

APPLICANT: MR VUSUMUZI REUBEN SINKY NGOBE KA NKOSI

COURT FOR WHICH CANDIDATE APPLIES: LABOUR COURT AND HIGH COURT (SHORTLISTED ONLY FOR THE LABOUR COURT)

1 The candidate's appropriate qualifications:

- 1.1 Short Course in Elementary Portuguese, University of Mpumalanga, 2018;
- 1.2 Diploma in Financial and Accounting Principles for Public Entities, UNISA, 2006;
- 1.3 Masters of Laws (LLM) specialising in Human Rights and Constitutional Practice, University of Pretoria, 1996;
- 1.4 LLB, University of Witwatersrand, 1993;
- 1.5 B. Juris, University of Zululand, 1990.

2 Whether the candidate is a fit and proper person:

- 2.1 We are not aware of any information that would cast doubt on the candidate's fitness or propriety.

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

- 3.1 Yes, the candidate is a black African male and is previously disadvantaged.

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

- 4.1 The candidate has been an attorney for 25 years.

- 4.2 He has held various leadership and legal positions.
- 4.3 Acted as a judge in the South Gauteng High Court in 2011.
- 4.4 Acted as a judge in the Labour Court, Braamfontein, in 2011.
- 4.5 Acted in various other divisions of the High Court such as: North Gauteng (2013), Limpopo Division sitting in Polokwane and Thohoyandou (2014) and Mpumalanga High Court (2015 to present).
- 4.6 He has acted as a senior commissioner at the CCMA (1999 to 2002), a commissioner at the Small Claims Court (2004) and Deputy Chairperson at the Transport Appeal Court.
- 4.7 Presiding officer of the Revision Court (Lowveld Region) 1997 to 1999.
- 4.8 Participated in the Military Court sitting in Mpumalanga on behalf of Umkhonto Wesizwe members (1997).
- 4.9 Participated in the Truth and Reconciliation Commission submitting applications for Amnesty (1994; 1997 to 2000).
- 4.10 Attended judicial training organised by the South and North Gauteng High Court in 2010.

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

- 5.1 Nkosi has completed a Master's degree in this area of the law therefore demonstrating an interest in the values of the constitution;
- 5.2 Member of the Integrated Development Programme on Safety and Security;

5.3 Member of the Methodist Church Mpumalanga Foundation for Human Rights.

6 Whether any judgments have been overturned on appeal:

6.1 Two judgments have been overturned on appeal. It appears that only two judgments have been appealed to the full bench.

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

7.1 Part-time law tutor at Unisa. 1996 to 1998.

7.2 Part-time Law Tutor at Tshwane University. 1999

7.3 Practicing Attorney at Nkosi Attorneys and Associates, Nelspruit. 1998 to present involving:

7.3.1 supervision of staff;

7.3.2 management of compliance and strategic performance;

7.3.3 negotiations of claims;

7.3.4 management of Budget and key programs;

7.3.5 human resource training and time management;

7.3.6 development of strategies for good performance and communication strategies; and

7.3.7 training of candidate attorneys.

7.3.8 The candidate has appeared in the Magistrates Court, High Court, Labour Court, Land Claims Court and other bargaining Councils.

- 7.3.9 Involvement in the following types of matters:
 - 7.3.9.1 civil and criminal trials;
 - 7.3.9.2 motion court proceedings;
 - 7.3.9.3 matrimonial and insolvency cases;
 - 7.3.9.4 business rescue matters; and
 - 7.3.9.5 appeals and reviews.

- 7.4 Professional Assistance at Heystek Oberholzer and Louw Inc, Centurion - 1996 to 1997 involving:-
 - 7.4.1 advise on Human Rights;
 - 7.4.2 court appearances;
 - 7.4.3 legal advice;
 - 7.4.4 legal opinions; and
 - 7.4.5 drafting of agreements.

- 7.5 Assistant State Attorney at office of the State Attorney, Pretoria - 1996:
 - 7.5.1 Corporate Law advisor;
 - 7.5.2 Regulatory and Compliance Law advisor;
 - 7.5.3 property registrations;
 - 7.5.4 litigation; and
 - 7.5.5 administration of estates.

7.6 Articles of Clerkship up to Admission to Practice as Attorney at Rooth and Wessels Attorneys, Pretoria- 1994 to 1996:

7.6.1 legal advice;

7.6.2 court appearance;and

7.6.3 drafting of legal opinions.

8 The candidate's linguistic and communication skills:

8.1 English

8.2 Elementary Portuguese

9 The candidate's ability to produce judgments promptly:

9.1 The candidate has stated that he has no reserved judgments outstanding.

9.2 The two judgments included in the application were delivered in 10 and 30 days respectively.

10 The candidate's fairness and impartiality:

10.1 Despite the candidate having two judgments overturned, the candidate has adjudicated a number of matters with other judges and in all of his judgments his fellow judges have concurred with his judgment.

10.2 After reading his various judgments it is evident that he is fair and impartial especially when taking a pragmatic approach to criminal appeals from the Magistrates Court.

11 The candidate's independent mindedness:

11.1 No information reviewed indicates a lack of independent mindedness displayed by the candidate.

11.2 His membership of the ANC (as an ordinary member), and his apparent links to government, given his appointment to governmental boards on a number of occasions, may call for questions during his interview.

12 The candidate's ability to conduct court proceedings:

12.1 The candidate has been able to run and adjudicate long and complicated trials. He has been able to succinctly capture the trial in his judgment of which it seems he had control .

13 The candidate's administrative ability:

13.1 They candidate has written his judgments within a reasonable time.

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

14.1 The candidate seems to be a well-respected practitioner who has been appointed to a number of boards and positions of responsibility over the past 25 years.

15 The candidate's judicial temperament:

15.1 From the judgments delivered by the candidate, it is evident that the candidate has a very thorough and analytical mind.

15.2 Each judgment is drafted in a consistent manner and the judgments are well reasoned and researched. Judgments are easy to read and are very direct.

15.3 The applicable legal principles are explained and are given due consideration.

15.4 We are not aware of complaints or other information that indicate any problems with the candidate's judicial temperament.

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

16.1 The applicant has served on the board of a hospital and an NGO. He has also sat on various other boards including the Liquor Board and the Gambling Board and other government boards. He has served in various other positions which contribute towards good governance and the effective management of provincial government.

16.2 He has also assisted clients in Portuguese and those from Mozambique who battle with the language barrier. He has serviced a minority community in South Africa.

16.3 The candidate has rendered various pro bono legal services, including acting as a Commissioner of the Small Claims Court.

17 The candidate's potential:

17.1 The candidate has excellent potential and has displayed a good understanding of the law and how it should be applied in our Courts. His experience is evident in his judgments and in the way he writes his judgments.

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

- 18.1 That hardworking members of society can be appointed to the Bench especially when one has a diverse and unique legal background as, although the candidate has run his own firm for a number of years, he has also got involved in various other community and governmental activities.

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

Refin Financial Services (Pty) Ltd V Carfin (Pty) Ltd And Others 2013 BIP 470 (GNP)

Unreported Decisions:

Busamed Health Care (Pty) Ltd v Du Plessis Van Der Nest SC NO. 2020 JDR 1331 (GP)

The Land & Agricultural Development Bank of South Africa v Buziba 2020 JDR 1367 (GP)

Adv Viljoen NO. v The Road Accident Fund 2018 JDR 1517 (GP)

Mavodza v S [2017] JOL 38724 (GP)

AM v S [2017] JOL 38721 (GP)

Shabangu v S (A98/15) [2016] ZAGPPHC 346 (15 March 2016)

Open Edge Technologies SA (Pty) Ltd v City of Tshwane Metropolitan Municipality 2016 JDR 0043 (GP)

Makaula Zilwa Incorporated v Bushbuckridge Municipality 2016 JDR 0612 (GP)

Tahlo v Road Accident Fund 2016 JDR 0613 (GP)

Boschkop Taxi Association v Gauteng Transport Registrar 2016 JDR 0635 (GP)

Abreu v Pestana Family Meat & Chicken CC 2016 JDR 0811 (GP)

Mkhabela v Xaba 2016 JDR 2267 (GP)

S v Mthiyane 2015 JDR 1280 (GP)

Janse Van Vuuren v Evans 2015 JDR 2694 (GP)

Van Dyk v Adroit Communications (Pty) Ltd 2014 JDR 0056 (GNP)

Law Society of the Northern Provinces v Coetzee 2014 JDR 1653 (GP)

Moloi v Passenger Agency SA 2013 JDR 1665 (GNP)

Pretoria Society of Advocates v Sentsho 2013 JDR 2112 (GNP)

Rubeshini v Road Accident Fund 2013 JDR 2145 (GNP)

Mashego v Minister of Police 2013 JDR 2147 (GNP)

Lubbe v Road Accident Fund 2013 JDR 2209 (GNP)

S v Ditire 2013 JDR 2216 (GNP)

S v Mdluli 2013 JDR 2245 (GNP)

Lutheran Bapedi Church v Rev Mpasha 2013 JDR 2418 (GNP)

Machika v Mthethwa 2013 JDR 2424 (GNP)

Itec Distribution (Pty) Ltd v Tuscan Mood 179 (Pty) Ltd 2013 JDR 2453 (GNP)

Refin Financial Services (Pty) Ltd v Carfin (Pty) Ltd 2013 JDR 2618 (GNP)

S v Ramele 2013 JDR 2756 (GNP)

*Vox Orion (Pty) Ltd v State Information Technology Agency (SOC) Ltd 2013 JDR
2761 (GNP)*

Sentinel Trust NO v Barnes NO 2013 JDR 2773 (GNP)

Judgments upheld on appeal:

None available

Judgments overturned on appeal:

Xaba v Mkhabela 2019 JDR 1593 (GP)

Sentinel Trust NO . v Barns N.O. 2016 JDR 0455 (GP)