

APPLICANT: ADVOCATE JACOBUS JOHANNES STRIJDOM SC

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

1 The candidate's appropriate qualifications

1.1 Bachelor of Laws (B.Juris)

1.2 Bachelor of Laws (LLB)

2 Whether the candidate is a fit and proper person

2.1 There is nothing in the candidate's application or judgments to suggest that he 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 white man.

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

4.1 The candidate appears to have a good knowledge of the law, including constitutional law. The candidate has vast experience in and knowledge of criminal law, having been a prosecutor for many years.

4.2 The candidate's judgments reflect a sound understanding of legal principles.

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

5.1 There is nothing in the candidate's application that reflects a recent commitment to the values of the Constitution.

5.2 The candidate did numerous *pro-deo* appearances before the *pro-deo* system was replaced.

5.3 The candidate has been a member of the Pupillage Committee of the Pretoria Society of Advocates responsible for pupil training and lecturing the pupils and was in charge of the *pro deo* system responsible for allocating *pro-deo* cases to junior counsel whereby accused persons who could not afford legal representation would have junior counsel represent them in the High Court.

6 Whether any judgments have been overturned on appeal

6.1 Of the roughly 40 judgments delivered by the candidate, one has been overturned on appeal and another partially overturned on appeal.

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

7.1 The candidate has been a senior counsel since 2010 and a member of the Pretoria Society of Advocates since 1994.

7.2 The candidate has done numerous acting appointments (between 2013 and 2021) in both the Gauteng Division of the High Court as well as the Western Circuit Court.

7.3 Before being called to the Bar, the candidate was a Chief Magistrate in the Magistrate's Court in Bethal from 1984 to 1985, a Magistrate in Rustenburg from 1980 to 1983, a Senior Prosecutor in Rustenburg in 1979 and a Prosecutor in the Regional Court in Windhoek, Namibia and the District Court in Keetmanshoop, Namibia during the period 1976 to 1978.

7.4 The candidate worked in the Department of Justice for over 20 years.

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

8.1 Some of the candidate's judgements are not well structured and the reasoning process is not clearly set out.

8.2 Many of the candidate's judgments contain spelling and grammatical errors which may indicate that the judgments are not proofread prior to publication. (See for example *Netshandama v The Minister of Police* 2020 JDR 0920 (GP) at paras 10.4, 10.5 and 11.3; *S v Lubisi* 2018 JDR 1079 (GP) at para [6.4], [8] and [21]; *Moloi v The Minister of Correctional Services*, unreported judgment under Gauteng Division, Pretoria case number 2015/04573, at para 31)

9 The candidate's ability to produce judgments promptly

9.1 The candidate has no outstanding/reserved judgments. Of the 40 judgments considered, only two were not produced within three months, namely:

9.1.1 *S v Lubisi* 2018 JDR 1079 (GP) – Appeal against conviction and sentence heard on 22 March 2018 where judgment was handed down on 12 July 2018.

9.1.2 *Netshandama v The Minister of Police* 2020 JDR 0920 (GP) – Action for damages consequent upon unlawful arrest and detention heard on 12 December 2019 where judgment was handed down on 20 March 2020.

10 The candidate's fairness and impartiality

10.1 The candidate's judgments reflect his fairness and impartiality.

11 The candidate's independent mindedness

11.1 There is nothing to suggest the candidate is not independently minded.

12 The candidate's ability to conduct court proceedings

12.1 There is nothing to suggest that the candidate is not able to conduct court proceedings.

12.2 The candidate has been a prosecutor, senior prosecutor and acting judge for a vast number of years and we have received no adverse comments regarding his ability to conduct court proceedings.

12.3 A senior counsel who appeared before the candidate in the High Court, Gauteng Division indicated that the candidate has a good judicial temperament.

13 The candidate's administrative ability

13.1 The candidate has completed numerous acting appointments since 2013 and has produced a number of judgments.

13.2 It appears that the candidate has a good administrative ability.

14 The candidate's reputation for integrity and ethical behaviour

14.1 There is nothing to suggest the candidate has not behaved ethically and with integrity.

14.2 The candidate has no pending disciplinary proceedings.

15 The candidate's judicial temperament

15.1 A senior counsel who appeared before the candidate in the High Court, Gauteng Division indicated that the candidate has a good judicial temperament.

15.2 One comment received from a senior counsel who appeared before the candidate in a complex customs and excise matter was to the effect that the candidate's judgment was wrong on an aspect of the case, but that the candidate realised his mistake and granted leave to appeal. The senior counsel's overall impression was that the candidate has a good judicial temperament.

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

16.1 A significant part of the candidate's early career was spent as an employee of the Department of Justice in the late 1970s and the 1980s. This potentially raises concerns regarding the candidate's commitment to human rights, and calls for some consideration and reflection, including in particular by him.

16.2 The candidate has done numerous acting appointments (between 2013 and 2021) in both the Gauteng Division of the High Court as well as the Western Circuit Court.

16.3 The candidate has been in charge of the *pro deo* system responsible for allocating *pro-deo* cases to junior counsel whereby accused persons who could not afford legal representation would have junior counsel represent them in the High Court.

16.4 The candidate has not participated in social justice projects.

17 The candidate's potential

17.1 The candidate has vast experience as an advocate, prosecutor and acting judge and could be appointed as a judge.

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

18.1 The candidate has vast experience as an advocate and as a judicial officer. His involvement in the administration of justice spans over decades.

18.2 However, there is no specific evidence of the candidate's commitment to the values of the Constitution.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported decisions

Swart and Another v Cash Crusaders Southern Africa (Pty) Ltd 2018 (6) SA 287
(GP)

Unreported decisions

Adv Mangolele v Road Accident Fund 2019 JDR 1247 (GP)

Bekker v Pride Milling Company 2020 JDR 0560 (GP)

Brooklyn Edge v City of Tshwane Municipality (37681/2012) [2019] ZAGPPHC 233
(26 June 2019)

C Pro Construction (Pty) Ltd v Caliber Devco CC 2018 JDR 1527 (GP)

CM v Dr Thibedi 2019 JDR 0867 (GP)

Consumer Goods and Services Ombud NPC v Voltex (Pty) Ltd 2021 JDR 0660 (GP)

Culverwell NO v Bidvest Properties (Pty) Ltd 2015 JDR 1860 (GP)

De Klerk v The Law Society of the Northern Provinces 2018 JDR 1061 (GP)

Degenaar Jandra v RAF (case number 34117/2010)

Deltatex Holding Limited v Exxaro Coal (Pty) Limited 2019 JDR 1167 (GP)

Diageo v SARS (case number 93168/2019)

Fouché v Road Accident Fund 2017 JDR 1377 (GP)

Frost v Gerhard Von Wielligh Attorneys 2020 JDR 0138 (GP)

JD v Road Accident Fund 2019 JDR 1042 (GP)

Lee v Road Accident Fund 2017 JDR 1378 (GP)

Meondo Trading v Medizone CC (case number 24183/18)

Moloi v Minister of Correctional Services (case number 04573/2015)

Mthetwa v Pretorius 2015 JDR 1244 (GP)

My Sleep v The Health Professions Council (case number 80479/2019)

Netshandama v The Minister of Police 2020 JDR 0920 (GP)

Pasha v Minister of Police 2015 JDR 1791 (GP)

Pienaar v Silver Lakes Homeowners Association 2020 JDR 1726 (GP)

S v Lubisi 2018 JDR 1079 (GP)

S v Maluleka 2018 JDR 1121 (GP)

S v Masuku 2015 JDR 0823 (GP)

S v Masunga 2018 JDR 1147 (GP)

S v Mdhuli 2015 JDR 0525 (GP)

S v Melk 2018 JDR 1020 (GP)

S v Mosia 2015 JDR 1843 (GP)

S v Phasha 2015 JDR 1212 (GP)

S v Vukile 2015 JDR 0487 (GP)

Simelani v Minister of Defence 2018 JDR 1109 (GP)

Smuts v Smuts 2013 JDR 0418 (GNP)

Standard Bank of South Africa v Van Reenen 2017 JDR 0860 (GP)

Stander v Road Accident Fund 2017 JDR 1343 (GP)

Van Niekerk v Lessing 2020 JDR 1007 (GP)

Van Niekerk v Lessing 2021 JDR 1230 (GP)

Victor Mozomba Mokhare v S (case number A303/2020)

Judgments upheld on appeal

Lindley Farm 528 (Pty) Ltd v Cradle City (Pty) Ltd 2016 JDR 0183 (GP)

Judgments overturned on appeal

De Beer v Minister of Police 2015 JDR 2537 (GP)