

**APPLICANT: MATSARO VIOLET SEMENYA**

**COURT FOR WHICH APPLICANT APPLIES: DEPUTY JUDGE  
PRESIDENT, LIMPOPO HIGH COURT DIVISION**

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

1.1 The candidate is duly qualified, having obtained:

1.1.1 B Iuris (University of Limpopo) during 1985; and

1.1.2 LLB (University of South Africa) during 2003.

1.2 The candidate is experienced, having worked as:

1.1.3 National Prosecuting Authority – Public Prosecution  
(Prosecutor): Mankweng Magistrate's Court (1985);

1.1.4 National Prosecuting Authority – Public Prosecution  
(Prosecutor): Mokerong Magistrate's Court (1985 – 1991);

1.1.5 National Prosecuting Authority – Public Prosecution (Control  
Prosecutor): Mokerong Magistrate's Court (1994);

1.1.6 SA Judiciary: Magistrate – Mokerong Magistrate's Court  
(1991 – 2003);

1.1.7 SA Judiciary: Acting Head of Court: Mokerong Magistrate's  
Court (2003);

1.1.8 SA Judiciary: Senior Magistrate and Head of Court: Seshego  
Magistrate's Court (2003 – 2004);

- 1.1.9 SA Judiciary: Regional Magistrate – Mokerong Magistrate’s Court (2004 – 2016);
- 1.1.10 SA Judiciary: Acting Judge of the High Court – North Gauteng High Court, Pretoria (2015: one term);
- 1.1.11 SA Judiciary: Acting Judge of the High Court – North Gauteng High Court, Pretoria; Polokwane and Thoyandou (2016: two terms); and
- 1.1.12 SA Judiciary: Judge of the High Court – Limpopo Division of the High Court, Polokwane (2017 – present).

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

- 2.1 The bundle of documents furnished did not contain a certificate of good standing.
- 2.2 We are therefore unable to comment on such standing at present.
- 2.3 Should same be made available, we will amplify these comments, should it become necessary to do so.
  - 2.3.1 It is not indicated whether there are any complaints or disciplinary proceedings pending against her in her professional capacity;
  - 2.3.2 It is not indicated whether there is any criminal or civil litigation pending against her.
  - 2.3.3 It is not apparent whether the candidate is currently involved in various sub-committees which aim to serve the legal fraternity and community as well as to promote

transformation. However, the candidate has listed her involvement in the following legal associations:

- 2.3.3.1 Judicial Officers Association of South Africa (JOASA) – Secretary (LIMPOPO) – 1994;
- 2.3.3.2 ARMASA; and
- 2.3.3.3 International Association of Women Judges (IAWJ) (SA CHAPTER).

2.3.4 The candidate has also listed her involvement in the following community organizations as follows:

- 2.3.4.1 Chancellor of the Anglican Church of Southern Africa, Diocese of St Mark the Evangelist; and
- 2.3.4.2 Patron of Kgabetli Primary School.

**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 and her appointment will contribute to reflect the racial and gender composition of South Africa.

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

4.1 The candidate is well-versed in the law, having been a public prosecutor for almost 6 (six) years (from 1985 – 1991) and a magistrate for almost 14 (fourteen) years from 1991 to 2015 and having presided over civil and criminal matters.

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

5.1 Due to the fact that the candidate has not provided a certificate of good standing, we cannot be certain of the candidate's commitment to the values of the Constitution.

**6. Whether any judgments have been overturned on appeal:**

6.1 The candidate has indicated that three of her judgments have been 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 her almost 36 year experience in the law, from 1985 to the present, as detailed in paragraph 1.2 above, comprising:

7.1.1.1 6 (six) years as prosecutor;

7.1.1.2 12 years as a magistrate;

7.1.1.3 1 year as a senior magistrate;

7.1.1.4 12 years as a regional magistrate;

7.1.1.5 three terms as an acting judge; and

7.1.1.6 a Judge of the High Court, Limpopo Division, Polokwane for almost 4 (four) years.

7.1.2 The various fields of law in which she practised, to wit, criminal law and civil litigation.

7.1.3 The fact that the candidate was nominated by the South African Women Lawyers Association (SAWLA) for the position as Deputy Judge president of the Limpopo Division.

**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:

8.1.1 the fact that she was and remains a High Court judge; and

8.1.2 her well-defined and accessible judgments – five written judgments have been attached to the candidate's application.

8.2 The candidate does not state whether she is proficient in any other languages.

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

9.1 The candidate has listed the following matters where judgment was reserved and remains outstanding:

9.1.1 Bakgomana Ba-Ramokgopa v Limpopo House of Traditional Leaders and Others (Case No.: 1459/2017) - Date reserved: 17/09/2020)

9.1.2 Minister of Police v Mohlala (Case No.: H28/19) – Date reserved: 20/11/2020).

9.2 The candidate also indicated that she does not have any pending part-heard matters.

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

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

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

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

12. **the candidate's ability to conduct court proceedings**

12.1 No comment is offered.

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

13.1 We are unable to unreservedly comment as to whether the candidate is administratively proficient, due to her seemingly limited involvement in the various committees of the legal fraternity and those of her community.

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

14.1 The candidate's integrity and ethical behaviour appear to be incontrovertible.

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

15.1 The candidate's integrity is undisputable, having regard to her appointment as magistrate, acting judge and ultimately her appointment as a judge.

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

- 16.1 The candidate states that, as a regional magistrate, she drastically reduced the number of rape cases within the jurisdiction of the Mokerong Magistrate's Court – the details of same are unclear.
- 16.2 The candidate also states that she contributed to the reduction of the number of maintenance defaulters – the details of how such reduction was achieved are unclear.
- 16.3 The candidate states that she has mentored female acting judges within the Limpopo Division – the details of same are unclear.
- 16.4 The candidate states that she has addressed the female student Parliament of the University of Limpopo on sexual offences.

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

- 17.1 The candidate demonstrates potential to contribute to the judiciary, having regard to her experience, capabilities, and demeanour.
- 17.2 The candidate's age, to wit 69 years, will inhibit her ability to reach her full potential before reaching retirement age – namely 75 years of age.

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 consists of judges that are competent, experienced, proficient, fair and just, and open minded;
- 18.1.2 is being transformed to accommodate female judges in leadership roles; and

18.1.3 judges are involved in and understand the needs of the community.



## **ANNEXURE: LIST OF JUDGMENTS CONSIDERED**

### **Reportable decisions:**

It is unclear how many reportable judgments the candidate has amassed, however she has provided a list of reported decisions which are as follows:

*Mdhluli v the state* 2020 (1) SACR 98 (LP);

*S v TN* 2020 (1) SACR 633 (LP);

*S v Linus* 2015 (1) SACR 381 (GP).

### **Not reportable decisions:**

It is unclear how many unreportable judgments the candidate has amassed as such information has not been provided.

### **Judgments upheld on appeal:**

*EM Raatji v The State* (Case No.: CC01/17)

*JD Serake v The State* (Case No.: CC26/16)

*Muladuzi v Mudau and Others* (heard in the SCA on 11/09/2020) – no case number provided

*GK Gadinni Petrol Sales CC v Alpheus Mabune Puane and Others* (Case No.: 04/2019)

*Director of Public Prosecution v Ramalekana* (528/2018) [2018] ZASCA 187 (14/12/2018)

*S v S* (181/2015) [2019] ZALMPPHC 5 (15/03/2019)

*TF Mashamba v The State* (Case No. AA10/2017)

*Moufhe and Others v Mposi* (Case No. HCAA 13/2019)

**Judgments overturned on appeal:**

*Lebese v Lebese and Others* (HCAA14/18) [2019] ZALMPPHC 54 (29/10/2019)

*M v M and Another* (HCAA30/2017) [2018] ZALMPPHC 65 (19/10/2018)

*MN v FN* (714/2018) [2019] ZASCA 185 (0312/2019)