

**JSC INTERVIEW ROUND: APRIL 2022**

**CANDIDATE: ADVOCATE ELSJE-MARIÉ BEZUIDENHOUT SC**

**COURT FOR WHICH CANDIDATE APPLIES: KWAZULU-NATAL  
DIVISION OF THE HIGH COURT, PIETERMARTIZBURG**

**1. The candidate's tertiary qualifications, professional admissions and honours:**

1.1. The candidate has the following qualifications:

1.1.1. B.Iuris obtained from the University of Pretoria in 1991; and

1.1.2. LLB degree from the University of South Africa in 1999.

**2. The candidate's integrity and ethics:**

2.1. No circumstances are known that would suggest that the candidate is not a person of integrity with a reputation for ethical behaviour or is not a fit and proper person for appointment.

**3. Whether the candidate's appointment would help to achieve an appropriate racial and gender composition on the bench:**

3.1. There are currently 26 full time judges on the KwaZulu-Natal bench comprising (as far as could be ascertained):

3.1.1. 10 black women (5 African, 4 Indian, 1 Coloured);

3.1.2. 10 black men (4 African, 3 Indian, 3 Coloured);

3.1.3. 1 white woman; and

3.1.4. 5 white men.

3.2. The candidate is a white woman.

**4. The candidate's personal commitment to the values of the Constitution:**

4.1. The candidate is committed to the values of the Constitution. She is committed to the achievement of dignity, equality and freedom for all, and human rights generally. This is evident from the following:

4.1.1. She has been a member of the Society of Advocates of KwaZulu-Natal since July 1999 to date and has an unblemished record. She has been a member of the Pietermaritzburg Bar Committee from August 2008 until 27 January 2017 and had served on the KwaZulu-Natal Bar Council for two years in 2008 and 2009.

4.1.2. The candidate has been a member of the Pupillage Committee in Pietermaritzburg from 2016 to date. As part of the selection panel, she made a conscious effort to ensure that female pupils of colour are selected to undertake pupillage at the Pietermaritzburg Bar.

4.1.3. She has been lecturing pupils in civil trials during 2018, 2019 and 2020.

4.1.4. She is known to have transferred her skills and expertise in the field of law to pupils and junior counsel and is supportive of transformation of the legal profession that it represented the true demographics of the country.

4.1.5. Over the years she has built a strong relationship with pupils and advised and guided them along their careers. This is apparent from her nominator's nomination, Mr VG Sibeko where he states in paragraph 3 of his letter of nomination as follows:

*“Whilst I was her pupil, Ms Bezuidenhout made an intentional effort in ensuring that I and my fellow pupils develop and obtain the requisite skills required for our future as successful advocates at the bar. She kept an open-door policy, without looking at colour, race and she gave us access to her resources and assisted us as pupils. I digress to mention that she still keeps that policy towards all junior members of the Bar to date.”*

4.1.6. She had frequently assisted indigent litigants who did not have the financial resources to pursue their lawful claims and only charged these litigants after they were successful with their claims and only received what her attorneys could obtain on taxation of her bills from other party.

4.1.7. She did *pro bono* work when called upon to do so.

## **5. The candidate's knowledge of the law, including constitutional law**

5.1. The candidate has a good grasp and knowledge of the law. This is apparent from the many judgments which she has delivered which have been listed and attached to her questionnaire.

5.2. Both in the civil and criminal cases on which she adjudicated, she advanced sound and rational reasons for coming to the decision which

she did. Moreover, in the listed cases, she thoroughly analysed the facts of each case and her findings were supported with legal and case authorities.

5.3. In many of the listed cases the candidate dealt with constitutional principles and applied those principles where they were applicable.

5.4. Having regard to her vast experience from a practical level in prosecuting criminal cases whilst she was a prosecutor and in her practice as an advocate as well as her frequent acting stints as a judge, it is clear that her knowledge and understanding of the different facets of the law, both in the civil and criminal spheres including constitutional law are good.

**6. Judgements of the candidate that have been overturned, upheld or commented on, on appeal:**

6.1. According to the candidate, two of her judgments have been taken on appeal, namely:

6.1.1. *Omeda Trading CC vs Golden Dice Investment CC and Others*, (4147/27) [2020] ZAKZPHC 69 (13 November 2020); and

6.1.2. *Shepstone & Wylie Attorneys vs AJ De Witt N.O. and Others*, 5140/2019) [2021] ZAKZPHC 38 (10 June 2021).

These appeals have not yet been heard.

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

7.1. The candidate has vast professional experience as set out hereunder.

- 7.1.1. The candidate has a trial practice which would necessitate her having to draft pleadings, conduct trials, lead evidence of her witnesses, cross-examine her opponent's witnesses and present argument in court. As far as her motion court practice is concerned, she would have formulated, if she were acting for an applicant, the relief which she seeks, draft application papers and if she were acting for the respondent, to draft opposing papers to resist the relief which the applicant seeks. The candidate has been in practice since July 1999 up to the present time which is a period in excess of twenty years. As such, her practical experience in performing these tasks is vast.
- 7.1.2. In the criminal sphere she acted as a prosecutor for approximately six years before joining the Bar. She records in the questionnaire that in her first few years of practice as an advocate, she did a few trials in the High Court as *pro deo* counsel and a few on brief. She was junior to Advocate Van Schalkwyk SC and was entrusted to cross-examine a number of witnesses. In that case the accused were ultimately acquitted on appeal. She was also briefed in a trial before McLaren J defending four members of the SANDF and after three weeks of trial, secured a section 174 discharge for her clients. She has also argued a number of criminal appeals over the years.
- 7.1.3. She has acted as a judge for eight sessions totalling a period of approximately nine months between November 2019 and October 2021 both in the criminal courts and the civil courts. Her

judgments bear testimony to her experience and knowledge of the law.

7.1.4. Although she has not appeared in the Constitutional Court, in many of her judgments she refers to and applies constitutional principles.

7.1.5. She has appeared in the CCMA, disciplinary hearings and the Labour Court very early in her career as advocate but not in recent years.

7.1.6. Her experience in law is diverse and she was involved in family law matters such as divorces involving large estates with complicated issues, personal injury matters, delictual claims involving wrongful arrests and malicious prosecutions, fire cases, cattle leases, disputes over ownership of mine dumps and issues relating to mineral rights of such dumps, eviction matters, commercial matters and insolvency cases.

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

8.1. As mentioned above, the candidate's judgments are well-written and well-reasoned. She properly analyses the facts of her case, advances rational reasons for her findings and supports those findings with legal and case authorities. She has an excellent command of both the English and Afrikaans languages.

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

9.1. As far as we are aware, the candidate delivers her judgments promptly.

- 9.2. In the questionnaire the candidate referred to the case of *SD Noorgat Trading Enterprises CC t/a Powertrade Cash and Carry vs ID Mahomed*, Case Number: 1179/21P where judgment was reserved on 7 October 2021.

We are aware that judgment had been delivered in the above case during January 2022.

**10. The candidate's ability to conduct court proceedings fairly, efficiently and effectively:**

- 10.1. From our experience and comments from counsel who have appeared before the candidate whilst she acted as a judge, she met all the attributes of fairness, punctuality, preparedness, courtesy, good temperament, good judicial management, and adherence to procedural rules, optimal use of court time and resources as well as meaningful engagement with counsel with appropriate responsiveness.

**11. The candidate's independent mindedness:**

- 11.1. The candidate's independent mindedness is revealed in her judgments as well as her interaction with her colleagues while practising as an advocate over the last twenty years.

**12. The candidate's administrative ability (other than in relation to court proceedings):**

- 12.1. The candidate's administrative ability is good as she discharged her administrative duties whilst being a member of the Pietermaritzburg Bar

Committee as well as a tutor and lecturer of the pupils who served pupillage at the Pietermaritzburg Bar.

**13. The message that the candidate's appointment would send to the public at large:**

13.1. We are of the respectful view that the candidate's appointment would send a good and positive message to the public at large.

