

JSC INTERVIEW ROUND: APRIL 2022

CANDIDATE: MS CATHY LUISE PAGE

**COURT FOR WHICH CANDIDATE APPLIES: FREE STATE DIVISION
OF THE HIGH COURT**

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

1.1. 1991 B.A. Law

1.2. 1992 Baccalaureus Legum (LLB)

1.3. 1994 – 1997 Prosecutor (Namibia)

1.4. 2002 – 2019 Magistrate

1.5. 2014 – 2018 Western-Cape coordinator and national treasurer of the South African Chapter of the International Association of Women Judges

2. The candidate's integrity and ethics:

2.1. The candidate is unfortunately only known to the Society from two terms that she acted in this Division.

2.2. 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.

2.3. There are no disciplinary investigations or criminal charges against 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 14 full time judges on the Free State bench, comprising (as far as could be ascertained):

3.1.1. 4 black women (3 African, 1 Indian);

3.1.2. 5 black men (4 African, 1 Coloured);

3.1.3. 3 white women; and

3.1.4. 2 white men.

3.2. The candidate is a coloured woman.

3.3. The candidate's appointment will assist with racial and gender composition of the bench.

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

4.1. The candidates conduct as judge and judgments establishes a commitment to the values of the Constitution.

4.2. As the provincial coordinator of the South African chapter of the International Association of Women Judges the candidate started a mentorship program and was lauded as a pioneer in this regard.

4.3. The candidate participated and headed several development programs for students and community members.

4.4. In the candidate's career, especially during her nearly 17 years as a Magistrate, the candidate regularly dealt with issues such as domestic violence and the application of the Children's Act which requires a sound understanding and application of the values entrenched in the Constitution.

4.5. The candidate has shown a willingness to fulfill roles of mentorship and teaching roles at times, imparting her knowledge and experience, which confirms her commitment to place the educational needs of others above her personal interests.

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

5.1. The candidate has experience in most fields of the law, which experience stems from her appointments as prosecutor, Magistrate, attorney and acting judge over a period of 28 years in the law.

5.2. The candidate was exposed to criminal and civil litigation and acted in presiding capacities in the district, regional, family, domestic violence and children's courts.

5.3. The candidate discloses a shared experience between civil and criminal matters and the litigation thereof.

5.4. At the time when the candidate commenced her career as a prosecutor in 1995, she aimed to assist persons in the legal fraternity to treat each other with dignity, respect and fairness all flowing from her respect for constitutional values.

- 5.5. In the areas of law in which she had been involved during her career, the Constitution had always played a pivotal role.
- 5.6. In the matter of *Rahida Investments (Pty) Ltd v FK Taukobong and others* (case number, A156/2020), the candidate wrote for the Full Court on appeal and considered the elements of empowerment transactions on the rights of the parties and ultimately found that the contents of a shareholder agreement were oppressive. The candidate concluded that the applicant was non-suited for the appeal to be upheld.
- 5.7. In a claim for unlawful arrest, the candidate had to consider expert evidence in the matter of *PS Khumalo v the Minister of Police and another* (case number, 3046/2013) in order to consider claims of post-traumatic stress disorder and physical injuries. The candidate apply applied authorities on the awarding of general damages and concluded that: “*The damages awarded by courts are not punitive but rather awards of aggravated damages. Whether the existing punitive measures in respect of members of police who are in breach of the supreme law of South Africa, namely our Constitution, may hopefully become a new and thoughtful dialogue in future.*”
- 5.8. The candidate showed the ability to distinguish between settling disputes between potential divorcee parents and the best interests of their young child in the matter of *TB Richter v J Richter* (case number, 4406/2021). The candidate delivered a judgment which protected the interests of the minor child but paved the way to ensure further investigation into the father’s request for more contact rights.

5.9. In the criminal appeal against a life sentence following a guilty conviction on a rape charge, the candidate, writing for the appeal bench, duly considered the various interests of the State and the accused but found that there were no compelling circumstances to interfere with the court a *quo's* verdict. Refer – *TP Letlala v the State* (Appeal No A71/2021).

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

6.1. No judgments of the candidate have been reported to have been subjected to an appeal.

6.2. The candidate did not refer to her judgments delivered during the nearly 17 years which she served as a Magistrate. Despite searches to this effect, references to judgments of this candidate, acting as Magistrate / regional court Magistrate could similarly not be obtained.

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

7.1. The candidate acting as judge in the Free State Division of the High Court for two terms between July and December 2021. The candidate has not yet received the call to act in her home Province/Division.

7.2. In addition, the candidate has 17 years of experience as presiding officer in the Magistrate's Court.

7.3. The candidate is currently involved in litigation in her capacity as an attorney.

7.4. The candidate has acted as a trainer on the Child Justice Act; as a presenter of the Domestic Violence Act; and successfully launched a mentorship programme for female law students at the University of the Western Cape and the University of Cape Town.

7.5. No negative comments were received from counsel who appeared before the candidate.

8. The candidate's linguistic and communication skills:

8.1. The candidate displayed excellent linguistic skills and proficiency in writing judgments in English.

8.2. She is also proficient in Afrikaans.

8.3. Her communication skills are good; the candidate is brief and to the point in her directions to counsel appearing before her.

8.4. It has been reported that the candidate does not engage counsel too much during proceedings and allows the parties' representatives the fullest opportunity to present their arguments.

8.5. The candidate is encountered as very approachable in chambers and installs a sense of calmness which comes from her experience as a presiding officer in the lower court.

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

9.1. The candidate acted for two consecutive terms in the Free State Division. She reported four judgments to have been outstanding as at 4 December 2021.

9.2. During her acting stint in the Free State Division, she produced her judgments within the required timeframes.

9.3. No adverse comments had been received regarding the promptness with which the candidate delivers judgments.

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

10.1. The candidate has experience as a presiding officer and has demonstrated her ability to conduct court proceedings fairly, efficiently and effectively during her acting stints.

10.2. The candidate allows counsel to present full arguments on the matters which brought them before the Court without interfering too much during the hearing of matters.

10.3. Where necessary, the candidate sought clarity from counsel on the submissions they made but meticulously took down notes in order to prepare her consideration and ultimate judgment with a full understanding of what each of the parties submitted and relied upon.

10.4. The candidate was able to conduct proceedings effectively and fairly.

10.5. The candidate was capable of demanding presence when necessary.

11. The candidate's independent mindedness:

11.1. The candidate's conduct in court and in written judgments shows that she is independent minded.

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

12.1. No adverse comments have been received pertaining to the candidate's ability to handle administrative affairs adequately.

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

13.1. The candidate's appointment will contribute to transformation, recognising the demographics in the Province and send a message to the public that the judiciary is committed to racial and gender transformation. The appointment will confirm appointment of legal practitioners committed to the Constitution and service to the public.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Peyper Austen Inc t/a Peyper Lessing Attorneys v Petru Botha Properties
(1277/2021) [2021] ZAFSHC 253 (18 October 2021)

R[...] S[...] v Absa Trust Limited (515/2021) [2022] ZAFSCH (6 January 2022)

Pohl Sc N.O. v Road Accident Fund (1472/2017) [2022] ZAFSCH 6 (20 January 2022)

Unreported judgments considered which the candidate delivered in the Free State High Court:

TP Letlala v the State Appeal No A71/2021

TB Richter v J Richter Case No 4406 / 2021

PS Khumalo v the Minister of Police and another, Case No 3046/2013

Rahida Investments (Pty) Ltd v FK Taukobong and others, Case No A156/2020