

APPLICANT: JUDGE RAMMAKA STEVEN MATHOPO

COURT FOR WHICH THE CANDIDATE APPLIES: CONSTITUTIONAL COURT

1. The candidate's appropriate qualifications

1.1. B.Proc (University of the North 1985).

2. Whether the candidate is a fit and proper person

2.1. There is nothing in the candidate's application or in the candidate's judgments that would suggest that he is not a fit and proper person to be a Judge of the Constitutional Court.

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

3.1. The Constitutional Court bench currently comprises nine Justices of whom three will shortly leave the court, having served their respective non-renewable terms. As a result, the court will, by the end of 2021, comprise six Justices (three black men, and three black women).

3.2. The candidate is a black man.

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

4.1. The candidate practiced as an attorney from 1986 - 2006 (20 years), a Judge of the Gauteng Local Division from 2006 - 2016 (9 years), a Judge of the Supreme Court of Appeal from 2015 to date (6 years) and

as an acting Judge of the Constitutional Court from August - November 2019 (4 months) and again during 2020.

- 4.2. The candidate has a vast amount of experience across all legal fields and has been involved in a number of high profile and complex cases.
- 4.3. The candidate's judgments reflect a thorough understanding of procedural and substantive law.
- 4.4. The candidate has a firm understanding of jurisprudence and the proper approach thereto.

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

- 5.1. The candidate's judgments demonstrate a strong commitment to constitutional values and an understanding of various Constitutional imperatives.
- 5.2. The candidate's contribution to the values of the Constitution also appears from his various memberships of organisations.

6. Whether any judgments have been overturned on appeal

- 6.1. Despite the candidate's length of service, there are only 7 judgments that have been overturned on appeal that could be found in the public domain.

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

7.1. The candidate has extensive experience as a practising attorney with extensive court experience over a 20 year period and has delivered in excess of 400 judgments whilst a judge.

7.2. The candidate has extensive and broad professional legal experience. This fact is apparent from his well-reasoned judgments.

7.3. The candidate is also a member of the following committees:

7.3.1. Member of the Court Practice Committee;

7.3.2. Member of the Criminal Law Committee;

7.3.3. Motor Vehicle Accident Committee; and

7.3.4. Mediator of the Housing Tribunal.

8. The candidate's linguistic and communication skills

8.1. From the candidate's judgments, it appears that he has excellent written linguistic skills in English.

9. The candidate's ability to produce judgments promptly

9.1. All of the candidate's judgments were delivered promptly.

10. The candidate's fairness and impartiality

10.1. No adverse comments have been received in this regard.

10.2. Whilst the candidate was a judge in the Gauteng Local Division, he had a very good reputation with members of the Johannesburg Society of Advocates for fairness and impartiality.

11. The candidate's independent mindedness

11.1. The candidate's judgments clearly reflect that he is independently and fair-minded.

12. The candidate's ability to conduct court proceedings

12.1. The candidate had a good reputation in the Gauteng Local Division for efficiently and effectively dealing with his rolls in the opposed and unopposed courts.

13. The candidate's administrative ability

13.1. The candidate has served on several bodies and appears to possess proven administrative abilities.

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

14.1. No adverse comments have been received in this regard.

15. The candidate's judicial temperament

15.1. Whilst a judge in the Gauteng Local Division the candidate was courteous with litigants.

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

16.1. The candidate's application reveals that he is committed to human rights and this is also apparent from the judgments that he has delivered.

16.2. The candidate has a strong commitment to human rights, and experience with regard to the values and needs of the community.

17. The candidate's potential

17.1. The candidate has excellent potential as a judge of the Constitutional Court which is apparent from the high standard of the judgments that he has delivered.

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

18.1. In light of the candidate's diligence, legal insight and experience his appointment would send a positive message to the community at large.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported Decisions

National Union of Metalworkers of SA & others & Aveng Trident Steel (A Division of Aveng Africa (Pty) Ltd) & another (2021) 42 ILJ 67 (CC)

Member of the Executive Council for Health, Western Cape v Coetzee & others (2020) 41 ILJ 1303 (CC)

S v Tshabalala 2020 (5) SA 1 (CC)

Carneiro v S (425/18) [2019] ZASCA 45 (29 March 2019)

Viziya Corporation v Collaborit Holdings (Pty) Ltd and Others 2019 (3) SA 173 (SCA)

Minister of Home Affairs v Ali 2019 (2) SA 396 (SCA)

Shaw v Mackintosh 2019 (1) SA 398 (SCA)

Mohamed's Leisure Holdings (Pty) Ltd v Southern Sun Hotel Interests (Pty) Ltd 2018 (2) SA 314 (SCA)

Shaw and another v Mackintosh and another (267/17) [2018] ZASCA 53

Advertising Standards Authority v Herbex (Pty) Ltd 2017 (6) SA 354 (SCA)

Minister of Justice v SA Restructuring & Insolvency Practitioners Assoc 2017 (3) SA 95 (SCA)

Mphahla v Road Accident Fund (698/16) [2017] ZASCA 76 (1 June 2017)

Mohamed's Leisure Holdings (Pty) Ltd v Southern Sun Hotel Interest (Pty) Ltd
(183/17) [2017] ZASCA 176

Minister of Safety and Security and another v Tembop Recovery CC and others
(006/15) [2016] ZASCA 52 (1 April 2016)

Fisher v Natal Rubber Compounders (Pty) Ltd 2016 (5) SA 477 (SCA)

Minister of Justice v The SA Restructuring and Insolvency Practitioners Association
(693/15) [2016] ZASCA 196

Pheiffer v Van Wyk and Others 2015 (5) SA 464 (SCA)

Lelaka v The State (409/2015) [2015] ZASCA 169 (26 November 2015)

Brashville Properties 51 (Pty) Ltd v Colmant and others (154/13) [2014] ZASCA
61

Mudau v State (547/13) [2014] ZASCA 43 (31 March 2014)

Democratic Alliance and 2 others v JG Zuma and 2 others [2013] 4 All SA 610
(GNP)

*Gauteng Gambling Board and another v MEC for Economic Development: Gauteng
Provincial Government Corporation Ltd* (01563/2012) [2012] ZAGPJHC 96
(8 May 2012)

Amrich 159 Property Holding CC v Van Wesembeek 2010 (1) SA 117 (GSJ)

Michaels v MSCSA Investments t/a MacSteel Corporate Services (Pty) Ltd & others
(2010) 31 ILJ 2018 (GSJ)

Govender v Salgados Fruiterers t/a Lyndhurst Basket and Another 2009 (1) SA 500
(W)

Bridgeway Ltd v Markam 2008 (6) SA 123 (W)

Unreported Decisions

Dinnermates (Tvl) CC v Piquante Brands International (Pty) Limited and another
(401/17) [2018] ZASCA 43

Mthimkulu v S (1135/15) [2016] ZASCA 180

Jansen and another v S (236/2015) [2016] ZASCA 133

Fisher v Natal Rubber Compounders (Pty) Limited (20640/2014) [2016] ZASCA 33

ABSA Bank Limited v Knysna Auto Services CC [2016] JOL 36038 (SCA)

Mothwa v S [2016] JOL 34192 (SCA)

City of Cape Town v Arun Property Developments (Pty) Ltd [2016] JOL 33586
(SCA)

Swart v Heine and others (192/2015) [2016] ZASCA 16

Pheiffer v Van Wyk and Others [2015] JOL 33632 (SCA)

Planet Waves 581 (Pty) Limited v Newman, Sean [2014] JOL 31481 (GSJ)

*Alcron Properties (Pty) Limited v Member of the Executive Council for Housing,
Gauteng and another* [2014] JOL 31472 (GSJ)

Twoline Trading 2 (Pty) Ltd v Brainwave Projects 1232 CC and Others (29175/12)
[2012] ZAGPJHC 260 (15 October 2012)

Seletela v SA Rail Commuter Corporation Ltd [2012] JOL 28709 (GSJ)

Pareto Ltd & others v Kalnisha Sigaban t/a KS Flowers N More (A3096/09) [2010]
ZAGPJHC 21 (15 April 2010)

Amla v RAF [2010] JOL 25991 (GSJ)

Sali-Ameen v Smit NO & another [2009] JOL 24727 (GSJ)

Amrich 159 Property Holding CC v Van Wesembeek [2009] JOL 24142 (GSJ)

Judgments overturned on appeal

Butler v van Zyl (554/13) [2014] ZASCA 81 (30 May 2014)

Gauteng Gambling Board v MEC for Economic Dev, Gauteng 2013 (5) SA 24
(SCA)

Arun Property Development (Pty) Ltd v City of Cape Town (CC 78/14) [2014]
ZACC 37 (15 December 2014)

Paixao v RAF 2012 (6) SA 377 (SCA)

SA Taxi Securitization (Pty) Ltd v Media 24 Mamaila Kathu and Mapiloko Jackie
2011 (5) SA 329 (SCA)

Don Bruwer v Nova Risk Partners 2011 (1) SA 234 (GSJ)

Jose Manuel Pstana v Nedbank Limited 2009 (2) SA189 (SCA)

Judgments upheld on appeal

DT Robertson v Road Accident Fund (A05692/10) [2014] ZAGPJHC 68

Print Media South Africa v Minister of Home Affairs 2012 JDR 1774 (CC)

Congress of the People and Another v Shilowa and Others (6779/2011) [2012]
ZAGPJHC 172

State of Muchanga South Gauteng High Court (SS50/110)

Allandick African Property Ltd v S Grobler South Gauteng High Court (08608/10)

Allianz Insurance Ltd v RHI Refractories Africa (Pty) Ltd 2008 (3) SA 425 (SCA)