

APPLICANT: ADVOCATE MARISA NAUDE – ODENDAAL

**COURT FOR WHICH APPLICANT APPLIES: LIMPOPO DIVISION OF
THE HIGH COURT**

1 The candidate's appropriate qualifications

1.1 The candidate is duly qualified, having obtained:

1.1.1 LLB Degree from the University of Pretoria in November 2006;

1.1.2 AIPSA Diploma in Insolvency Law and Practice from the University of Pretoria;

1.2 The candidate is somewhat experienced. She is still young at 38 years and gained experience as:

1.2.1 An Attorney and Conveyancer between May 2007 and January 2010;

1.2.2 An Advocate in Practice at the Pretoria Society of Advocates, Free State Society of Advocates, The National Bar and Polokwane Society of advocates. Spanning the period September 2010 – current, save when acting as a Magistrate or Judge;

1.2.3 An acting Magistrate between 2015 and 2016;

1.2.4 Chairperson of the Tax Board in 2018;

1.2.5 Acting Judge of the High Court, Limpopo Division, Polokwane (approximately 9 months in total);

1.2.6 Commissioner of the Small Claims Court in 2015;

1.2.7 Chairperson of the Tax Board 2018 to current.

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

2.1 The applicant is still young, however, fit and proper person, because:

2.1.1 The Polokwane Society of Advocates issued her with a letter confirming that she is in good standing and that there are no disciplinary or other proceedings pending or anticipated against her;

2.1.2 There does not appear to be any:

2.1.2.1 Complaints or disciplinary proceedings pending against her in her professional capacity;

2.1.2.2 Criminal or civil litigation pending against her;

2.1.3 The candidate contributed to the advocacy / community / transformation in that she showed a willingness to converse with legal representatives or lay persons in Venda, when she acted as a magistrate in Thohoyandou.

2.1.4 She acted as judge in the Limpopo Division *pro bono for the period 27 July 2020 – 30 September 2020.*

2.1.5 She assisted with training of pupils at the Polokwane Society of Advocates;

2.1.6 She sat as presiding officer at mock trials for the Black Lawyers Association.

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

3.1 The candidate is a white woman. Her appointment would help reflect the racial and gender composition of South Africa, also for the Division for which she is applying.

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

4.1 The candidate is relatively well-versed in the law, because she has practiced in various fields of the Law both as an Attorney and as an Advocate, notable areas include Conveyancing, Contracts, Estates, Labour Law, Tax, Environmental Law, Commercial Law, Land Claims matters and Criminal Law;

4.2 There is no indication that the candidate is experienced in constitutional law;

4.3 There is no indication of the candidate's experience in matters of great significance.

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

5.1 The candidate has presented no real information in her application indicating her commitment to the values of the Constitution;

5.2 However, in some of her judgments attached to her application, she gives consideration to the values of the constitution and delivers her judgments pursuant to such values.

6 Whether any judgments have been overturned on appeal

6.1 The candidate makes mention of 5 (five) matters going on appeal in her tenure as acting judge;

6.2 Of these 5 (five) matters, 1 (one) leave to appeal was dismissed by the Supreme Court of Appeal;

6.3 The remaining matters are still pending, and seemingly leave to appeal was in each case granted by the candidate herself.

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

7.1 The candidate is still young, but has garnered experience in varied fields of practice;

7.2 The candidate does show a desire to acquire further skills and a willingness to make herself available to contribute to the legal fraternity with her appointments as presiding officer.

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 her well written judgments.

9 The candidate's ability to produce judgments promptly

9.1 The candidate is able to produce judgments promptly.

9.2 From the judgments annexed to the candidate's submission, three out of the four were delivered within two weeks, one of them was delivered within two months.

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

10.1 It is not possible to comment on the fairness and impartiality with the written judgments presented by the candidate as the relatively few judgments are not enough to sustain a conclusion on this aspect;

10.2 The judgments, however, do not reflect a trend of unfairness, or partiality.

11 **The candidate's independent mindedness**

11.1 The candidate's few judgments are well written and considered. She shows a willingness to grapple with the issues of the matters.

11.2 The only concern remains the candidate's youth and lack of exposure to matters of great significance.

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

12.1 Not answered.

13 **The candidate's administrative ability**

13.1 The candidate administratively proficient, as may be gleaned from her career record of:

13.1.1 A practising advocate;

13.1.2 Being appointed as the only Magistrate at one-person stations:

13.1.3 Dewetsdorp Magistrate's Court;

13.1.4 Zastron Magistrate's Court;

13.2 Her appointment as acting judge with short turnaround times on her judgments.

14 The candidate's reputation for integrity and ethical behaviour

14.1 The candidate's integrity and ethical behaviour are not in question.

15 The candidate's judicial temperament

15.1 The candidate shows a clear desire to be appointed as a judge. Her willingness to act as a judge pro bono and act as magistrate shows her intent and drive and willingness to be elevated to the bench.

15.2 Her judgments (however few) are well written and quickly delivered.

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

16.1 The candidate's commitment to human rights, and experience regarding the values and needs of the community, are not apparent from her application.

16.2 She reports on a few instances where she assisted in training young lawyers.

17 The candidate's potential

17.1 A candidate applying at the tender age of 38 would be expected to be exceptional. The Commission should ask the candidate what, ay her relatively young age commends her for appointment as a High Court judge.

17.2 The candidate is still young but demonstrates potential to contribute to the judiciary.

17.3 She gained a broad set of skills in her general litigation practice and acting stints as judge and magistrate.

17.4 Her young age may be to her advantage in that she will have an opportunity to mature in the position as judge.

17.5 Her young age may on the other hand be to her detriment in that she remains inexperienced and untested in matters of great significance.

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 is desirous about transformation, particularly from a gender perspective.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported decisions

The Director of Public Prosecutions v Rameez Patel and Another

OMJ Projects (Pty) Ltd & Another v The Minister of Police & 2 Others, Case number
6240/2020

Malatjie Tebogo Phillip & Another v Malatjie Makhathi Bishop & 3 Others (Full
bench appeal) Case Number A17/2019

Unreported decisions

Ntlhane v Grace Case number 3113/2019

Rabalao Klaas Ntlhane v Mogoje Mmaphefo Grace

Judgments upheld on appeal

None at this stage.

Judgments overturned on appeal

None at this stage.