

**APPLICANT: JUDGE THIFHELIBILU PHANUEL MUDAU**

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

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

1.1 The candidate is duly qualified, having obtained:

1.1.1 B.IUR, LLB (UNIVEN) & LLM (RAU)

1.2 The candidate is experienced, having worked as:

1.2.1 Magistrate, Senior Magistrate, Regional Magistrate, Acting Judge and finally as Judge.

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

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

2.1.1 He has a passion for transformation, he has a cool-headed style of management and has proved that he can excel in a management role. There were never any complaints against him, either as a magistrate or as a judge.

2.1.2 There do not appear to be any:

2.1.2.1 Complaints or disciplinary proceedings pending against him in his professional capacity (see 2.1.1 *supra*);

2.1.2.2 Criminal or civil litigation pending against him.

2.1.2.3 The candidate contributed to transformation in that he transformed the Magistrates Office of Johannesburg and got the race and gender representation balance in the appointments to the ranks of magistrates.

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

3.1 See 2.1.1 and 2.1.2.3 *supra*.

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

4.1 The candidate is well-versed in the law, because he has proper academic qualifications, as well as vast experience as a judicial officer.

**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:

5.1.1 the aspects already referred to in paragraph 2.1.2.3 *supra*.

5.1.2 his judgment in *Vicky Momberg vs The State* 2019 (2) SACR 505 (GJ) (appended to his application), dealing with racism.

5.1.3 his LL.M.-thesis, which deals with the Right to Equality.

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

6.1 But for *HM vs AM* (1317/17) [2019] ZASCA 12 (14 March 2019) none of the judgments that were appealed against were overturned on appeal.

**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 His qualifications, his employment experience and the judgments he has delivered.

**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 his judgments and application.

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

9.1 The candidate is able to produce judgments promptly.

9.2 He only has three reserved judgments, dating back to September 2020 and October 2020.

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

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

10.2 See *Vicky Momberg vs The State* 2019 (2) SACR 505 (GJ)

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

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

11.2 It is clear from his employment record (1.2.1 *supra*) and his judgments.

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

12.1 No comment is offered.

**13. The candidate's administrative ability:**

13.1 The candidate is administratively proficient, as may be gleaned from the nomination by the honourable Mr Acting Justice T V Ratshibvumo, as well as from 1.2.1 *supra*.

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

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

14.2 This is clear from all the nomination letters of persons who intimately know the candidate.

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

15.1 The candidate's integrity is undisputable, as is clear from the nominations the candidate received.

**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 his nominations, his employment history, his academic qualifications, and his judgments.

**17. The candidate's potential:**

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

- 17.2 His judgments are examples thereof, only one overruled on appeal and several upheld, even in the Constitutional Court.
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 Still consists of judges that are competent, experienced, proficient, fair and just, and open-minded.
  - 18.1.2 Judges are involved in and understand the needs of the community.

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

*Momberg vs S* 2019 (2) SACR 505 (GJ).

*Chuir and Another vs S* 2012 SACR (GSJ).

*S vs Mgibelo* 2013 (2) SACR 559 (GSJ).

*Ceylon and Another vs S* 2019 (1) SACR 698 (GJ).

**Unreported decisions:**

*McNair vs Crossman and Another*

*Brits vs Minister of Police and Another*

*SA LPC vs R E Chalom*

*Minister of Police vs Kunene and Others*

*S vs Nkambule*

*S vs Maitland*

**Judgments upheld on appeal:**

*S vs Maitland*

*M K Abdul vs S*

*Butsana Textile CC vs The National Treasury and Another*

*Fletcher vs McNair*

**Judgments overturned on appeal:**

*HM vs AM* (1317/17) [2019] ZASCA 12 (14 March 2019)