

APPLICANT: MS LINDIWE DOROTHY VUKEYA

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 Proc (University of the North) April 1996.

1.2 The candidate is experienced, having worked as:

1.2.1 Department of Justice and Constitutional Development: Public Prosecutor (April 1996 – July 1996);

1.2.2 Bekker van Rensburg Attorneys: Candidate Attorney (August 1996 – September 1998);

1.2.3 National Prosecuting Authority: Public Prosecutor – District Court (1999 – 2000);

1.2.4 Department of Justice and Constitutional Development: Public Prosecutor – Regional Court (2000 – 2003);

1.2.5 Department of Justice and Constitutional Development: Magistrate (May 2003 – to date);

1.2.6 Office of the Chief Justice: Acting Judge (October 2011 – March 2012);

- 1.2.7 Department of Justice and Constitutional Development: Judicial Head of Office-Lydenburg Magistrate's Court (April 2012 – February 2015);
- 1.2.8 Department of Justice and Constitutional Development: Regional Court Magistrate (March 2015 – to date);
- 1.2.9 Office of the Chief Justice: Acting Judge of the High Court (Gauteng Division, Pretoria) (January 2016 – February 2016);
- 1.2.10 Office of the Chief Justice: Acting Judge of the High Court (Mpumalanga Division) (April 2018 – June 2018); and
- 1.2.11 Office of the Chief Justice: Acting Judge of the High Court (Mpumalanga Division) (April 2019 – March 2019).

2. Whether the candidate is a fit and proper person

- 2.1 The applicant is a fit and proper person because The Magistrates' Commission issued a certificate of good standing in support of her application.

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, particularly criminal law, having practiced in different courts of the law and given judicially sound judgments as an acting judge.

4.2 There is no indication that the candidate 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 Emjindini Secondary School Alumni of which the candidate is an executive member. The organisation was formed in 2005, to inspire leaders and to assist the school wherever possible;

5.1.2 to date, the candidate has played a prominent role in helping the school with building extra classrooms, a library and a science laboratory; and

5.1.3 Help-A-Girl-Child-Organisation: the candidate is a member of the organisation helping provide assistance to young girls who struggle in life and cannot afford sanitary towels and other necessities. The candidate was involved in receiving donations of sanitary towels but as the organisation grew stronger it also collected school shoes and bags. Groceries and household necessities were also donated to child headed households by the local school teachers.

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

6.1 The following two judgments were upheld on appeal, namely:

6.1.1 *Broodryk v S* (959/2016) [2017] ZASCA 62 (29 May 2017) (unreported); and

6.1.2 *S v Mohlahlo* (Regional Magistrates Court, Mpumalanga Division, Case Number: SHG27/2014).

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 in the law, comprising:

7.1.2 2 years, Articles of clerkship (1996 – 1998);

7.1.3 5 years as a prosecutor (1999 – 2003);

7.1.4 17 years as a magistrate (2003 to date);

7.1.5 5 years as a Judicial head of office (2011 – 2015); and

7.1.6 25 weeks as an Acting Judge of the High Court.

7.2 The various fields of law in which she practised and handed down judgments include: criminal law, domestic violence and civil litigation: pertaining to motions, opposed, unopposed ad urgent matters, criminal and civil appeals, children's court and insolvency.

7.3 The fact that the candidate is in possession of a letter of good standing by the Magistrates' Commission.

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 her well-defined and accessible judgments; and

8.1.2 the manner in which she drafted her submission in support of her nomination.

9. The candidate's ability to produce judgments promptly

9.1 The candidate is able to produce judgments promptly.

9.2 The candidate has held acting appointments for 25 weeks since 25 January 2016, and there is not a single judgment outstanding.

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 career record.

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

14.1 The candidate's integrity and ethical behaviour are incontrovertible.

15. The candidate's judicial temperament

15.1 The candidate's integrity is undisputable, having regard to her appointment as magistrate and acting judge for prolonged periods.

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, appear from her involvement in the community activities she has referred to.

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's age of 48 years, indicates an ability to reach her full potential before reaching retirement age.

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.
- 18.1.3 judges are reflective of the demographics of the Republic of South Africa.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported decisions

None.

Unreported decisions

Khuduga v Passenger Rail Agency of South Africa (59370/2011) [2016] ZAGPPHC 467 (15 June 2016)

Broodryk v S (959/2016) [2017] ZASCA 62 (29 May 2017) (unreported)

S v Mohlahlo (Regional Magistrates Court, Mpumalanga Division, Case Number: SHG27/2014)

LS Bird Investments (Pty) Ltd v Silvex 648 CC (Mpumalanga Division, Middelburg, Case Number: 1593/2018)

Bezuidenhout v Minister of Police (A603/2015) [2016] ZAGPPHC 153 (23 February 2016)

Judgments upheld on appeal

Broodryk v S (959/2016) [2017] ZASCA 62 (29 May 2017) (unreported); and

S v Mohlahlo (Regional Magistrates Court, Mpumalanga Division, Case Number: SHG27/2014).

Judgments overturned on appeal

None