

APPLICANT: MBULELO VICTOR NQUMSE

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

1. The candidate's appropriate qualifications:

1.1. B Proc;

1.2. Diploma in Labour Law;

1.3. Post Graduate Diploma in Criminal Law.

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

2.1. From what appears in the application, the candidate seems to be 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 is an African male. His appointment will enhance racial but not gender representation on the bench.

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

4.1. From the judgments he has submitted, it appears that he has a good understating of the law. There is no indication of any particular involvement in constitutional law litigation.

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

5.1. From the candidate's curriculum vitae it appears that the candidate has acquired extensive experience in the administration of justice whilst practising as a magistrate in the lower courts and his

participation in dispute mediation within his community. There is however nothing in the application that shows his commitment to the values of the Constitution.

6. Whether any judgments have been overturned on appeal:

6.1. Yes – *RAF v Maqina* – see Para 9.4 of his application.

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

7.1. The candidate has been on the bench for most of his professional life as a magistrate. He acted for a month in 2018 and a year in 2019 in the Eastern Cape and for three months in Gauteng in 2020. The candidate has also during this period been exposed to both criminal and civil litigation and can be considered to have acquired broad experience as a judicial officer.

8. The candidate’s linguistic and communication skills:

8.1. He has a good command of language and is able to communicate clearly, as is apparent from his judgments.

9. The candidate’s ability to produce judgments promptly:

9.1. Good.

10. The candidate’s fairness and impartiality:

10.1. From what is contained in his application and the enclosed judgments, especially his experience as a judicial officer, the candidate has the required fairness and impartiality expected of a judicial officer.

11. The candidate's independent mindedness:

- 11.1. The candidate has been in full time employment for most of his professional life. He has never been part of the independent legal profession, and this might, although not necessarily, have a negative effect on his independent mindedness.

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

- 12.1. The candidate has extensive experience as a judicial officer and prosecutor in the lower courts, and has acted as a judge in the higher courts.

13. The candidate's administrative ability:

- 13.1. From the candidate's experience as set out in his curriculum vitae the candidate seems to have acquired extensive administrative experience in administration in his various roles with the Department of Justice.

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

- 14.1. No adverse reports against the candidate were received. This is positive in view of his extensive experience as a judicial officer in the lower courts.

15. The candidate's judicial temperament:

- 15.1. No adverse reports against the candidate were received.

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

16.1. There is nothing in the candidate's application that particularly indicates his commitment to human rights. The candidate however in his involvement in the resolution of community disputes shows sensitivity to the values and needs of the community.

17. The candidate's potential:

17.1. Good.

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

18.1. The appointment of the candidate will show that there is respect for the experience gained from practicing as a judicial officer in the lower courts, and this appointment would enhance the lower court's reputation as a place where ordinary persons can expect access to justice, and might encourage other aspiring judges to consider practicing law in the lower courts, as this appointment will show that such experience in the lower courts is recognised as relevant experience for appointment in higher office.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported decisions

See paragraph 10 of the Application

Unreported decision

See application

Judgments upheld on appeal:

None

Judgments overturned on appeal:

None