

**APPLICANT: MR JABULANI ELLINGTON DLAMINI**

**COURT FOR WHICH CANDIDATE APPLIES: GAUTENG DIVISION OF THE HIGH COURT**

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

1.1 B Proc (University of Limpopo, 1987);

1.2 LLB (University of Johannesburg, 1989);

1.3 Diploma, Corporate Law (University of Johannesburg, 2001);

1.4 The candidate completed the Attorneys' Admission Examinations and was admitted as an Attorney in the High Court of South Africa, Gauteng Division on 12 January 1993.

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

2.1 There is nothing in the candidate's application or judgment to suggest his is not 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 There are currently 73 full time judges on the Gauteng bench, comprising (as far as could be ascertained):

3.1.1 22 black women (17 African, 3 Indian, 2 Coloured);

3.1.2 25 black men (18 African, 5 Indian, 2 Coloured);

3.1.3 13 white women; and

3.1.4 13 white men.

3.2 The candidate is a black man.

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

4.1 Reference was made to the judgments of the candidate, including those delivered in criminal appeals.

4.2 The candidate's knowledge of constitutional law and its impact were not demonstrated in the judgments referred to. That may be so because the merits before him for decision had not raised constitutional issues.

4.3 The candidate demonstrates extensive knowledge of criminal law and procedure.

4.4 None of the judgments are reported.

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

5.1 It appears from the candidate's judgments that he is committed to the values of the Constitution.

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

6.1 No reported judges overturned on appeal could be identified. The candidate's application notes a pending appeal, the outcome of which remains uncertain.

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

7.1 The candidate practised as an Attorney since 1993.

- 7.2 During this time, he acted for a number of terms as a judge in the Gauteng Division of the High Court.
- 7.3 Since 2010, the candidate was the Chairperson of the Disciplinary Proceedings for the Ekurhuleni Metropolitan Municipality.
- 7.4 He acted as Chairman of the Home Truths Commission for the Gauteng Department of Housing.
- 7.5 He acted as the Adjudicator in housing disputes for the Gauteng Department of Housing.

## **8. The candidate's linguistic and communication skills**

- 8.1 The candidate has produced well-structured and clearly written judgments and awards.
- 8.2 There are no reported judgments that were identified by the candidate or the reviewing team.
- 8.3 As is evident from the content of the judgments reviewed, and identified by the candidate as of importance, the subject matter of these judgments was not of the most complex matters of law. The subject matter included criminal law matters for the most part, about which the candidate has vast experience, and an eviction matter from a body corporate.
- 8.4 The candidate uses a reader-friendly structure in his judgments and awards.
- 8.5 Linguistic skills indicate some minor shortcomings in English spelling and grammar identified in the judgments referred to above.

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

9.1 There is no indication that the candidate has failed to deliver his judgments timeously.

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

10.1 Based on the judgments analysed, it appears that the candidate is fair and impartial and applies the law without fear or favour.

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

11.1 The candidate appears to be independent-minded.

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

12.1 No adverse comments have been received on the candidate's judicial temperament.

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

13.1 The candidate was a successful attorney and presided over municipal and provincial disciplinary and commissions of inquiry.

13.2 It seems reasonable to assume that he has a strong administrative ability.

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

14.1 No adverse comments have been received.

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

15.1 No adverse comments have been received. From the reviews of his judgments above, it appears that he is fair, firm and independent-minded.

**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 shown a commitment to charity work in the community.

**17. The candidate's potential**

17.1 The candidate has demonstrated his knowledge and ability in a variety of legal fields, especially criminal, road accident, labour and housing matters, as set out above.

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

18.1 The candidate was born and bred in Katlehong, Ekurhuleni Metropolitan Municipality.

18.2 He represents a demographic that was historically not privileged, and not represented within the judiciary.

18.3 His appointment would demonstrate to the community at large that, with effort and commitment, achievements such as an appointment to the High Court are within reach of appropriately qualified and skilled South Africans, regardless of race or social background.

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

### **Unreported decisions**

*Bheki Sithembiso Simelane v The State* [Case no: A128/2020]. Gauteng Division, Pretoria. 3 May 2021. Annexed to application.

*Piet Magabe v The State* [Case no: A546/2016; DPP Ref no: PA89/2016]. Gauteng Division of the High Court, Pretoria. 4 January 2021. Annexed to application.

*The Body Corporate of Oakmont v Alfred Kalu Orié Awah* [Case no: 2490/2018]. 19 September 2019. Gauteng Division, Johannesburg. Annexed to application.

*Mahlangu v Minister of Police* [Case Number 20309/2017] [2019] ZAGPJHC363, 18 September 2019, Gauteng Division, Johannesburg.

*M: S [...]S [...] v The State*, [Case Number A67/2017] 31 May 2021, Gauteng Division, Pretoria.

*Marie Louise De Wet v Road Accident Fund* [Case no: 49320/215] (GJ)

*Lekgau v Passenger Rail Agency of South Africa* 2019 JDR 1723 (GJ)

*Mekoa v Mekoa* 2019 JDR 1720 (GJ)

### **Judgments overturned on appeal**

None reported. One pending.