

APPLICANT: ALBERT PUNCH SIBONGILE NXUMALO

**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. As the candidate practises at the Johannesburg Bar, he is not well-known to members of our Society. Given the number and contents of his nominations for appointment, he is clearly 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. The appointment of the candidate will help to reflect the racial and gender demographics of South Africa and the Northern Cape Province.

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 acting stints have equipped him for an appointment as a judge. Members of the Northern Cape Society of Advocates who have appeared before him while acting in this Division regard his knowledge of the law as adequate for appointment as a judge in this Division.

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

- 5.1. Having perused the candidate's questionnaire and curriculum vitae, and judging from his previous acting stint in our Division, he is committed to the values of the Constitution. We have received no information indicating the contrary.

6. Whether any judgments have been overturned on appeal:

- 6.1. We are not aware of any judgments that have been overturned on appeal.

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

- 7.1. From the candidate's questionnaire and curriculum vitae, it appears that he is experienced in many fields of the law, and, in our view, the extent of his professional experience makes him a suitable candidate for appointment.

8. The candidate's linguistic and communication skills:

- 8.1. The candidate's judgments as well as our experience of him as an acting judge bear testimony to his mastery of the English language and he is able to communicate effectively and express himself clearly, in a manner that legal practitioners, litigants and witnesses understand.

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

- 9.1. We are not aware of any judgments that have been outstanding for more than 3 months. It is not clear whether he is the scribe of the judgment, referred to by him and indicated to have been outstanding

since September 2020. The candidate will clearly be able to clarify this and also whether this judgment has now been delivered.

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.

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

12.1. The candidate's experience is evident from his questionnaire and curriculum vitae. It is also visible to practitioners in the manner in which he conducts court proceedings and engages legal practitioners during argument.

13. The candidate's administrative ability:

13.1. We have not received any adverse comments about the candidate's administrative skills to do the work of a judge.

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.

15. The candidate's judicial temperament:

15.1. No adverse comments were received in respect of 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. 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 that values human rights and who endeavours to protect those rights.

17. The candidate's potential:

17.1. No adverse comments have been received, indicating that the candidate is unable or that he does not have the potential to execute the responsibilities of a judge.

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

18.1. Given the fact that he is a black person and the fact that he grew up in the Northern Cape, his appointment will send a positive message to the community at large.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported decisions

B v B (525/20) [2020] ZANCHC 52 (7 August 2020)

Bodumele v S (CA&R13/20) [2020] ZANCHC 53 (21 August 2020)

S v Kuzana (A442/20; 05/20) [2020] ZANCHC 49 (8 July 2020)

Nel v Van Schalkwyk NO and Others (207/19) [2020] ZANCHC 33 (26 June 2020)

Tswana Quantity Surveyors and Project Managers CC v Gamagara Development Forum (1626/2019) [2020] ZANCHC 34 (28 May 2020)

Desert Oil Proprietary Limited t/a Caltex Northern Cape Marketer v Polka Dot Cafe CC t/a Caltex Carters (1399/20) [2020] ZANCHC 72 (30 October 2020)

Unreported Decision

Judgments upheld on appeal:

Judgments overturned on appeal: