

APPLICANT: ADVOCATE MECHELLE BENEKE SC

**COURT FOR WHICH CANDIDATE APPLIES: EASTERN CAPE
DIVISION OF THE HIGH COURT, GRAHAMSTOWN**

1. The candidate's appropriate qualifications

1.1. LLB (University of Port Elizabeth) 2001; and

1.2. LLM (University of Port Elizabeth) 2003.

2. Whether the candidate is a fit and proper person

2.1. The candidate is a fit and proper person.

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

3.1. The candidate's appointment would enhance gender representation in the Judiciary in general and in the Eastern Cape Division, Grahamstown in particular, where there are currently only two women judges one of whom will be retiring at the end of 2021.

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

4.1. The candidate has a broad knowledge of the law.

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

5.1. The candidate has shown a commitment to the values enshrined in the Constitution not only in the conduct of her practice, as set out in her response in paragraph 6.3A, but also in her commitment to teaching and

training pupil members of the bar, university students, and school learners.

6. Whether any judgments have been overturned on appeal

6.1. No.

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

7.1. The candidate has practised as a member of the Eastern Cape Society of Advocates for approximately 17 years and nine months, of which she has been a senior counsel for two years and two months.

7.2. As is evident from the candidate's response in paragraphs 1 and 6.2 of her application she has a broad practice and is suitably experienced.

8. The candidate's linguistic and communication skills

8.1. A consideration of the candidate's judgments indicates that she has excellent communication and linguist skills.

9. The candidate's ability to produce judgments promptly

9.1. A consideration of the candidate's select judgments shows that she produced judgments promptly in all matters save for *Z. Hlabiso v MEC for Health Eastern Cape* case number 4275/2018, whereafter three hearing dates, culminating with a final hearing date on 01 November 2019, judgment was handed down approximately four months later on 10 March 2020.

10. The candidate's fairness and impartiality

10.1. The candidate is fair and impartial.

11. The candidate's independent mindedness

11.1. The candidate is independent minded.

12. The candidate's ability to conduct court proceedings

12.1. The candidate has a good ability to conduct court proceedings.

13. The candidate's administrative ability

13.1. The candidate has a good administrative ability.

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

14.1. The candidate is recognised within the Eastern Cape Society as having high ethical standards and is a person of unimpeachable integrity.

15. The candidate's judicial temperament

15.1. The candidate has a good 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 candidate is committed to human rights.

17. The candidate's potential

17.1. The candidate has the potential to be a long serving and competent Judge of the High Court and has all of the necessary characteristics and qualifications to do so.

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

18.1. The candidate's appointment to the bench would be the culmination of her hard work and would send a positive message to the community at large in that her appointment would evidence the Commission's approbation of a committed, deserving, and qualified candidate from an underrepresented group.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported decisions

No reported judgments.

Unreported decision

Church of God and Saints of Christ v Church of God and Saints of Christ Stone of Truth 2018 JDR 1312 (ECG)

Ntangazana v Member of the Executive Council for the Department of Education, Eastern Cape Province 2019 JDR 2060 (ECM)

God Never Fails Revival Church v Mgandela 2019 JDR 2063 (ECM)

Firststrand Bank Ltd v CAGA 2018 JDR 1327 (ECG)

Judgments overturned on appeal:

None of the judgments handed down by the candidate have been taken on appeal or overturned on appeal.