

JSC INTERVIEW ROUND: OCTOBER 2022

CANDIDATE: ADV ALMA DE WET

**COURT FOR WHICH CANDIDATE APPLIES: WESTERN CAPE
DIVISION OF THE HIGH COURT**

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

1.1. The candidate has the following qualifications:

1.1.1. BA Degree (University of Stellenbosch) 1992; and

1.1.2. LLB Degree (University of Stellenbosch) 1995.

1.2. The candidate is appropriately qualified.

1.3. The candidate has also held the following positions:

1.3.1. Admitted as Advocate (2 May 1997)

1.3.2. Cape Bar Membership (Since 18 August 1997)

2. The candidate's integrity and ethics:

2.1. Some members, while viewing her performance as an acting judge favourably, expressed reservations about the candidate as a practitioner in private practice, concerning her ethical standards, moral compass, independent-mindedness and judgment.

2.2. Considerable but not unanimous support was expressed by members for the candidate's appointment to the bench.

2.3. No other 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 25 full time judges on the Western Cape bench, comprising (as far as could be ascertained):

3.1.1. 10 black women (3 African, 1 Indian, 6 Coloured)

3.1.2. 7 black men (6 African, 1 Indian)

3.1.3. 3 white women

3.1.4. 5 white men

3.2. The candidate is a white woman.

4. The maximum time period the candidate could serve if appointed:

4.1. Section 176(2) of the Constitution provides that all judges other than Constitutional Court judges "*hold office until they are discharged from active service in terms of an Act of Parliament.*" The Act in question is the Judges Remuneration and Conditions of Employment Act 47 of 2001.

- 4.2. Section 3(2)(a) of the Act provides that, subject to section 4(4), a judge will ordinarily be discharged from active service upon reaching the age of 70 if, by that date, they have completed a period of active service of not less than ten years. If not, they will be discharged from active service after having completed ten years of active service.
- 4.3. Section 4(4) allows for a judge who reaches the age of 70 to continue serving until the age of 75 if, at the time of turning 70, they have not yet served 15 years' active service.
- 4.4. The candidate is 52 years old.
- 4.5. If appointed, the candidate could serve up to 18 years actively in office.
5. **The candidate's personal commitment to the values of the constitution:**
 - 5.1. Adv De Wet has served as a Small Claims Commissioner since 2004 and through this act of public service has advanced the constitutional principle of access to justice.
 - 5.2. She has been a longstanding member (since 1998) and 4 times past President of the Groote Schuur Rotary Club, a humanitarian service organization. It can be assumed that her service has assisted underprivileged individuals and served to promote their dignity.
 - 5.3. Adv De Wet reports a close involvement with One-to-One: Mentally and Physically disabled children in the Western Cape. No details are provided.

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

6.1. Adv De Wet is an experienced civil lawyer. The cases she identifies as most significant illustrate that she has specialised in labour law, and, to some extent, in family law. She has undertaken briefs in matters of commercial law. Through her practice as an advocate for 25 years, she has necessarily acquired detailed knowledge of court process and critical analysis.

6.2. At the start of her career at the bar, she did a considerable amount of work in criminal law. Her recent stints as an acting judge have included her presiding over various criminal appeals and section 302 reviews. She is currently hearing a long criminal trial relating to human trafficking.

6.3. She has not had exposure to constitutional law matters.

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

7.1. The candidate has reserved judgment in an application for leave to appeal in the matter of *Transnet SOC v The City of Cape Town* (case number C10956/17). It is presumed, in the absence of further information, that she wrote the judgment which is the subject of the leave to appeal application. That judgment was not attached to her application, and the reviewers have been unable to locate it.

7.2. The candidate has reserved judgment in an application for leave to appeal her judgment in the matter of *Codevilla v Kennedy-Smith N.O*

and Others (10268/2020) [2022] ZAWCHC 30. Her judgment is reported on SAFLII, but was not attached to her application.

7.3. Save for the *Transnet* matter, and the *Codevilla* matter, none of the candidate's judgments have been taken on appeal and the reviewers have not been able to find references to the candidate's judgments by other judges.

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

8.1. Adv De Wet has practised as an advocate for 25 years in the fields of criminal law, labour law, family law and commercial law. Cumulatively, she has acted as a judge in the WCHC for 10 months. As an acting judge, she produced nine judgements which could be found by the reviewers. Another five were reserved at the time of her application.

8.2. During 2018, her 21st year of practice as an advocate, she applied to the Cape Bar for a recommendation to be elevated to senior counsel status (silk). The Cape Bar did not so recommend her. Adv De Wet has not made any application for silk since then.

9. **The candidate's linguistic and communication skills:**

9.1. Adv de Wet's judgments are well-structured, methodical, readily comprehensible, and provide thorough summaries of the evidence. However, it was observed by some members and by the reviewers that in two judgments, she gave extensive expositions of the law, yet did not clearly connect the principles to the reasons for her conclusion.

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

- 10.1. In *Izak Cornelius Rust v Johan Coetzee* (18694/14) [2022] ZAWCHC (24 May 2022) (*attached to application*) the candidate received further submissions in December 2021 but delivered the judgment some five months later on 24 May 2022.
- 10.2. In *AVW v SVW and four others* (3118/2021) the candidate granted an order on 28 January 2022 without reasons and more than three months after the hearing on 21 October 2021. Her response to a request for reasons was delivered on 20 April 2022, six months after the hearing.
- 10.3. At the time of the application, she had five reserved judgments, four of which have at the time of review reached the recommended three month limit. It is not known whether these judgments are still outstanding. They have not been published on SAFLII.

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

- 11.1. Comments from members who have appeared before the candidate are that she is punctual, well-prepared, hard-working, attentive, sensible, fair-minded and pragmatic, conducts her court efficiently and with decorum and gravitas, treats counsel appropriately and with courtesy, and generally delivers her judgments promptly.

12. The candidate's independent mindedness:

- 12.1. Nothing in the candidate's judgments suggest that she is not independent minded.

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

13.1. It is not possible to discern from the candidate's application whether she has any administrative abilities.

13.2. One can reasonably infer from the positions she has held as a volunteer (Rotary) and her involvement with FAMAC that she may have some administrative skills.

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

14.1. The candidate's appointment would send the message to the public that qualified and experienced practitioners, regardless of race or gender, are eligible to act on the bench.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED1. Reported judgments:

- 1.1. *Fundiswa Fiona Ralarala obo Sonwabile Ralarala v Minister of Police* 2022 (1) SACR 393 (WCC) (attached to application)

2. Unreported judgments:

- 2.1. *Izak Cornelius Rust v Johan Coetzee* (18694/14) [2022] ZAWCHC 88 (24 May 2022) (delictual damages) (attached to application)
- 2.2. *Simphiwe Matwa & Three Others v The State* (A02/2022 / A482/2021) [2022] ZAWCHC 72 (11 May 2022) (bail appeal) (attached to application)
- 2.3. *AVW v SVW & Four Others* (3118/2021); [2022] ZAWCHC 74 (20 April 2022) (Opposed application concerning the enforceability of a settlement agreement) (attached to application)
- 2.4. *Neil Gore N.O. & Another v Anele Hammond (formerly NGADI) N.O.* (15012/21); [2022] ZAWCHC 73 (7 April 2022) (Opposed sequestration application) (attached to application)
- 2.5. *Codevilla v Kennedy-Smith N.O and Others* (10268/2020) [2022] ZAWCHC 30 (4 March 2022)
- 2.6. *The Ad Hoc Central Authority for the RSA & Another v Portia Macheke* (7391/2021); [2022] ZAWCHC (9 February 2022) (Proceeding in terms of the Hague Convention)

2.7. *Andre Christiaan Bresler v Richard Clive Pople & Four Others* (19643/2019) (2021) ZAWCHC (28 September 2021) (Exception relating to reflective loss)

2.8. *Harold Visser v Nedbank Limited* (A45/2021) Judgment delivered on 22 June 2021 (Civil appeal with Baartman J)

3. Judgments upheld on appeal:

3.1. None of the candidate's judgments have been taken on appeal.

4. Judgments overturned on appeal:

4.1. None of the candidate's judgments have yet been overturned on appeal.

4.2. The candidate has reserved judgment in an application for leave to appeal in the matter of *Transnet SOC v The City of Cape Town* (case number C10956/17). It is presumed, in the absence of further information, that she wrote the judgment which is the subject of the leave to appeal application. That judgment was not attached to her application.

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