

JSC INTERVIEW ROUND: OCTOBER 2022

CANDIDATE: JUSTICE DUMISANI ZONDI

**COURT FOR WHICH CANDIDATE APPLIES: CHAIRPERSON OF THE
ELECTORAL COURT**

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

1.1. The candidate holds the following degrees:

1.1.1. BJuris University of Fort Hare 1982;

1.1.2. LLB University of Natal 1984; and

1.1.3. LLM George Washington University 1988.

1.2. The candidate is appropriately qualified.

1.3. The candidate was an attorney for over 20 years before his appointment to the Western Cape Division of the High Court in 2007.

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 3 full time judges on the Electoral Court comprising (as far as could be ascertained):

3.1.1. 2 black men (African); and

3.1.2. 1 white man.

3.2. The candidate is a black African man.

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 65 years old and has completed a period of 15 years of active service as a judge.

4.5. If appointed, the candidate could serve up to 5 years actively in office.

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

5.1. To the best of our knowledge the candidate is committed to the values of the Constitution, in particular the achievement of dignity, equality and freedom for all, and human rights generally, through public service and civil society and community involvement.

5.2. Those who have appeared before the candidate state that he treats all who appear before him with respect and dignity.

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

6.1. The candidate's application lists several cases which he considers to be significant. It is noted that a number of those cases concern constitutional matters, i.e. *Levenstein v Estate of the Late Sidney Lewis Frankel No 2018 (8) BCLR 921 (CC)*. A reading of these judgments discloses that the candidate has a very good understanding of constitutional law. In this regard, we note that the candidate has acted as a judge of the Constitutional Court.

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

7.1. In paragraph 16.4 of the questionnaire application, the candidate lists about seven judgments which have been overturned on appeal.

7.2. Having considered the decisions of the appeal courts in those matters, the reviewers are of the view the bases upon which the candidate's decisions were overturned do not disclose any cause for concern as regards the candidate's competency.

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

8.1. The candidate is an experienced and senior judicial officer. He has served as a judge of the Supreme Court of Appeal since 2014. Before that he served as a High Court judge since 2007. He has acted as a judge of the Labour Appeal Court, and as a judge of the Competition Appeal Court. He also practised as an attorney for over 20 years. He accordingly has wide-ranging experience both as a practitioner and as a judicial officer.

9. The candidate's linguistic and communication skills:

9.1. The candidate's judgments are well written and well-reasoned.

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

10.1. Generally, the candidate is able to produce judgments reasonably promptly.

10.2. It is however noted that the candidate presided over a Judicial Conduct Committee appeal hearing in January 2021 in which the appeal committee reserved judgment, and, as far as we know, that decision/judgment is still outstanding.

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

11.1. As stated, generally, the candidate is able to conduct proceedings fairly, efficiently, and effectively.

12. The candidate's independent mindedness:

12.1. In our opinion we have no reason to believe that the candidate is not independent minded.

12.2. His judgments do not, for example, disclose judicial timidity or bias in favour of the executive, or any party, for that matter.

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

13.1. We have no reason to doubt the candidate's administrative ability.

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

14.1. The candidate's appointment to the Electoral Court would send a message that the Commission takes the role of the Electoral Court seriously and is willing to appoint experienced and senior judges to that court.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED1. Reported judgments:

- 1.1. *Woodways CC v Vallie* 2010 (6) SA 136 (CC)
- 1.2. *ABSA Bank v Keet* 2015 (4) SA 474 (SCA)
- 1.3. *Motus Corporation v Wentzel* [2021] 3 All SA 98 (SCA)

2. Judgments upheld on appeal:

- 2.1. *Meter v Geo Parks & Sons (Pty) Ltd* [2006] ZASCA 161
- 2.2. *Thabani Limeli (Pty) Ltd v Thabani Wine (Pty) Ltd* [2009] ZAWCHC 142
- 2.3. *Aventura Ltd v Jackson NO* 2007 (5) SA 497 (SCA)
- 2.4. *Minister of Finance v Afribusiness NPC* [2022] ZACC 17

3. Judgments overturned on appeal:

- 3.1. The candidate has listed these judgments in para 16.4 of his application.