

JSC INTERVIEW ROUND: APRIL 2023

CANDIDATE: MS AMANDA ISOBEL VENTER

**COURT FOR WHICH CANDIDATE APPLIES: NORTHERN CAPE
DIVISION**

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

1.1. The candidate has the following qualifications:

1.1.1. University of Pretoria – B.Iuris 1982; and

1.1.2. University of South Africa (UNISA) – LLB 1999.

1.2. The candidate was appointed to the following positions:

1.2.1. District Magistrate in 1988; and

1.2.2. Regional Magistrate in 2003.

2. The candidate's integrity and ethics:

2.1. The candidate has a reputation as a person whose ethics and integrity are beyond reproach.

2.2. There are no circumstances known that would suggest that the candidate is not a person of integrity or is not a fit and proper person for appointment.

2.3. On the contrary, the candidate's legal experience of more than 40 years, clearly emphasise her integrity, from District and Regional Prosecutor to District Magistrate in Criminal and Civil Court, as well

as Judicial Head over four additional Magistrates in the Magistrates' Court Sasolburg, before being appointed as the Regional Magistrate for Criminal, Civil and Divorce Court in De Aar.

3. Whether the candidate's appointment would help to achieve an appropriate racial and gender composition on the bench:

3.1. There are currently six full-time judges in the Northern Cape Division bench, comprising (as far as could be ascertained):

3.1.1. 3 black women (2 African, 1 Coloured);

3.1.2. 2 black men (2 African); and

3.1.3. 1 white man.

3.2. The candidate is a white woman.

3.3. The candidate's appointment to the Northern Cape Division of the High Court will send a message to the public that the judiciary is committed to gender transformation, especially in view of the fact that for numerous years no white woman has been permanently appointed as a Judge in this division.

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 62 years old.

4.5. If appointed, the candidate could therefore serve up to 13 years actively in office.

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

5.1. The candidate is committed to the Constitution, and the values thereof, as is clear from judgments prepared by her.

5.2. The candidate's personal commitment to the values of the Constitution is also evident from the manner in which she interacts with practitioners, but also with litigants, witnesses, and accused persons.

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

6.1. The candidate has a broad range of knowledge of law, as a result of her previous background, which includes:

6.1.1. 5 years' experience in criminal matters as a state prosecutor;

6.1.2. 4 years' experience in criminal matters as District Court Criminal Magistrate;

- 6.1.3. 11 years' experience in civil matters as District Magistrate in Empangeni and Judicial Head in Sasolburg; and
- 6.1.4. 19 years' experience in mostly criminal matters and, to a small extent, civil matters since 2003, as Regional Court Magistrate.
- 6.2. By reason of her experience as a Magistrate, the candidate has wide experience in respect of all aspects of law, including constitutional law matters.

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

- 7.1. As far as it could be established, none of the candidate's convictions were set aside on appeal, and only a few sentences were reduced on appeal.
- 7.2. Also, as far as could be established, there were no reviews against any of the candidate's judgments or sentences.
- 7.3. The judgment of the candidate in the matter of *S v Rudolph & Marie Dorrepaal* (RC47/2011) Regional Court for the Division NC held at De Aar (28 July 2017) was confirmed in respect of the conviction and sentence in the Northern Cape High Court.
- 7.4. In the matter of *Dorrepaal v S* (CA&R26/2020) [2021] ZANCHC 14 (12 March 2021), a judgment by Phatshoane DJP, the appeal in respect of the aforesaid conviction and sentence was dismissed, and the conviction and sentence by the candidate confirmed.
- 7.5. Phatshoane DJP held as follows at paras 42 and 43:

“[42] *The trial court was alive that the complainant was a single witness whose evidence had to be approached with caution. She made an admirable impression on the trial magistrate who was of the view that she was trustworthy, reliable and gave her evidence in a straight forward manner. The magistrate considered that the complainant gave evidence on events which took place over a long period of time after a long time lapse.*

[43] The court rejected the appellant’s version as false insofar as it was in conflict with the State’s version. In our view the State acquitted itself of the onus to prove the appellant’s guilt beyond any reasonable doubt. The magistrate’s conclusion that the appellant is guilty on the two counts of rape, sexual assault, and indecent assault is unassailable and ought not to be disturbed.”

7.6. Similarly, in the matter of *Mthini v S* (CA & R 16/19) [2019] ZANCHC 34 (30 August 2019), the appeal against the conviction and sentence imposed by the candidate in the trial Court was dismissed in the matter of *S v Ayanda Mthini Michael Gqetwa* (RC30/2010) Regional Court for the Division NC held at Colesberg (3 July 2012).

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

8.1. The candidate is currently serving as the Regional Magistrate Criminal, Civil and Divorce Court, De Aar, and has done so since

2003. Although dealing with both civil and criminal matters, the majority of matters dealt with by the candidate are criminal matters.

8.2. Prior to that, the candidate served as a prosecutor in District and Regional Courts for 5 years in the early eighties.

8.3. Between 1988 and 1991 the candidate served as District Magistrate in the Criminal Courts in Pretoria and Durban eThekweni during which time she dealt with criminal matters.

8.4. Between 1992 and 1998 the candidate served as the District Magistrate Criminal and Civil Court, in Empangeni, during which time the candidate dealt mainly with civil matters.

8.5. Between 1999 and 2002, the candidate acted as the Judicial Head Civil, Criminal and Quasi-Judicial work over four additional Magistrates in Sasolburg, during which time the candidate mainly dealt with civil matters.

8.6. The candidate held an acting appointment in the Northern Cape Division for the fourth term of 2019.

9. The candidate's linguistic and communication skills:

9.1. The candidate's judgments are written in clear and concise language and address the issues of fact and principles of law in a logical and well-reasoned manner.

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

10.1. The general impression from the candidate's judgments is that she hands judgments down promptly.

10.2. In addition, as ascertained from practitioners regularly appearing before her, the candidate has a reputation for regularly giving *ex tempore* judgments.

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

11.1. No adverse comments were received in respect of the candidate's fairness and impartiality. She is perceived to act and administer the law without fear, favour or prejudice.

11.2. The candidate has demonstrated her ability to conduct court proceedings fairly, efficiently and effectively during her 35 years as a Magistrate, as well as during her acting stint in the Northern Cape Division.

12. The candidate's independent mindedness:

12.1. No adverse comments were received in respect of the candidate's independent mindedness.

12.2. The candidate is independent-minded and this is clearly established by her conduct in court and in her judgments.

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

13.1. The candidate's legal experience illustrates that not only does she have a thorough knowledge of the law and practice, but that she also has strong managerial and administrative skills, as is apparent from the three years that she has served as the Judicial Head Civil, Criminal and Quasi-Judicial work over four additional Magistrates in Sasolburg.

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

- 14.1. In view of the facts as set out above, the candidate is not only a fit and proper candidate to be appointed to the bench, but her appointment would also be an asset to the bench.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

1. Reported judgments:

1.1. None

2. Unreported judgments:

2.1. *The State v Michael Monnapule Marema* (Conviction) (KS2/2019)
ZANCHC (15 March 2021)

2.2. *The State v Michael Monnapule Marema* (Sentence) (KS2/2019)
ZANCHC (17 March 2021)

2.3. *The State v Edgar Mosinki Ndlovu* (KS24/19) ZANCHC (24
October 2019)

2.4. *The State v Rudolph & Marie Dorrepaal* (RC47/2011) Regional
Court for the Division NC held at De Aar (28 July 2017)

2.5. *The State v Eric Bulelani Fula* (RC38/2021) Regional Court for the
Division NC held at De Aar (9 November 2022)

2.6. *The State v Shadrack Maans* (RC14/2018) Regional Court for the
Division NC held at De Aar (20 October 2022)

2.7. *The State v Jacques Jack Viviers & Marco Majiedt* (RC13/2011)
Regional Court for the Division NC held at Carnarvon (26 March
2012)

2.8. *The State v Ayanda Mthini & Michael Gqetwa* (RC30/2010)
Regional Court for the Division NC held at Colesberg (3 July 2012)

2.9. *The State v Thembelihle Kokela* (Conviction) (RC10/2020) Regional
Court for the Division NC held at Noupoort (24 November 2021)

- 2.10. *The State v Thembelihle Kokela* (Sentence) (RC10/2020) Regional Court for the Division NC held at Noupoot (24 November 2021)
- 2.11. *Evert Phillipus Olivier v Brian James Carey* (NCDA/RC14/2018) Regional Court for the Division NC held at De Aar (26 March 2021)
- 2.12. *Mziwoxolo Zebloune Williams vs Minister of Police & NDPP* (NCDA/RC1359/2014) Regional Court for the Division NC held at De Aar (30 October 2017)
- 2.13. *Nonzime Patricia Mkheleni vs Franklin Eksteen, Justin Metcalfe & Kleinjie Gcanga* (NCDA/RC1244/2013) Regional Court for the Division NC held at De Aar (25 November 2016)

3. Judgments upheld on appeal:

- 3.1. *The State v Rudolph & Marie Dorrepaal* (RC47/2011) Regional Court for the Regional Division NC held at De Aar (28 July 2017)
- 3.2. Aforesaid judgment upheld on appeal in *Dorrepaal v S* (CA&R26/2020) [2021] ZANCHC 14 (12 March 2021)
- 3.3. The judgment of the candidate in *The State v Ayanda Mthini & Michael Gqetwa* (RC30/2010) Regional Court for the Division NC held at Colesberg (3 July 2012) was upheld on appeal in *Mthini v S* (CA & R 16/19) [2019] ZANCHC 34 (30 August 2019)

4. Judgments overturned on appeal:

- 4.1. None