attorney.

17.4 According to the applicant's CV she amassed experience in the financial sector when serving as a member of the Licensing Committee of the Financial Services Board (FSB) currently operating as the Financial Sector Conduct Authority (FSCA). The applicant gained an understanding of the communication sector, in particular the broadcasting space which includes broadcasting and broadcasting signal distribution, while serving as a member of the Appeals Tribunal under the auspices of the Broadcasting Complaints Commission of South Africa.

17.5 The applicant avers that she at one point was appointed as presiding officer to adjudicate between the employer and employees on disputes related to compensation emanating from occupational injuries or diseases by the compensation commissioner.

17.6 The applicant, according to her CV, served as the Chairperson of the Gauteng Law Council, Deputy President of the Law Society of the Northern Provence, and a member of the Council of the Law Society of South Africa, a commissioner of the Magistrate Commission, and director of the Attorneys' Development Fund. Furthermore, the applicant avers that she was a member of the National Association of the Democrats' Lawyers, South African Women's Association and the Association for the Advancement of Black Insolvency Practitioners.

**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:

18.1.1 the judiciary is embracing change and judges are members of the community and society. They have grown up and lived as members of the community. The applicant is a staunch member of the Roman Catholic Church. The applicant is also a legal advisor of the Mamelodi Society for the Care of the Aged;

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

## **ANNEXURE: LIST OF JUDGMENTS CONSIDERED**

### **Reported decisions**

The candidate does not appear to have any reported judgments.

### **Unreported decisions**

*Transnet SOC limited v Absa Insurance Company Ltd and others* (08853/2016)  
[2019} ZAGPJHC 476 (24 OCTOBER 2019)

*Ivan Don Van Der Linder and sixteen others v The National Director of Public Prosecutions and two others* (27899/2008) [2013] ZAGPJHC

### **Judgments upheld on appeal**

*Oosthuizen and Another v S* (144/2018) [2018] ZASCA 92; 2018(2) SACR 237  
(SCA) (1 JUNE 2018).

However, only the conviction was upheld.

### **Judgments overturned on appeal**

*Oosthuizen and Another v S* (144/2018) [2018] ZASCA 92; 2018(2) SACR 237  
(SCA) (1 JUNE 2018).

However, only the sentence was overturned.