

JSC INTERVIEW ROUND: OCTOBER 2022

CANDIDATE: JUDGE KEOAGILE ELIAS MATOJANE

COURT FOR WHICH CANDIDATE APPLIES: SUPREME COURT OF APPEAL

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

1.1. The candidate holds the following degrees:

1.1.1. BProc, University of Zululand (1986);

1.1.2. LLB, University of Zululand (1988);

1.1.3. Diploma in Trial Advocacy, Colorado (1994);

1.1.4. LLM, University of Johannesburg (1995);

1.1.5. Diploma in Corporate Law, University of Johannesburg (2001);
and

1.1.6. LLM, University of South Africa (2007).

1.2. The candidate's professional admissions:

1.2.1. Attorney (1991 to 2009).

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 21 full time judges on the Supreme Court of Appeal Court bench, comprising:

3.1.1. 10 black women (7 African, 1 Indian, 2 Coloured);

3.1.2. 7 black men (5 African, 1 Indian, 1 Coloured);

3.1.3. 1 white woman; and

3.1.4. 3 white men.

- 3.2. The candidate is a black African man.

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

- 4.1. The candidate is 61 and has completed a period of 13 years of active service as a judge.

- 4.2. If appointed, the candidate could serve up to 9 years actively in office..

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

- 5.1. The candidate is committed to the values in the Constitution.

5.2. The candidate's commitment to equality led him to make justice accessible to the poor and marginalised during his years of practice as an attorney by representing vulnerable groups of society. He was a member of the Black Lawyers Association (BLA) whose objectives include fighting discriminatory practices, promoting a non-racial society and striving for the empowerment of disadvantaged communities – and from which organisation he previously received a favourable nomination for elevation to the SCA. He has been involved in trial advocacy training through the BLA Legal Education Centre since 1994 and has been training students at universities (including in neighbouring countries) and candidate attorneys at Practical Legal Training (PLT) schools.

5.3. The candidate has also mentored and trained a great many candidate attorneys in his attorney's practice. He is presently also a member of the South African Chapter of the International Association of Women Judges, an organisation whose object it is to promote and empower women Judges and uprooting gender biases, the auspices under which he is involved in mentoring law students.

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

6.1. The candidate's judgments cover the complete spectrum of areas of law.

6.2. His knowledge of constitutional law is notably illustrated by his judgment for the majority in the Constitutional Court in *Klaase*. The decision further attests to the candidate's expertise on land and constitutional property law from his having sat in the Land Claims

Court. The judgment was seminal in affording the spouses of primary occupiers' independent rights of 'occupiers' under ESTA. In the majority judgment, the candidate held that 'consent' to occupy land under ESTA included tacit consent and that Mrs Klaase had been given the tacit consent of the owner which independently afforded her the rights of an 'occupier' under ESTA.

- 6.3. In *Klaase and Another v Van der Merwe and Others* 2016 (6) SA 131 (CC) he wrote a judgment with which Moseneke DCJ, Cameron J, Madlanga J, Nkabinde J and Wallis AJ concurred. Paragraph 2 of the judgment states that:

“Most people who are occupiers of farmland are a vulnerable group in our society. These include female occupiers who are frequently not joined in eviction proceedings instituted against their spouses or partners. This makes that class of occupiers susceptible to arbitrary evictions as a consequence of the actions of their spouses or partners. As a result, no substantive grounds for their evictions are made and properly considered by a court before they are evicted with their spouses or partners. The upshot of this is hardship, conflict and social instability. ESTA seeks, among other things, to regulate the eviction of vulnerable occupiers from land while recognising the right of landowners to apply to court for eviction in appropriate circumstances, to promote the achievement of security of tenure for occupiers of land and to extend the rights of occupiers while giving due recognition to the rights, duties and legitimate interests of owners.”

6.4. In *Mostert and Others v Nash and Others* [2018] 4 All SA 267 (GJ), the applicant sought an interdict prohibiting the respondents from disseminating defamatory allegations. The candidate found that the defamatory material complained about by the applicants did not entitle the first respondent to continue disseminating it. The candidate held:

“All rights are interpreted generously and purposively having regard to the underlying values of the Constitution. In Khumalo and others v Holomisa, O’Regan J stated that although freedom of expression is fundamental to our democratic society, it is not of paramount value. It must be construed in the context of the other values enshrined in our Constitution. In particular, the values of human dignity, freedom and equality.”

6.5. In *Minister of Home Affairs and Others v Jose and Another* 2021 (6) SA 369 (SCA), the first and second respondents, who were brothers, had been born in South Africa of Angolan parents, had lived here from birth to majority, and had had their births registered. The requirements for citizenship having been met in terms of the provisions of the South Africa Citizenship Act 88 of 1995, they applied for citizenship to the Department of Home Affairs, which came to naught. They approached the High Court and obtained an order that they be granted citizenship. The High Court, however, granted leave to appeal on the issue of whether it had been competent for it to order the department to grant, as opposed to consider, the applications of the brothers.

6.6. The candidate and Justice Ponnan, who co-authored the judgment with him, held that the decision on an application for citizenship involved no

discretion at all on the part of the official taking it and once the requirements of section 4(3) were met, the official was obliged to grant citizenship. The learned judge specifically relied on the Constitutional Court case of *Chisuse and Others v Director-General, Department of Home Affairs and Another* 2020 (6) SA 14 (CC) in support of the proposition that the separation of powers doctrine did not preclude a court from ordering the department to recognise citizenship and proceed with the consequential administrative procedure without further consideration when the requisite conditions to acquire citizenship have been satisfied.

- 6.7. The candidate's judgment in *Radasi v The Minister of Police* 2021 JDR 1203 (GJ), demonstrates the seriousness with which the candidate takes the rights enshrined in the Bill of rights and it further gives an insight into the candidate's acute awareness of the plight of arrested and detained persons including the importance of their human rights.
- 6.8. The case involved the unlawful arrest and detention of the plaintiff, a woman aged 20 at the time and about four months pregnant. The plaintiff was arrested and detained by members of the SAPS in a dirty and cold cell in which she was placed with a mentally unstable detainee and could not have a bath for three days as the shower in the cell was not working.
- 6.9. Central to the candidate's judgment in this matter and in assessing the plaintiff's quantum were the right to equality, dignity, freedom and security of the person, the right to be released from detention if the

interests of justice permit and the right to conditions of detention that are consistent with human dignity, respectively.

- 6.10. The candidate stated that with the above principles in mind the decision of the court must reflect these values and that a “strong statement” should be made that, in South Africa, we take the protection of liberty and security of the person seriously. In addition, that if a person is unlawfully deprived of these protections, they are to be compensated in a manner that is commensurate with the values that we as a society attach to them.
- 6.11. In *Proxi Smart Services (Pty) Ltd v Law Society of South Africa and Others* 2018 (5) SA 644 (GP), the candidate’s conveyancing proficiency is discernible. This is a case concerning the performance of conveyancing work reserved by the law for a conveyancer and its important rationale in terms of the Attorneys Act.
- 6.12. In *Omar v Amod* [2021] ZAGPJHC 610 (6 September 2021), the candidate found that section 2 of the Vexatious Proceedings Act 3 of 1956 imposes a reasonable and justifiable limitation on the right to access courts under section 34 of the Constitution as other equally important purposes justify the limitation created by the Act, including the interests of innocent parties subjected to vexatious litigation and the effective functioning of courts. In granting the applicant the sought declaratory relief, the candidate held that: *“There is every indication that the respondent is likely to persist with this strategy on an indefinite basis until he is stopped. It is time for this to come to an end, as this*

also places a disproportionate burden on the limited resources of the courts and judicial system.”

- 6.13. The candidate has a large number of judgments which were never taken on appeal. An overall evaluation of the many judgments penned by the candidate in the High Court, attest to his acute awareness respect for precedent to make incremental and gradual changes to the law: which is an intrinsic function of the rule of law, which in turn is foundational to the Constitution, to maintain certainty, predictability and coherence. This appears to be a laudable central aspect of the candidate’s judicial philosophy, and is specifically referred to in his judgment in *Manuel v Economic Freedom Fighters and Others* 2019 (5) SA 210 (GJ) para 14.
- 6.14. In *Engen Petroleum Limited v Singh* 2021 JDR 2962 (GJ), the candidate considered an application for the provisional sequestration of the respondent’s estate in terms of section 8 of the Insolvency Act 24 of 1936. The judgment does not raise any novel legal principles but is illustrative of the candidate’s ability to apply the principles of insolvency law to the facts before him.
- 6.15. A review of the candidate’s judgments shows that he has a broad scope of knowledge of the law that covers multiple fields. Whilst many of the candidate’s reviewed judgments do not raise novel legal questions, they illustrate his ability to apply appropriate principles of substantive and procedural law whilst having very short turnaround times.

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

- 7.1. Nine of the candidate's judgments have been overturned on appeal. The full list of these judgments appears in the annexure of the list of judgments which have been considered for these comments. Two of the judgments concerned matters of great public and constitutional importance and one which was ultimately heard by the Constitutional Court.
- 7.2. In *Foize Africa (Pty) Ltd v Foize Beheer BV* 2013 (3) SA 91 (SCA), which concerned one of the candidate's relatively earlier judgments, the Supreme Court of Appeal in overturning his judgment did so with sharp criticism. The Court, inter alia, found that "*the learned judge [the candidate] overlooked the fact that not all the respondents had been parties to the licensing agreement*" (para 13); and that in his purporting to exercise a discretion by holding that the court did not have jurisdiction to hear the matter, had been a misdirection as the court's discretion is rather in deciding whether or not the exercise of that jurisdiction should be stayed pending the outcome of foreign proceedings or arbitration, which the court had not been called upon to decide (para 24).
- 7.3. However, most of the more recent judgments overturning the candidate's judgments on appeal did so only in part whilst also partially upholding his orders. Viewed in this light, the ratio of his judgments overturned-to-upheld is moderate. To demonstrate this, the following are brief summaries of a few of the judgments.

- 7.4. *AllPay Consolidated Investment Holdings (Pty) Ltd v Chief Executive Officer South African Social Security Agency (Corruption Watch and Centre for Child Law as Amici Curiae)* 2014 (1) SA 604 (CC) (“AllPay No1”) was a review concerning the government’s procurement of services for the administration of social grant payments. The issue in the case was whether the tender award for such services was valid and constitutional. AllPay contended that it was not. The candidate in the court a quo declared the tender process invalid but declined to set the award aside for practical reasons. The Constitutional Court unanimously held that the award of the tender to Cash Paymaster was invalid. It differed however with the candidate on the appropriate remedy. The Constitutional Court gave directions to receive updated submissions given the passage of time to enable it to give a final decision on a just and equitable remedy. (The Constitutional Court eventually adopted a structural interdict in AllPay No 2.)
- 7.5. *Economic Freedom Fighters and Others v Manuel* [2020] ZASCA 172 (17 December 2020) (partially overturned, appeal order paras 2, 3 and 4), is a case in which the issue was whether a statement made by the EFF on Twitter was defamatory of the former Finance Minister, Mr Trevor Manuel. The candidate, in the court a quo held that the statement was indeed defamatory. It awarded damages in the amount of R500,000 and ordered the EFF to publish an unconditional retraction and apology. On appeal, the Supreme Court of Appeal partially upheld the order given by the candidate and it overturned it in part in relation to the award of damages. The Court referred the determination of the quantum of damages for oral evidence and it further referred the determination

whether an order for the publication of a retraction and apology should be made back to the High Court for determination in conjunction with its determination on quantum.

7.6. *Qahoosein and Another v Bharshila Liquor Store CC* [2013] ZAGPPHC 508 (4 December 2013) in which the Full Bench of the Gauteng Division (Masango J, with F Kgomo and Fabricius JJ concurring) partially overturned the judgment of the candidate in relation to the second appellant (second defendant in the court a quo) and it was dismissed in relation to the first appellant (first defendant in the court a quo). The appeal turned on a question of fact. The case concerned a claim for goods sold and delivered valued at R1,3 million. Second defendant in the action denied having entered into the sale agreement. The candidate had found that the second defendant had made an undertaking to pay for the goods sold to the first defendant thereby assuming liability as a co-debtor. On appeal, the Full Bench found that although the second defendant had had a tangential involvement in the transaction, there had been no evidence of an agreement between him and the plaintiff and it held the second defendant therefore had not assumed liability as a co-principal debtor. The second defendant's appeal was upheld whereas the first defendant's appeal was dismissed with costs.

7.7. *Nu-World Industries (Pty) Ltd v Strix Ltd* [2020] ZASCA 28 (26 March 2020), in which the main action was for the infringement of a patent that was brought in the Court of Commissioner of Patents, Pretoria and heard by Preller J. The candidate heard a subsequent application to

amend. He had granted it. The appeal was directed against part of the order.

- 7.8. On appeal, the Supreme Court of Appeal found that the amendment would result in the enquiry into damages or royalties to stray beyond those that had arisen from the three infringing controls and should thus not have been allowed. The Court found that the candidate erred in allowing the amendment. The Court upheld the appeal to an extent: it substituted the candidate's order with an order granting the application to amend in part (paras 3, 4 and 5) and it dismissed the balance of the application to amend.

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

- 8.1. The candidate was an attorney for 18 years. He has been a judge of the High Court for approximately 13 years (part of which he spent in the Land Claims Court). He has been the Acting Judge President in the LCC and the Acting Deputy Judge President of the Gauteng Local Division, Johannesburg.
- 8.2. He has had acting stints in the Constitutional Court (2015), the Constitutional Court of Lesotho (2017) and the Competition Appeal Court (2020).
- 8.3. He has acted in the Supreme Court of Appeal for six terms (October to December 2018; April to June 2020; August to September 2020; July to September 2021; 1 Dec 2021 until 31 March 2022; 11 April to 19 June 2022 as per the SCA's website). There is accordingly no doubt that he is suitably experienced to serve at an appellate level

8.4. The candidate has extensive experience. His judgments cover the entire spectrum of areas of law.

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

9.1. The candidate's linguistic and communication skills are good.

9.2. The candidate's judgments are concise and they read well.

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

10.1. The candidate has an outstanding ability to produce judgments promptly. In the High Court he, on average, has a turnaround time for handing down judgment within a day and in no more than three days at most. In the Supreme Court of Appeal and Constitutional Court his judgments were handed down within the court term in which the case was heard.

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

11.1. According to a number of senior colleagues, the candidate brings a fair and open mind to the cases he hears and is always patient with counsel and parties. No adverse comments have been received to suggest that he does not conduct proceedings fairly, efficiently and effectively.

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

12.1. There is nothing to suggest that the candidate does not have an independent mind.

- 12.2. The candidate's minority judgment in the SCA in *Naidoo v The State* [2019] ZASCA 52 (1 April 2019), which was delivered in the second term of the candidate's acting stint in the Supreme Court of Appeal in which he was in a minority of one to a majority of four illustrate his independent mindedness.
- 12.3. The case concerned the question whether the trial court erred in accepting the evidence of a single child witness who had been under the influence of alcohol at the time of the alleged sexual assault and attempted murder.
- 12.4. After an analysis of the evidence, the candidate found that in failing to treat the evidence of the complainant with caution in the particular circumstances of the case where the complainant was heavily intoxicated, the trial court committed a material misdirection in the evaluation of the evidence which error constituted an infringement of the appellant's fair trial rights and a failure of justice. The majority, on the other hand considered that as an appellate court the Supreme Court of Appeal had to remain cognisant of the strictures on it in relation to factual findings as it is not for an appellate court to second-guess the factual findings of the trial court.
13. **The candidate's administrative ability (other than in relation to court proceedings):**
- 13.1. The candidate is an experienced senior judge in the Gauteng Division of the High Court.

- 13.2. He has vast and varied experience on the bench having sat on the High Court, Land Claims Court and having acted in the Competition Appeal Court (2020), Supreme Court of Appeal and Constitutional Court. He also sat as an Acting Judge of the Constitutional Court of Lesotho in 2017. He has a proven track-record of the ability to conduct court proceedings having been a judge in the courts of first instance for many years.
- 13.3. The candidate has a proven track-record of the possession of administrative abilities having managed his own legal practice for 18 years from 1991 to 2009.
- 13.4. His track-record has continued after his elevation to the bench in 2009 where he continues to apply his administrative abilities to inter alia conduct trials and manage his caseload. In 2014 he was the Acting Judge President of the Land Claims Court and in 2019 he was the Acting Deputy Judge President of the Gauteng Local Division of the High Court, Johannesburg.
- 13.5. Special mention was made by counsel of the candidate's seamless facilitation of the hearing of an urgent appeal that had been brought in terms of Rule 49(18) of the Uniform Rules when he had been the ADJP in the Gauteng Local Division – to the great appreciation of all parties and counsel involved.
- 13.6. The candidate furthermore is a convenor of the Commercial Court pilot project of the Gauteng Division in the Local Division, Johannesburg, which has been making strides in attracting commercial cases to the court system through an expedited process of the Commercial Court to

provide an alternative to the dominant preference to refer commercial matters to private arbitration. As a convenor of the Commercial Court, the candidate is involved in the allocation of cases to this court in accordance with whether they meet the criteria of the commercial list and he has sat in cases allocated to the Commercial Court.

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

- 14.1. The candidate's appointment to the Supreme Court of Appeal will convey a commitment to transform the judiciary at the high level of the Supreme Court of Appeal. Given his suitable qualifications, his extensive experience, concise judgments and quick turnaround time for delivering judgments, his appointment will further convey an appointment based on merit coupled with a commitment to uphold the high and demanding standards of the Supreme Court of Appeal.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED1. Reported decisions

- 1.1. *Comair Limited v South African Airways (Pty) Ltd* [2017] 2 All SA 78 (GJ)
- 1.2. *Industrial Health Resource Group v Minister of Labour* 2015 (5) SA 566 (GP)
- 1.3. *Klaase and Another v Van der Merwe* 2016 (6) SA 131 (CC)
- 1.4. *Manuel v Economic Freedom Fighters* 2019 (5) SA 210 (GJ)
- 1.5. *Mostert v Nash* [2018] 4 All SA 267 (GJ)
- 1.6. *Netcare Hospitals (Pty) Ltd v KPMG Services (Pty) Ltd* [2014] 4 All SA 241 (GJ)
- 1.7. *Proxi Smart Services (Pty) Ltd v Law Society of South Africa* 2018 (5) SA 644 (GP)
- 1.8. *Raumix Aggregates (Pty) Ltd v Richter Sand CC and similar matters* 2020 (1) SA 623 (GJ)
- 1.9. *Stenersen & Tulleken Administration CC v Linton Park Body Corporate* 2020 (1) SA 651 (GJ)
- 1.10. *Minister of Home Affairs v Jose* 2021 (6) SA 369 (SCA)

2. Unreported Decisions

- 2.1. *Abel v Road Accident Fund* 2010 JDR 0149 (GNP)

- 2.2. *Alberts v Hitchcock NO and Others* [2011] ZAGPPHC 202 (21 October 2011)
- 2.3. *Allpay Consolidated Investment Holdings (Pty) Ltd v The Chief Executive Officer of The South African Social Security Agency* 2012 JDR 1443 (GNP)
- 2.4. *Alpine Eco Notebooks & Diaries (Pty) Ltd v Capital Acceptances (Pty) Ltd* 2019 JDR 2035 (GJ)
- 2.5. *AmaBhungane Centre for Investigative Journalism NPC v President of the Republic of South Africa* [2021] ZAGPPHC 813 (2 December 2021)
- 2.6. *B v D* [2010] ZAGPPHC 612
- 2.7. *Bakgatla-Ba-Kgafela Communal Property Association v Minister of Rural Development and Land Reform* [2013] ZALCC 16
- 2.8. *Bambeni v Msimeki* 2019 JDR 2658 (GJ)
- 2.9. *Banakoma Fleet and Shuttle CC v Super Group Africa (Pty) Ltd* 2016 JDR 1875 (GNP)
- 2.10. *Beaux Lane SA Properties (Pty) Ltd v Robbertse* 2012 JDR 1875 (GNP)
- 2.11. *Blue Cell (Pty) Ltd v Blue Financial Services Limited and Others, In Re; Blue Cell (Pty) Ltd and Another v Blue Financial Services Limited and Others, In Re; Blue Financial Services Limited v Blue Cell (Pty) Ltd* [2014] ZAGPPHC 14
- 2.12. *Blue Cell (Pty) v Blue Financial Services Limited* [2014] ZAGPPHC 267 (16 May 2014)

- 2.13. *Botha v Road Accident Fund* 2011 JDR 1798 (GNP)
- 2.14. *Body Corporate Marsh Rose v Steinmuller* 2021 JDR 2173 (GJ)
- 2.15. *Buys v The Master of the High Court, Johannesburg* 2019 JDR 2431 (GJ)
- 2.16. *Century Civils CC and Another v Calsicrete Brickworks (Pty) Ltd; In Re: Century Civils CC v Calsibrick (Pty) Ltd* [2010] ZAGPPHC 618
- 2.17. *Cooper NO v Knoop NO* 2020 JDR 1400 (GJ)
- 2.18. *DA v Minister of Public Enterprise* 2018 JDR 0061 (GP)
- 2.19. *DA v Minister of Co-Operative Governance and Traditional Affairs* 2021 JDR 0780 (GP)
- 2.20. *DA v National Commissioner of Correctional Services and Others* [2021] ZAGPPHC 814 (15 December 2021)¹
- 2.21. *Dalindyebo v President of the Republic of South Africa* [2014] ZAECMHC 34 (20 June 2014)
- 2.22. *De Waal v Momentum Group Limited* 2011 JDR 1371 (GNP)
- 2.23. *Dlamini v Gauteng Department of Health: Member of the Executive Council & Another* [2021] ZAGPJHC 686 (17 August 2021)
- 2.24. *Engen Petroleum Limited v Singh* 2021 JDR 2962 (GJ)

¹ On 21 December 2021 the candidate granted the Department of Correctional Services leave to appeal to the Supreme Court of Appeal and the appeal is yet to be heard.

- 2.25. *Esofranki Pipelines (Pty) Ltd v Mopani District Municipality* 2012 JDR 1560 (GNP)
- 2.26. *Firststrand Bank Limited v Baloyi NO* [2014] ZAGPPHC 995
- 2.27. *Fli-Afrika Travel (Pty) Ltd v South African Football Association* 2017 JDR 0338 (GJ)
- 2.28. *Flora & Others v Changing Tides 74 (Pty) Ltd* [2009] JOL 23629 (GSJ)
- 2.29. *Graham v Ronald Bobroff & Partners* 2015 JDR 0495 (GP)
- 2.30. *GV v CV* 2015 JDR 0452 (GP)
- 2.31. *Gumede v Minister of Safety and Security* 2013 JDR 2128 (GNP)
- 2.32. *HO v FA* 2021 JDR 2727 (GJ)
- 2.33. *Industrial Development v Qu* 2021 JDR 2961 (GJ)
- 2.34. *Jooma v Sekgetho* 2019 JDR 1212 (GJ)
- 2.35. *Kruger v Botha* [2011] ZAGPPHC 81
- 2.36. *Lebepe v Road Accident Fund* [2011] ZAGPPHC 31
- 2.37. *Lougot Property Investments (Pty) Ltd v Group Five Coastal (Pty) Ltd* 2021 JDR 2329 (GJ)
- 2.38. *Malumo v Tredoux* [2011] ZAGPPHC 37
- 2.39. *Maponya v Mogafe* 2011 JDR 1728 (GNP)
- 2.40. *Maree v Road Accident Fund* 2019 JDR 1986 (GJ)

- 2.41. *Martin v Minister of Correctional Services Commissioner of Correctional Services* 2017 JDR 0467 (GJ)
- 2.42. *Masemola v Road Accident Fund* [2014] ZAGPPHC 636 (18 August 2014)
- 2.43. *Masilela and Others v Vilane* [2014] ZAGPPHC 983
- 2.44. *Mathebula v Ndlovu* 2019 JDR 1656 (GJ)
- 2.45. *Matlala v Minister of Police* 2012 JDR 1877 (GNP)
- 2.46. *Mbita Consulting Services CC v Man Financial Services SA (Pty) Ltd* 2019 JDR 1213 (GJ)
- 2.47. *Mbonani v Minister of Correctional Services and Others* [2011] ZAGPPHC 196
- 2.48. *Miller v Natmed Defence (Pty) Ltd* 2021 JDR 2007 (GJ)
- 2.49. *Media Development and Diversity Agency v Boqo* 2019 JDR 1015 (GJ)
- 2.50. *Minister of Police v Masina* 2019 JDR 0678 (SCA)
- 2.51. *Minister of Public Works v Roux Property Fund (Pty) Ltd* 2020 JDR 2070 (SCA)
- 2.52. *Mirchandani v Unica Iron and Steel (Pty) Ltd* 2014 JDR 1188 (GP)
- 2.53. *Mntambo and Others v Changing Tides 74 (Pty) Ltd* [2009] ZAGPJHC 17
- 2.54. *Mogoje and Another v Road Accident Fund* [2010] ZAGPPHC 571

- 2.55. *Money Skills Property Investment (in liquidation) v Money For Jam Investments 7 (Pty) Ltd* 2010 JDR 0129 (GNP)
- 2.56. *Montic Dairy (Pty) Ltd v Moraitis Investments (Pty) Ltd* 2016 JDR 1402 (GJ)
- 2.57. *Modise v The Master of the High Court of South Africa* 2021 JDR 2700 (GJ)
- 2.58. *Moraka v Industrial Development Corporation of South Africa* 2021 JDR 2227 (GJ)
- 2.59. *Moore v Road Accident Fund* [2010] ZAGPPHC 561
- 2.60. *Moos v Minister of Safety and Security* 2011 JDR 1736 (GNP)
- 2.61. *Mostert v Nash* 2018 JDR 1348 (GJ)
- 2.62. *Mxiki v Mbata; In Re: Mbata v Department of Home Affairs* [2014] ZAGPPHC 825
- 2.63. *N v N* [2010] ZAGPPHC 536
- 2.64. *Nkosi NO v Road Accident Fund* [2011] ZAGPPHC 197
- 2.65. *Nkwali Brothers Farming CC v Thela* 2010 JDR 0663 (GNP)
- 2.66. *Nxele v Mathebula* 2011 JDR 1748 (GNP)
- 2.67. *Omar v Amod* [2021] ZAGPJHC 610 (6 September 2021)
- 2.68. *Palmer and Others v Engelbrecht* [2010] ZAWCHC 352
- 2.69. *Pambili Ranch (Pty) Ltd v Potgieter* 2011 JDR 1787 (GNP)

- 2.70. *Pankhurst v Fitzgerald* (47605/2009) [2013] ZAGPPHC 31
- 2.71. *Parsons and Another v Viljoen* (50122/2008) [2011] ZAGPPHC 153
- 2.72. *PN v DN* 2010 JDR 0486 (GNP)
- 2.73. *Prime Invest 253 (Pty) Ltd v 114-11th Road Kew (Pty) Ltd* [2011] ZAGPPHC 13
- 2.74. *Rasencheri v S* [2012] ZAGPPHC 206
- 2.75. *Registrar of Banks v Dafel* [2014] ZAGPPHC 884
- 2.76. *Risenga v Hobyani* 2013 JDR 1967 (GNP)
- 2.77. *Risenga v Makondo* 2013 JDR 1969 (GNP)
- 2.78. *Risenga v Nkwinika* 2013 JDR 1968 (GNP)
- 2.79. *Roets v MEC for the Department of Public Works, Road & Transport (Mpumalanga)* 2013 JDR 2242 (GNP)
- 2.80. *Radsai v The Minsiter of Police* 2021 JDR 1203 (GJ)
- 2.81. *Segalo v Botha NO* 2021 JDR 3214 (GJ)
- 2.82. *Silwane Community Development Trust v Regional Land Claims Commissioner, KZN* 2021 JDR 003 (SCA)
- 2.83. *Supa Bike (Pty) Ltd v Venter Manufacturing Company (Pty) Ltd* 2021 JDR 2663 (GJ)
- 2.84. *S v Barendse* 2012 JDR 1271 (GNP)

- 2.85. *S v Cezu* 2013 JDR 2129 (GNP)
- 2.86. *S v EM* 2012 JDR 1664 (GNP)
- 2.87. *S v Karoles* [2008] ZAWCHC 117
- 2.88. *S v Lokhotshwayo* 2015 JDR 0496 (GP)
- 2.89. *S v Mokonyane* 2014 JDR 0679 (GNP)
- 2.90. *S v Molefe* 2019 JDR 0009 (SCA)
- 2.91. *S v Mpitsi* 2012 JDR 1847 (GNP)
- 2.92. *S v Mtshiselwa* [2008] ZAWCHC 322
- 2.93. *S v Mxuma* 2010 JDR 0695 (GNP)
- 2.94. *S v Phiri* 2012 JDR 1269 (GNP)
- 2.95. *S v Rasencheri* 2012 JDR 1693 (GNP)
- 2.96. *S v Thulare* 2013 JDR 2233 (GNP)
- 2.97. *S v Tyhulu* 2019 JDR 0644 (SCA)
- 2.98. *S.O.S Support Public Broadcasting Coalition v South African Broadcasting Corporation Soc Limited* 2017 JDR 1686 (GJ)
- 2.99. *Saligwazi v Road Accident Fund* [2010] ZAGPPHC 563
- 2.100. *Scheffer v Road Accident Fund* [2014] ZAGPPHC 424
- 2.101. *Sebidi v Thobejane* [2014] ZAGPPHC 57

- 2.102. *Selepe v S* [2012] ZAGPPHC 89
- 2.103. *Servochem (Pty) Ltd v Geldenhuis* 2017 JDR 0785 (GJ)
- 2.104. *Sibiya v Minister of Police* 2015 JDR 0398 (GP)
- 2.105. *Sibongile v Cape Gate Provident Fund* 2016 JDR 0659 (GJ)
- 2.106. *Silwane Community Development Trust v Regional Land Claims Commissioner, KwaZulu-Natal* 2021 JDR 0003 (SCA)
- 2.107. *Smith v Cordier* 2010 JDR 0662 (GNP)
- 2.108. *Stemar v Minister of Police and Another* [2014] ZAGPPHC 295 (16 May 2014)
- 2.109. *Sukazi v Road Accident Fund* [2011] ZAGPPHC 175 (22 September 2011)
- 2.110. *Supa Bike (Pty) Ltd v Venter Manufacturing Company (Pty) Ltd* 2021 JDR 2663 (GJ)
- 2.111. *Swartz v The Minister of Police* 2019 JDR 1216 (GJ)
- 2.112. *Technogistics (Pty) Limited v Absa Insurance Risk Management Services* 2019 JDR 1988 (GJ)
- 2.113. *Teichmann South Africa (Pty) Ltd v ELB Engineering Services (Pty) Ltd* 2020 JDR 0294 (GJ)
- 2.114. *The Director of Public Prosecutions v Mahlangu* 2011 JDR 0447 (GNP)

- 2.115. *The Director of Public Prosecutions, Gauteng Division, Pretoria v Mbonani* 2020 JDR 2039 (SCA)
- 2.116. *The Johannesburg Society of Advocates v Tiry* 2018 JDR 1511 (GJ)
- 2.117. *The Minister of Safety and Security v Wessels* 2011 JDR 0440 (GNP)
- 2.118. *The State v Naidoo* 2019 JDR 0643 (SCA)
- 2.119. *Tshabalala v Tshabalala* 2019 JDR 1214 (GJ)
- 2.120. *Tshibangu v City of Tshwane Metropolitan Municipality* 2010 JDR 0114 (GNP)
- 2.121. *Valashiya NO v Moroosi* 2019 JDR 1663 (GJ)
- 2.122. *Van Deventer v Mathews* 2012 JDR 0295 (GNP)
- 2.123. *VBS Mutual Bank (in Liquidation) v Ramavhunga* 2019 JDR 1546 (GJ)
- 2.124. *VBS Mutual Bank v Madzonga* 2019 JDR 1548 (GJ)
- 2.125. *W Capital Finance (Pty) Ltd v Dykes Van Heerden Inc* 2013 JDR 2615 (GNP)
- 2.126. *Williams v Isaacs* [2014] ZAGPPHC 230 (9 April 2014)
- 2.127. *Yeoville Bellevue Ratepayers' Association v The MEC for the Department of Economic Development Gauteng Provisional Government* 2017 JDR 1926 (GJ)
- 2.128. *Zandspruit Cash and Carry (Pty) Ltd v G4S Cash Solutions SA (Pty) Ltd* 2020 JDR 0292 (GJ)

2.129. *Strohmenger v Victor* (1133/20) [2022] ZACC 45 (8 April 2022)

2.130. *Rademeyer v Ferreira* (343/2021) [2022] ZASCA 92 (17 June 2022)

3. Judgments upheld on appeal

3.1. *Bakgatla-Ba-Kgafela Communal Property Association v Bakgatla-Ba-Kgafela Tribal Authority and Others* 2015 (6) SA 32 (CC)

3.2. *Economic Freedom Fighters and Others v Manuel* [2020] ZASCA 172

3.3. *G4S Cash Solutions v Zandspruit Cash & Carry (Pty) Ltd* [2016] ZASCA 113

3.4. *Haitas v Froneman and Others* [2021] ZASCA 01

3.5. *Mochebelele v Director of Public Prosecutions, Gauteng* 2019 (2) SACR 231 (SCA)

3.6. *Moraitis Investment (Pty)Ltd and Others v Montie Dairy (Pty) Ltd* 2017 (5) SA 508 (SCA)

3.7. *Ntlemeza v Helen Suzman Foundation and Another* 2017 (5) SA 402 (SCA)

3.8. *S v Saloman v and Others* 2014 (1) SACR 93 (WCC)

3.9. *S v Salzmann* 2020 (2) SACR 200 (SCA)

3.10. *South African Football Association v Fli-Afrika Travel (Pty) Limited* [2020] ZASCA 4

3.11. *Unica Iron and Steel (Pty) Ltd v Mirchandani* 2016 (2) SA 307 (SCA)

3.12. *Vela v Efora Energy Limited* 2019 JDR 0628 (SCA)

4. Judgments overturned on appeal

4.1. *AllPay Consolidated Investment Holdings (Pty) Ltd v Chief Executive Officer South African Social Security Agency (Corruption Watch and Centre for Child Law as Amici Curiae)* 2014 (1) SA 604 (CC)

4.2. *Economic Freedom Fighters and Others v Manuel* [2020] ZASCA 172 (partially overturned, appeal order paras 2, 3 and 4)

4.3. *Esorfranki Pipelines (Pty) Ltd and another v Mopani District Municipality* [2014] 2 All SA 493 (SCA)

4.4. *Foize Africa (Pty) Ltd v Foize Beheer BV* 2013 (3) SA 91 (SCA)

4.5. *Parktown High School for Girls v Hishaam and Another* 2019 (4) SA 188 (SCA)

4.6. *Qahoosein and Another v Bharshila Liquor Store CC* [2013] ZAGPPHC 508

4.7. *South African History Archive Trust v South African Reserve Bank* 2020 (6) SA 127 (SCA)

4.8. *State Information Technology Agency Soc Ltd v Gijima Holdings* 2017 (2) SA 63 (SCA)

4.9. *Nu-World Industries (Pty) Ltd v Satrix Ltd* [2020] ZASCA 28

4.10. *Rajah v Balduzzi* 2018 JDR 0974 (SCA)

- 4.11. *Africa Charter Airline CC v Avisys Aviation Systems CC* 2019 JDR 0560 (SCA)
- 4.12. *Merchant Commercial Finance (Pty) Ltd v Katana Foods CC* 2017 JDR 2121 (SCA)