

JSC INTERVIEW ROUND: APRIL 2022

CANDIDATE: JUDGE RONALD DEON HENDRICKS

**COURT FOR WHICH CANDIDATE APPLIES: JUDGE PRESIDENT,
NORTH WEST DIVISION OF THE HIGH COURT**

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

1.1. The candidate is duly qualified, having obtained the following degrees:

1.1.1 Bacalareus Legum Civilium (BLC) (University of Pretoria) on 29 March 1988; and

1.1.2 Baccalaureus Legum (LLB) (University of Pretoria) on 3 April 1990.

1.2. The candidate is experienced, having worked as:

1.2.1. A Regional Court Prosecutor (May 1990 to December 1990)

1.2.2. A State Advocate (January 1991 to January 1993)

1.2.3. Pupillage (February 1993 to July 1993)

1.2.4. Practicing Advocate (July 1993 to April 2003)

1.2.5. Acting Judge (1 May 2003 to 31 October 2003)

1.2.6. Judge (1 November 2003 to date)

1.2.7. Acting Judge President (1 June 2012 to 30 June 2012)

- 1.2.8. Acting Judge President (1 August 2014 to 31 December 2014)
- 1.2.9. Acting Judge President (25 July 2016 to 26 August 2016)
- 1.2.10. Acting Judge President (1 June 2017 to 29 September 2017)
- 1.2.11. Acting Judge President (18 April 2018 to 30 June 2018)
- 1.2.12. Acting Judge President (4 March 2019 to 14 April 2019)
- 1.2.13. Acting Judge President (1 December 2019 to date).

2. The candidate's integrity and ethics:

- 2.1. The candidate treats practitioners courteously, he retains a firm hand on the conduct of his cases and immediately grasps the crux of matters over which he presides.
- 2.2. No concerns appear from the judgments considered.
- 2.3. Enquiries of local practitioners did not elicit any complaints about questionable parties on the part of the candidate.

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

- 3.1. There are currently 7 full time judges on the North West High Court bench, comprising (as far as could be ascertained):
 - 3.1.1. 3 black women (3 African, 1 Indian, 0 Coloured);
 - 3.1.2. 2 black men (1 African, 0 Indian, 1 Coloured);
 - 3.1.3. 1 white woman; and
 - 3.1.4. 1 white man.

3.2. The candidate is a black (coloured) man.

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

4.1. The candidate demonstrates a strong commitment to constitutional values.

4.2. The candidate's commitment to constitutional values and the administration of justice is evident in his involvement in the training of regional magistrates (North West) in civil jurisdiction and his mentoring of a number of acting judges. He inspires other judges and acting judges through his knowledge, dedication and work ethic, as well as his open-door policy.

4.3. The candidate in the past also assisted in the training of pupils as "presiding judge" in mock trials during which he assisted pupils with his comments.

4.4. In one of his judgments, upheld by the Constitutional Court, he demonstrated a grasp of the importance of the Constitution on the daily practice of law in relation to a dispute between two organs of state.

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

5.1. The candidate is well-versed in the law, having obtained the BLC and LLB degrees in 1988 and 1990 respectively.

5.2. He has approximately 32 years' post graduate experience in various spheres of the legal profession in South Africa, which includes experience as a Regional Court prosecutor and working as a State advocate for approximately 3 years.

- 5.3. The candidate successfully completed his pupillage during 1993, whereupon he joined the North West Bar Association as a member from July 1993 until April 2003 (approximately 10 years). It appears that he did not apply, not was he granted, senior status.
- 5.4. After his almost ten years as a practicing advocate, the candidate was appointed as an acting judge in the North West Division as from May 2003 to 31 October 2003.
- 5.5. The candidate was appointed as a judge in November 2003 and during his tenure of approximately eighteen years on the bench, he has had exposure to a wide range of matters, both criminal and civil in nature.
- 5.6. During this time, the candidate was appointed as the acting judge President and Acting Deputy Judge President for a number of terms, showing his leadership skills. He was elevated to the position of Deputy Judge President of the North West High Court on 1 December 2019.

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

- 6.1. Various judgments by the candidate have been taken on appeal. There were also a number of attempts to appeal judgments where the petitions to both the Constitutional Court and/or the Supreme Court of Appeal were denied. There were also instances where direct access to the Constitutional Court was refused.
- 6.2. In the matter of *Doorewaard and Another v S* (908/2019) [2020] ZASCA 155; [2021] 1 All SA 311 (SCA); 2021 (1) SACR 235 (SCA) (27 November 2020) which was considered, there was some

criticism raised by Ponnann JA in relation to the candidate sitting in the court a quo and his refusal of the appellants' application for discharge at the close of the State case, as contemplated in s 174 of the Criminal Procedure Act. This criticism was, however, not supported by Acting Appeal Judge Ledwaba. The Honourable Judge Ledwaba explained why he disagreed with the criticism of Ponnann JA.

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

- 7.1. The candidate has obtained the BLC and LLB degrees.
- 7.2. He was admitted as an advocate in 1991.
- 7.3. Had had been a State advocate for a period of 2 years and thereafter he had been in private practice as an advocate and member of the North West Bar Association for almost ten years.
- 7.4. He was appointed as an acting judge in May 2003 and had been permanently appointed in November 2003.
- 7.5. In addition to his individual judgments, the candidate had presided in numerous appeals from the Lower Courts and the High Court.
- 7.6. The candidate was an acting judge of the Labour Court from July 2007 to December 2007.
- 7.7. The candidate also assisted as acting judge of the Labour Appeal Court from 15 April 2010 to 30 June 2010 and thereafter from 15 July 2020 to 30 September 2010.
- 7.8. The candidate was also appointed as the acting Judge President of the North West High Court for the following periods: 1 June 2012

to 30 June 2012, 1 August 2014 to 31 December 2014, 25 July 2016 to 26 August 2016 and 4 March 2019 to 14 April 2019. He also acted as the acting Deputy Judge President of the North West High Court (periods 1 June 2017 to 29 September 2017 and 18 April 2018 to 30 June 2018) before he was elevated to this position from 1 December 2019.

7.9. As the Depute Judge President of the North West High Court, he has been responsible for Pre-Trial Processes, which responsibility he has performed diligently.

7.10. The candidate was also a member of the Committee of the Heads of Courts on Security for Judges.

7.11. Accordingly, the candidate has an impressive professional history and is highly experienced in all professional disciplines, including the duties of Judge President of the North West High Court.

7.12. The candidate's well established judicial career and his extensive experience as a long-standing judge of the High Court (with some acting experience as Judge President) demonstrate that he has acquired all the skills necessary to fill the post of Judge President.

8. The candidate's linguistic and communication skills:

8.1. From personal interaction with the candidate, we are of the view that he is indeed proficient in both the English and Afrikaans languages.

8.2. Moreover, the candidate's judgments read well, and are constructed logically.

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

- 9.1. The candidate has throughout demonstrated an impeccable work ethic and is renowned for his ability to render judgments expeditiously.
- 9.2. Judgments which are outstanding for longer than 30 days, would invariably be matters where the candidate is a member of an appeal bench and where the inputs of his co-members are required.
- 9.3. At the time the candidate completed his application, he had two (2) outstanding judgments. Both these judgments were Full Court Appeal Judgments. It was indicated by the candidate that the judgments will be sent to the other judges for comment and signature within two weeks from date of the application. The judgments were reserved on 15 October 2021 and 5 November 2021 respectively (the application was completed on 29 November 2021). Both these matters are involved and complex matters.

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

- 10.1. There are no reservations or concerns regarding the candidate's impartiality and fairness and the ability to conduct court proceedings efficiently.
- 10.2. The candidate is a vastly experienced judge who has held a seat in the North West Division of the High Court for approximately 18 years and had acted in the Labour Court and Labour Appeal Court. He also acted as the Judge President for extended periods of time and is the appointed Deputy Judge President of the North West Division.

- 10.3. The candidate has a proven judicial track record which demonstrates his high degree of efficiency during court proceedings.
- 10.4. The candidate, whilst being polite and patient, conducts court proceedings assertively and is always in firm control of his court.
- 10.5. By all accounts, the candidate displays a strong judicial presence and has ability to conduct court proceedings effectively and with satisfactory speed, to filter relevance from irrelevance. He is widely respected by the members of the North West Bar Association, by visiting Counsel and by local members of the attorneys' profession.

11. The candidate's independent mindedness:

- 11.1. The candidate's judgments demonstrate his independent mindedness and objectivity.

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

- 12.1. The candidate's record of producing judgments promptly and efficiently is indicative of his ability to administer his roll efficiently. The candidate is also extremely effective in his time management ensuring that matters are driven to finality.
- 12.2. In addition, the following must be highlighted:
 - 12.2.1. The candidate acted as Secretary of the North West Bar Association from 1997 to 1999 and as Vice-Chairman thereof from 2000 to 2001;
 - 12.2.2. The candidate has acted in the North West Division as Judge President from 1 June 2012 to 30 June 2012; 1 August 2014 to

31 December 2014; 25 July 2016 to 26 August 2016; 4 March 2019 to 14 April 2019;

12.2.3. The candidate had been appointed as the Acting Deputy Judge President for various periods before he was permanently appointed as the Depute Judge President of the North West Division on 1 December 2019;

12.2.4. During his acting stint as Judge President of the North West Division, the candidate proved to be adept at proper case flow management and had proven to be pro-active and innovative in expeditiously disposing of matters;

12.2.5. The life-span of cases on the roll of the North West Division was reduced considerably during the times the candidate acted as Judge President.

12.3. By all accounts, the candidate also enjoys the ability to interact with and manage subordinates professionally and effectively.

12.4. In summary, the candidate has proven to possess the administrative ability necessary to perform the functions of the post for which he applies.

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

13.1. The candidate is a black man (coloured) and his appointment will send a positive message to the community at large.

13.2. The candidate's appointment would further the following important objectives:

- 13.2.1. ensuring that racial transformation occurs at senior levels of the judiciary; and
- 13.2.2. ensuring that persons with demonstrated knowledge and experience are appointed to the management of High Courts.
- 13.3. The candidate's appointment would be regarded in the public and legal domain as being fitting and appropriate to aid the continued efficiency and effectiveness of the High Court, thereby preserving and enhancing the integrity of the court.
- 13.4. The candidate's unquestionable experience and ability would in addition send a clear message that racial transformation and merit are not in tension.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported judgments (e.g. SALR; All SA; SACR; BCLR; CPLR; SATC; ILJ; BLLR; ALR; BIP):

S v Nkuna 2012 (1) SACR 167 (B)

S v Pilane 2016 (1) SACR 247 (NWM)

Ngaka Modiri Molema District Municipality Chairperson, North West Provincial Executive Committee and Others (M390/2014) [2014 ZANWHC 46] (25 September 2014); 2015 (1) BCLR 72 (CC) (Refer to judgment by Judge Hendricks)

Unreported judgments (e.g. judgments attached to application and judgments only available on JDR; JOL and SAFLII):

Simelane v The State (CA 65/2019) [2021] ZANWHC 24 (19 August 2021) (Saflii)

The State v The Regional Court President & Others M475/2019 (22 October 2020) (Saflii)

Makubalo & 1 other v Nedcor Bank Ltd & 5 others M153/2016

Judgments upheld on appeal:

S v Nel – Petitions to the Supreme Court of Appeal and Constitutional Court were refused

Ngaka Modiri Molema District Municipality Chairperson, North West Provincial Executive Committee and Others – Application for direct access to Constitutional Court was refused

Mothuloe Attorneys v Microzone Project CC and Others – Petition to Supreme Court of Appeal was refused

S v Shole, upheld in Shole v S [2015] ZASCA 123 (17 September 2015)

S v Lichtenstein, upheld in Lichtenstein v S [2016] ZASCA 132 (29 August 2016)

S v Maifadi, upheld in Maifadi v S (CC50/2006) SCA Case Nr 764/2016

S v Cloete, upheld in Cloete v S (CC49/2015) SCA Case No 1142/2015

S v Bylsma, upheld in Bylsma v S (CC56/2018) [2021] ZANWHC 10 (18 February 2021)

Judgments overturned on appeal:

Van den Heever N.O v Smith, overturned in Smith v Van Heerden N.O. and Others 2011 SA 140 (SCA)

S v Truyens (Unreported), sentence overturned in Truyens v S 2012 (1) SACR 79 (SCA)

Moleng and District Taxi Association and Another v North West Provincial Department of Transport and Others, overturned in Moleng and District Taxi Association and Another v North West Provincial Department of Transport and Others (SCA254/2010)

S v Motsisi (Unreported), overturned in Motsisi v S (513/2011) [2012] ZASCA 59

S v Kgantsi (Unreported), overturned in Kgantsi v S 9732/2011) ZASCA [Sentence – Upheld in part]

S v Bosielo and Others (Unreported), overturned in Bosielo and others v S (71/2013) [2013] ZASCA 133

S v Lithako and Others (Unreported), overturned in *Lithako and Others v S* 2014
(2) SACR 431 (SCA)

S v Pilane (Unreported), overturned in *S v Pilane* 2016 (1) SACR 247 (NWM)

S v Doorewaard and Another (Unreported) overturned in *Doorewaard and
Another v S* (908/2019) [2020] ZASCA 155