

APPLICANT: MS MASHUDU MUNZHELELE

COURT FOR WHICH CANDIDATE APPLIES: GAUTENG HIGH COURT

1. The candidate's appropriate qualifications:

1.1. Baccalaureus Iuris (1994) (University of Venda)

1.2. LLB (1996) (University of Venda)

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

2.1. A reference letter from the South African Chapter of the International Association of Women Judges describes the candidate as a member in good standing and a fit and proper person.

2.2. Reference letter from Annette Lansink (Head of Department: Public Law, University of Venda) describes the candidate as having integrity. The candidate's references speak very highly of her.

2.3. A certificate of good standing has been provided by the Magistrate's Commission of the Republic of South Africa.

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 female.

3.2. The candidate is also disabled, being a wheelchair user. Her appointment would contribute to making the composition of the judiciary more broadly reflective of South Africa.

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

- 4.1. The candidate has demonstrated an excellent knowledge of the law in each area in which she has been required to deliver judgment, including 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.
- 5.2. In addition to frequently referencing the Constitution in her judgments. The candidate is described in one reference as selfless, demonstrating a "deep commitment to service".
- 5.3. The candidate has provided practical legal training for students of the University of Venda Law School since 2012, after hours and on weekends, including presiding over mock trial competitions for final year law students.

6. Whether any judgments have been overturned on appeal:

- 6.1. We could not locate any judgments by the candidate that have been taken on appeal.

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

- 7.1. The candidate has more than 20 years of professional legal experience. The candidate:
- 7.1.1. trained as a candidate attorney from 1997 to 1999;
- 7.1.2. was a prosecutor in the District Court (Louis Trichardt Regional Court) from 2000 to 2004;.

- 7.1.3. was a Regional Court Prosecutor (Louis Trichardt Regional Court) from 2004 to 2006;
- 7.1.4. was a Magistrate in the District Court (Polokwane Magistrate Court) from 2006 to 2013;
- 7.1.5. has been a Regional Court Magistrate from 2013 to present (Sibasa in Thohoyandou); and
- 7.1.6. has been an acting judge in the High Court, Gauteng Division (Pretoria and Johannesburg) for 33 weeks in total:
 - 7.1.6.1. 6 November 2017 to 15 December 2017
 - 7.1.6.2. 8 October 2018 to 14 December 2018
 - 7.1.6.3. 27 July 2019 to 20 September 2019
 - 7.1.6.4. 13 January 2020 to 17 January 2020
 - 7.1.6.5. 26 July 2020 to 18 September 2020.
- 7.1.7. During her period of acting the candidate spent 3 weeks acting in criminal court, 3 weeks in unopposed motions, 2 weeks in opposed motions, 8 weeks in civil trials, 2 weeks in special civil trials, 12 weeks in appeals and 3 weeks in case management.

8. The candidate's linguistic and communication skills:

- 8.1. The candidate has excellent linguistic and communication skills.

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

9.1. We were able to locate numerous High Court judgments by the candidate. The candidate demonstrates an ability to produce judgments promptly.

10. The candidate's fairness and impartiality:

10.1. The candidate unequivocally demonstrates fairness and impartiality in the judgments written by her.

10.2. Annette Lansink (Head of Department: Public Law, University of Venda), who observed the candidate preside over mock trials over many years, describes the candidate's quality of fairness as "outstanding".

10.3. The candidate was a member of the Judicial Officers Association of South Africa ("JOASA"), which states as one of its aims supporting a strong, independent judiciary which dispenses justice according to the law, free of fear, favour or prejudice.

11. The candidate's independent mindedness:

11.1. The candidate unequivocally demonstrates independent mindedness in the judgments written by her.

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

12.1. The candidate has demonstrated an ability to conduct court proceedings.

12.2. Annette Lansink (Head of Department: Public Law, University of Venda), who observed the candidate preside over mock trials over

many years, describes the candidate as demonstrating professionalism and a respectful demeanour.

13. The candidate's administrative ability:

13.1. The candidate has demonstrated outstanding administrative ability.

13.2. The candidate has produced judgments prolifically while acting in the Gauteng Division. In several of those judgments the candidate was the only acting judge on a bench of two or three judges, but wrote the judgment and did so within a reasonable time.

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

14.1. The candidate's reference, Annette Lansink (Head of Department: Public Law, University of Venda) describes the candidate as "humble, devoted to duty and a person with integrity".

15. The candidate's judicial temperament:

15.1. The candidate's reference, Annette Lansink (Head of Department: Public Law, University of Venda), describes the candidate as having an appropriate judicial temperament.

15.2. The candidate's judgments are reflective of a thoughtful and measured approach to matters.

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

16.1. The candidate has demonstrated extensive community involvement, particularly with respect to women:

- 16.1.1. She was a member of JOASA from 2006 to 2014.
- 16.1.2. She is a member and provincial coordinator of the South Africa Chapter of the International Association of Women Judges (since 2007).
- 16.1.3. She has been a member of the Black Lawyers Association since 2013.
- 16.1.4. She has been a member of the Association of Regional Magistrates of South Africa since 2014.
- 16.1.5. She is the Vice-Chairperson of the Kuvhaivhai Community Drop in Centre.
- 16.1.6. She has been the Vice-Chairperson of the Apostolic Faith Mission Church of South Africa women services branch at Matangari Village since 2012.
- 16.1.7. She has been the sponsor of the Matangari Village soccer team, for purposes of youth development and recreation.
- 16.1.8. She regularly donates oral care toiletry items to the Fulufhelo School (every year except 2020 due to Covid-19).
- 16.1.9. She has participated in and facilitated moot court competitions for law students at the University of Venda from 2012 to date.
- 16.1.10. She has delivered legal lectures and provided advice to various community groups on various topics from family law, criminal law, civil law and social issues. She participates in outreach programmes to secondary schools to

raise awareness on different legal topics, including children in conflict with the law, rape cases and cybercrimes.

17. The candidate's potential:

17.1. The candidate has demonstrated that she would be an enormous asset to the Bench. In our opinion, the South African judiciary cannot afford not to appoint a candidate of this experience, calibre and character.

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

18.1. The candidate has a dearth of relevant, professional experience spanning over two decades. She has amply demonstrated that she would be a competent, indeed excellent, judge. Appointing this candidate would send a message to the community at large that the judiciary appoints experienced, qualified candidates.

18.2. In addition, the candidate is black, female and disabled. Her appointment would assist the judiciary to be more inclusive and more reflective of South African society.

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

None.

Unreported Decisions:

We list below the judgments considered in which the candidate penned the judgment:

S v Lukhele 2019 JDR 0072 (GP)

S v Mahlangu 2019 JDR 0376 (GP)

S v Benson 2018 JDR 0215 (GP)

S v Moabi 2018 JDR 1019 (GP)

Lerm v RAF 2019 JDR 0483 (GP)

Gethe v City of Tshwane Metropolitan Municipality 2018 JDR 0336 (GP)

Yonge v PRASA 2019 JDR 0287 (GP)

Claasen v Barnard 2020 JDR 2698 (GP)

Mdluli v Minister of Police 2018 JDR 0330 (GP)

Mokoena v S (A535/2016) [2017] ZAGPPHC 899 (14 December 2017)

Phiri and Another v S (A240/2017) [2017] ZAGPPHC 1261 (15 December 2017)

Honniball v Minister of Police (38136/2015) [2017] ZAGPPHC 781 (24 November 2017)

Grimbeek v RAF (57751/14) – attached to the candidate’s application

Judgments upheld on appeal:

None

Judgments overturned on appeal:

None