

APPLICANT: ADV LAWRENCE GERALD LEVER SC

**COURT FOR WHICH CANDIDATE APPLIES: NORTHERN CAPE
DIVISION OF THE HIGH COURT**

1. The candidate's appropriate qualifications:

1.1. The candidate is academically qualified and is an experienced legal practitioner.

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

2.1. The candidate is known to all members of our Society, not only as an advocate, but also as an acting judge. We consider him to be a fit and proper person for appointment as a judge in this Division.

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

3.1. Despite the fact that there is currently no white person on the bench in this Division, it cannot be said that the appointment of Lever SC will help to reflect the racial and gender demographics of the South African population.

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

4.1. The candidate has a good knowledge of most fields of the law. His academic background, extensive experience and several acting stints have equipped him for an appointment as a judge. Members of the Northern Cape Society of Advocates have appeared against the candidate and before him as acting judge in a wide variety of matters and respect his knowledge of the law.

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

5.1. We perceive the candidate to be committed to the values of the Constitution. This is visible in the manner in which he interacts with practitioners, litigants, witnesses and the accused. His judgments reflect awareness of Constitutional imperatives.

6. Whether any judgments have been overturned on appeal:

6.1. We are not aware of any judgments that have been overturned on appeal, other than those mentioned by the candidate in paragraph 9.4 of his questionnaire and curriculum vitae (p 24 of his application).

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

7.1. As referred to above, the candidate is experienced in many fields of the law and we consider the extent of his professional experience to make him a suitable candidate for appointment.

8. The candidate's linguistic and communication skills:

8.1. The candidate's linguistic and communication skills are very good. His judgments bear testimony to his mastery of the English language and he is able to communicate eloquently and effectively in that language. He is able to express himself clearly in a manner that legal practitioners, litigants and witnesses understand.

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

9.1. When required to do so, the candidate is able to produce judgments promptly. He also has the ability to give ex tempore judgments. He has referred to outstanding judgments in paragraph 9.5 of his questionnaire. We are, however, aware that judgment has already

been delivered in at least two of these matters, to wit Strydom N.O v Kruger and Another (68/2019) and Engelbrecht N.O. v Master of the High Court & 4 Others. We are not aware of other judgments that have been outstanding for more than 3 months.

10. The candidate's fairness and impartiality:

10.1. No adverse comments were received in respect of the candidate's fairness and impartiality.

11. The candidate's independent mindedness:

11.1. No adverse comments were received in respect of the candidate's independent mindedness. He is indeed known to the members of this Society as an independent minded person to the core.

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

12.1. The candidate is not only an experienced legal practitioner, but also an experienced judge. His experience is visible in the manner in which he conducts court proceedings and engages legal practitioners during argument and also from his judgments.

13. The candidate's administrative ability:

13.1. The candidate has the necessary administrative skills to do the work of a judge. He is actively involved in judicial case flow management.

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

14.1. No adverse comments were received in respect of the candidate's reputation for integrity and ethical behaviour. He is perceived by practitioners to conduct himself ethically and professionally and with the highest degree of integrity at all times.

15. The candidate's judicial temperament:

15.1. The candidate has a good judicial temperament. He is punctual and firm, but able to understand how a judicial decision will affect the litigants/victim/accused appearing before the court. He is patient with witnesses and parties and exhibits the willingness to listen to and consider what is said by both sides.

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

16.1. No adverse comments were received in respect of the candidate's commitment to human rights. His conduct in court is indicative of a judicial officer and practitioner who values human rights and who endeavours to protect same:

17. The candidate's potential:

17.1. The candidate not only has the potential to execute the responsibilities of a judge, but has already shown, when acting in the position, that he is up to the task. He will be an asset in this Division if he is appointed as such.

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

18.1. It is unknown what message his appointment would send to the community at large. Members of our Society and the legal fraternity in general, respect the candidate's knowledge of the law and commitment to his work as a legal practitioner and acting judge.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED**Reported Decision**

S v Burger (R15/20) [2020] ZANCHC 73 (30 October 2020)

Wiehahn v Goosen and Others (1202/2017) [2018] ZANCHC 59 (20 April 2018) (set aside on appeal in *Goosen and Another v Wiehahn and Others* (761/2018) [2019] ZASCA 137; 2020 (2) SA 341 (SCA) (1 October 2019)

Sol Plaatjie Municipality v Ramosie (1872/15) [2017] ZANCHC 38 (17 May 2017)

Niekerk and Others v Pretorius (1233/14) [2017] ZANCHC 13 (15 February 2017)

Lotter and Another v Uys (2627/15) [2016] ZANCHC 67 (11 November 2016)

Diseko and Others v S (124/16) [2016] ZANCHC 66 (29 November 2016)

Nagel v Nedbank Ltd (138/13) [2014] ZANCHC 25 (6 October 2014)

Strydom NO v Kruger and Another (68/2019) [2020] ZANCHC 80 (4 December 2020)

S v Mosholodi and Another (K/S30/16) [2017] ZANCHC 29 (20 March 2017)

National Director of Public Prosecutions v Johannes (117/19) [2019] ZANCHC 55 (11 October 2019)

Dawid Kruiper Municipality v Oranje Watersport CC (2231/2018) [2019] ZANCHC 54 (20 September 2019)

Oranje Watersport CC v Dawid Kruiper Local Municipality and Others (397/2019) [2020] ZASCA 75 (30 June 2020)

HJC and Another v OV and Another (2039/13) [2015] ZANHC 4 (27 February 2015)

Superstone Mining (Pty) Ltd v Dale Lonsdale Hohne (176/12) [2014] ZANHC 6 (1 February 2014); *Hohne v Super Store Mining (Pty) Ltd* (831/2016) [2016] ZASCA 186; [2017] 1 All SA 681 (SCA); 2017 (3) SA 45 (SCA) (30 November 2016)

Victor v Strohmenger and Another (2020/2015) [2020] ZANHC 79 (20 November 2020)

Loots v MEC for Transport, Roads and Public Works (587/2014) [2018] ZANHC 60 (5 September 2018)

Oranje Watersport CC v Dawid Kruiper Local Municipality and Others (2150/2016) [2018] ZANHC 42 (6 July 2018); *Oranje Watersport CC v Dawid Kruiper Local Municipality and Others* (397/2019) [2020] ZASCA 75 (30 June 2020)

Strohmenger v Victor; In re: Victor v Strohmenger and Another (2020/2015) [2016] ZANHC 70 (25 November 2016)

Millenium Waste Management (Pty) Limited v Sol Plaatje Municipality (1585/2008) [2018] ZANHC 63 (11 September 2018)

Van Vuuren v The State (CA&R 64/14) [2014] ZANHC 30 (17 September 2014)

Nicor IT Consulting (Pty) Ltd v North West Housing Corporation (2538/07) [2009] ZANWHC 26 (9 July 2009)

Rhegium Properties (Edms) Bpk and Another v Groenewald and Others (1005/13, 1006/13) [2017] ZANCHC 14 (20 January 2017)

Morudi and Others v NC Housing Services and Development Co Ltd (1735/2014) [2016] ZANCHC 69 (12 August 2016)

Morudi and Others v NC Housing Services and Development Co Ltd and Others (903/2016) [2017] ZASCA 121 (22 September 2017)

Horn v Great Force Investments 25 (Pty) Ltd and Another (No:220/14) [2015] ZANCHC 7 (27 March 2015)

Saamwerk Southwerke (Pty) Ltd v Minister of Mineral Resources and Another (1463/11) [2015] ZANCHC 3 (24 April 2015); *Saamwerk Southwerke (Pty) Ltd v Minister of Mineral Resources and Another* (1098/2015, 206/2016) [2017] ZASCA 56 (19 May 2017)

Van Zyl v FJ Van Zyl En Seuns Boerdery (Pty) Ltd and Another (377/14) [2018] ZANCHC 76 (26 October 2018)

Sydney-On-Vaal Property Ass and Another v Theta Mining Mining and Others (415/2018) [2018] ZANCHC 73 (26 October 2018)

Morudi and Others v NC Housing Services and Development Co. Ltd and Others (1735/2014) [2016] ZANCHC 88 (5 February 2016)

Theta Mining (Pty) Ltd and Another v The Sydney on Vaal Communal Property Association and Others (1535/2017) [2018] ZANCHC 17 (9 February 2018)

The Regional Land Claims Commissioner Free State and Northern Cape and 26 Others v The Pniel Communal Property Association (Ladcom of Association) (1149/2006) [2018] ZANCHC 15 (2 March 2018)

*Fincrop Risk Management (Pty) Ltd v Lusern Koning CC and Others; In re:
Fincrop Risk Management (Pty) Ltd v Lusern Koning CC and Others; In re:
Fincrop Risk Management (Pty) Ltd v Groenewald NO and Others
(1388/14) [2017] ZANHC 22 (31 March 2017)*

Unreported Decision

Judgments upheld on appeal:

Judgments overturned on appeal: