

JSC INTERVIEW ROUND: APRIL 2022

CANDIDATE: ADVOCATE MARISA NAUDÈ-ODENDAAL

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

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

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 April 2007;

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

1.1.3. an attorney and conveyancer between May 2007 and January 2010;

1.1.4. 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 – date, save when acting as a magistrate or judge;

1.1.5. an acting magistrate between 2015 and 2016;

1.1.6. Chairperson of the Tax Board in 2018;

- 1.1.7. acting judge of the High Court, Limpopo Division, Polokwane (approximately 9 months in total);
- 1.1.8. Commissioner of the Small Claims Court in 2015;
- 1.1.9. Chairperson of the Tax Board 2018 to current.

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 8 full time judges on the Limpopo Division bench, comprising (as far as could be ascertained from the latest law reports):
 - 3.1.1. 2 black women.
 - 3.1.2. 5 black men.
 - 3.1.3. 1 white man.
- 3.2. The candidate is a white woman.

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

- 4.1. The candidate has presented no real information in her application indicating her commitment to the values of the Constitution.

4.2. 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.

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

5.1. 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;

5.2. There is no indication that the candidate is experienced in constitutional law, despite indicating that 10% of her litigation practice comprised of constitutional law;

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

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

6.1. No judgment has been overturned, and no comments could be found on the candidate's judgments.

6.2. The candidate makes mention of 7 (seven) matters going on appeal in her tenure as acting judge.

6.3. Of these matters, four applications for leave to appeal were dismissed by the Supreme Court of Appeal.

6.4. The remaining matters are still pending, and seemingly leave to appeal was granted by the candidate.

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 shows 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 has good communication skills, as is apparent from her well written judgments.

8.2. The candidate's home language is Afrikaans.

8.3. 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.

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, the majority were delivered within 2 weeks of hearing the matters.

9.3. One of them was delivered within 2 months of hearing.

- 9.4. One judgment was delivered approximately 3.5 months after the hearing thereof.
- 9.5. At the date of the candidate's application (26 November 2021), 2 (two) judgments were outstanding, wherein the candidate reserved her judgment on 12 November 2021 and 26 November 2021 respectively. After further research it is unclear whether the candidate has delivered these judgments.
10. **The candidate's ability to conduct court proceedings fairly, efficiently and effectively:**
- 10.1. A complaint was received before her previous JSC interview from an attorney pertaining to the candidate's temperament.
- 10.2. The content of the complaint is not available to the reviewer, nor could the veracity of the complaint be ascertained.
- 10.3. The candidate is known at the bar as a person who runs her court strictly, on time and with a strict application of practice directives and rules.
- 10.4. The candidate is known to have struck matters from the motion roll due to counsel not being on time to call the matters.
- 10.5. 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 desire to be elevated to the bench.
- 10.6. Her judgments (however few) are well written and swiftly delivered.

11. The candidate's independent mindedness:

- 11.1. The candidate's few judgments are well written and well considered. She shows a willingness to grapple with the issues in the matter.
- 11.2. The only concern remains the candidate's youth and lack of exposure to matters of great significance.

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

- 12.1. The candidate is administratively proficient, as may be gleaned from her career record of:
- 12.1.1. a practising advocate;
- 12.1.2. being appointed as the only magistrate at one-man stations:
- 12.1.2.1. Dewetsdorp Magistrate's Court;
- 12.1.2.2. Zastron Magistrate's Court;
- 12.2. Her appointment as acting judge with short turnaround times on her judgments.

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

- 13.1. If the candidate is appointed, it will convey to the community at large that young women who are dedicated and efficient as judicial officers can be appointed to the bench.

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

The State v Seroka, Case Number 93/2021 (Review marked reportable)

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

OMJ Projects v The Minister of Police and another Case number 6240/2020

Gaboinewe Investments (Pty) Ltd v VARDOCAP (PTA) LTD Case number 3246/2020

Lekokotla v The State Case number A07/2019

Rabalao Klaas Ntlhane v Mogoje Mmaphefo Grace

Judgments upheld on appeal:

None

Judgments overturned on appeal:

None