

APPLICANT: MR. MPOPELELE BRUCE GILBERT LANGA

**COURT FOR WHICH APPLICANT APPLIES: MPUMALANGA DIVISION
OF THE HIGH COURT, MBOMBELA & MIDDELBURG**

1. The candidate's appropriate qualifications

1.1 The candidate is suitably qualified, having obtained:

1.1.1 Diploma Juris (University of the North) during 1981;

1.1.2 LLB (Unisa) during 1981; and

1.1.3 LLM (Unisa) during 2004.

1.2 The candidate has the undermentioned experience:

1.2.1 An administrative clerk (1978 to 1979);

1.2.2 A public prosecutor (1982 to 1985);

1.2.3 An Assistant-Magistrate (1983 to 1985);

1.2.4 An Additional Magistrate (1985 to 2004);

1.2.5 A Regional Magistrate (2004 to 2013); and

1.2.6 Regional Court President (2013 to date).

1.3 The candidate held the undermentioned acting positions:

1.3.1 Acting head of Magistrates Office: Bushbuckridge (1996, 1997, 2000, 2001 and 2003);

1.3.2 Acting Regional Court President: Western Cape (2010 to 2013);

- 1.3.3 Acting Judge, Western Cape Division of the High Court (July 2017 to September 2019; and
- 1.3.4 Acting Judge, Mpumalanga Division of the High Court (January 2020 to date)
- 1.4 In addition, the candidate has also served in various capacities on behalf of the South African Judicial Education Institute from 2017 to date.

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

- 2.1 The undermentioned facts are relevant in the context of considering whether the candidate is a fit and proper person:
 - 2.1.1 He has been nominated for the position of Judge by the President of Association of Regional Magistrates of Southern Africa, the Honourable Mr. N.J. Ratshibvumo;
 - 2.1.2 Two Certificates of Good Standing have been issued by the Magistrates Commission of the Republic of South Africa on 19 December 2019 and 17 June 2021 by respectively Mr. M. Dawood as secretary and Mr. M.C. Nieuwoudt as acting-secretary, both stating that at the dates thereof there were no disciplinary matters or investigations in respect of any misconduct pending against the candidate.
- 2.2 It bears mentioning that, despite the certificates of good standing, two complaints were lodged against the candidate. From the record of the candidate's interview before the Judicial Services Committee on 21

April 2021, it is clear that that Committee on that date also considered these complaints.

- 2.3 The first complaint was by a fellow Regional Magistrate, a certain Ms. A. Immelman during 2015. **(See paginated page [pp] 263 to 266).**
- 2.4 This complaint can be summarised as dissatisfaction with infrastructure and poor working conditions caused by infrastructure problems.
- 2.5 The Grievances and Service Conditions Committee of the Magistrates Commission on 30 August 2016 dismissed the complaint.
- 2.6 The second complaint was also brought by a fellow Regional Magistrate, a certain Ms. M. Jwacu. **(See pp. 227 to 249).**
- 2.7 This complaint can be summarised as alleged unfair treatment that vary in extent and form by the candidate as a superior. On the information available, this complaint was not lodged with or considered by the Grievances and Service Conditions Committee of the Magistrates Commission. **(See pp. 259).**
- 2.8 The complaint was directly raised with the Judicial Service Committee during March 2021.
- 2.9 The candidate responded thereto on 30 April 2021. **(See pp. 250 to 258).**
- 2.10 On the information available, there is no clarity in respect of the status, extent of resolution and outcome of the second complaint.

- 2.11 On the information available, no complaints were lodged against the candidate during his tenure as an acting Judge in either the Western Cape Division or the Mpumalanga Division.
- 2.12 No disciplinary proceedings are pending against him in his professional capacity as an acting Judge or President of the Regional Court.
- 2.13 On the information available, there is no criminal or civil litigation pending against the candidate.

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 man and his 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 appears to be well-versed in the law.
- 4.2 He acted as Magistrate at both District and Regional level mainly in criminal matters. Since his tenure as an acting Judge, he presided in civil matters and in that capacity delivered various civil law judgments as well.
- 4.3 The extent of the candidate's experience in constitutional law appears from his judgments in the matters below:
- 4.3.1 *Benchmark Consultancy (Pty) Ltd and Another v Ascension Properties Limited*, Case Number A15/2018 – Western Cape wherein the Court had to make a determination whether or not the

appellant's constitutional rights of equality, dignity and just administrative action had been violated;

4.3.2 *Msukalikwa Local Municipality v Altimax (Pty) Ltd*, Case Number 437/2017 - Middelburg, wherein section 217 of the Constitution dealing with government procurement was considered.

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

5.1 From the candidate's curriculum vitae it appears that he was involved in or attended seminars and workshops concerned with:

5.1.1 Diversity, Culture and Gender in the Law;

5.1.2 Impartiality and Integrity in the Law;

5.1.3 Sexual Offences; and

5.1.4 Gender Based Violence and the HIV/AIDS Pandemic.

5.2 The candidate also obtained a diploma in the Equal Status and Human Rights of Women from the Lund University in Sweden.

5.3 The candidate further acted as facilitator, trainer and mentor at the following educational facilities:

5.3.1 UCT Law Race and Gender Unit (1997 to 2003);

5.3.2 Justice College: Equality Court (2001 to 2002);

5.3.3 South African Judicial Education Institute – Judicial Education (2013 to date).

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

6.1 One of the candidate's judgments was listed as being overturned on appeal, to wit:

6.1.1 *Hugo, Kirsten & Kirsten (Pty) Ltd v Collotype Labels (Pty) Ltd* (323/2019) [2020] ZASCA 21 (25 March 2020).

6.2 This must be considered against the candidate's judgments that were upheld on appeal, namely:

6.2.1 *Namib Mills (Pty) Ltd v Mark Louis Maingard* (11540/16 [2017] ZAWCHC 165 (17 May 2017)

6.2.2 *Waterberry Trading 23 CC v Aristonas (Pty) Ltd*, Case Number: 15725/2017 – Western Cape.

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

7.1 The candidate has law experience obtained over 39 years in the undermentioned positions:

7.1.1. Public Prosecutor (1982 to 1983);

7.1.2. Assistant Magistrate (1983 to 1985);

7.1.3. Additional Magistrate (1985 to 2004);

7.1.4. Regional Magistrate (2004 to 2013); and

7.1.5. Regional Court President (2013 to date).

7.2 The candidate has also been a member of the following legal organisations:

7.2.1 Magistrates Association of South Africa (1994 to 1996);

7.2.2 Judicial Association of South Africa (1999 to 2003); and

7.2.3 Association of Regional Magistrates of South Africa (2005 to date).

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

8.1 The candidate is proficient in the English language and communication skills.

8.2 In addition to English, the candidate is also proficient in Ndebele, Sepedi, Afrikaans, Sesotho, Tswana, Zulu, Tsonga and Isiswati.

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

9.1 On the information available, the candidate produces judgments promptly.

9.2 The candidate acted as a Judge since 2017. At date of his application, he has one outstanding judgment, namely *Sekunye Holdings (Pty) Ltd v Govan Mbeki Local Government*, case number 3763/2018 – heard and reserved on 26 May 2021.

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

10.1 On the information available, there is no reservations or concerns regarding the candidate's impartiality and fairness.

11. The candidate's independent mindedness

11.1 On the information available, there is no reservations or concerns regarding the candidate's independent mindedness.

12. The candidate's ability to conduct court proceedings

12.1 Question omitted from review.

13. The candidate's administrative ability

13.1 On the information available, the candidate is administratively proficient. This is borne out by his career record, as Public Prosecutor, Magistrate and Acting Judge.

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

14.1 On the information available, there is no reason to question the candidate's integrity and ethical behavior.

15. The candidate's judicial temperament

15.1 From the candidate's judicial career, it appears that he has a strong judicial temperament.

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

16.1 On the information available, and specifically the candidate's curriculum vitae, he demonstrates commitment and experience regarding human rights and the values and needs of the community.

17. The candidate's potential

17.1 The candidate demonstrates potential to contribute to the judiciary.

17.2 The candidate's age, to wit 62 years, might inhibit his ability to reach his full potential as a judge before reaching retirement age.

17.3 On the facts and information available, there are no reasons that disqualify the candidate from appointment.

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

18.1 If the candidate is appointed, it may convey to the community at large that the judiciary:

18.1.1 consists of judges that underwent proper scrutiny in respect of competency, experience and proficiency; and

18.1.2 consists of Judges that also passed scrutiny in respect of the needs of the community.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported decisions

Unreported decisions

Marthinus Phillipus Van Der Berg v Silber Solutions 2564 CC, Case Number A95/2017

Benchmark Consultancy (Pty) Ltd and Another v Ascension Properties Limited, Case Number A15/2018 – Western Cape

Namib Mills (Pty) Ltd v Mark Louis Maingard (11540/16 [2017] ZAWCHC 165 (17 May 2017))

University of Mpumalanga v Magma Masemola Attorneys Inc, Case Number A103/2018 – Mbombela

NHRBC v Beachmaster Investments 700 (Pty) Ltd, Case Number 10030/2018 – Western Cape

Anita Mans v Heinrich Mans, Case Number 2271/2020 – Mbombela

CVT Projects (Pty) Ltd v Daniel Jacobus Venter N.O. and 6 Others Case Number 3837/2019 – Mbombela

Pine Glow Investments (Pty) Ltd and 3 Others v Brick on Brick Property Investments 23 (Pty) Ltd and 7 Others, Case Number 349/2018 – Mbombela

Raubex Construction (Pty) Ltd v The HOD: Mpumalanga Government: Department of Roads and Transport and Others, Case number 779/2019 - Mbombela

Msukalikwa Local Municipality v Altimax (Pty) Ltd, Case Number 437/2017 -
Middelburg,

Judgments upheld on appeal

Namib Mills (Pty) Ltd v Mark Louis Maingard (11540/16 [2017] ZAWCHC 165 (17
May 2017)

Waterberry Trading 23 CC v Aristonas (Pty) Ltd, Case Number: 15725/2017 –
Western Cape.

Judgments overturned on appeal

Hugo, Kirsten & Kirsten (Pty) Ltd v Collotype Labels (Pty) Ltd (323/2019) [2020]
ZASCA 21 (25 March 2020).