

JSC INTERVIEW ROUND: OCTOBER 2023

CANDIDATE: MR ERIC BOYGANI ZACA

**COURT FOR WHICH CANDIDATE APPLIES: KWAZULU-NATAL
DIVISION OF THE HIGH COURT, DURBAN**

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

1.1. The candidate is appropriately qualified.

1.2. The candidate holds the following qualifications:

1.2.1. B Proc, University of Natal, 2000;

1.2.2. Bachelor of Laws, University of Natal, 2001; and

1.2.3. Certificate in Management Development Programme, University of KwaZulu-Natal, 2016;

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 28 judges permanently appointed to the KwaZulu-Natal Division of the High Court. Based on the names

listed on the judiciary's website, the KwaZulu-Natal Division's racial and gender composition appears to be:

3.1.1. 10 black women (5 African, 4 Indian, 1 coloured);

3.1.2. 1 white women;

3.1.3. 11 black men (6 African, 3 Indian, 2 coloured); and

3.1.4. 6 white men.

3.2. There are currently 14 judges permanently appointed to the KwaZulu-Natal Division of the High Court in Durban. Based on the names listed on the judiciary's website, the Division's racial and gender composition in Durban appears to be:

3.2.1. 4 black women (3 African, 1 Indian);

3.2.2. 5 black men (3 African, 2 Indian); and

3.2.3. 5 white men.

3.3. 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 will turn 54 on 5 December 2023.

4.5. If appointed, the candidate could serve up to 16 years actively in office before turning 70.

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

5.1. The candidate has indicated that in the year 2000 he did community service through the University of KwaZulu-Natal Law Clinic. The Community Service Certificate confirms that the candidate participated in the School of Law Community Service Programme for 2000.

5.2. The candidate has been a member of the Black Lawyers Association from 2001 to date. From 2007 to 2009 he held the position of treasurer. From 2022 to date, he has held the position of Head of Policy and Legislation.

5.3. He has been involved on various Community Civil Society structures and other organisations, namely:

5.3.1. Vice President of the KwaZulu-Natal Law Society – October 2015 to October 2016;

- 5.3.2. Councillor of the KwaZulu-Natal Law Society – August 2007 to October 2018;
- 5.3.3. Chairperson of the Men’s Guild of the Imbali Roman Catholic Church, from 2018 to 2022;
- 5.3.4. Chairperson of the Parish Finance Committee of the Imbali Roman Catholic Church, from 2016 to 2018;
- 5.3.5. Chairperson of the Dispute and Resolution Committee of the Imbali Roman Catholic Church, from 2014 to 2016;
- 5.3.6. board member of the Truman Magubane Foundation from 2016 to date; and
- 5.3.7. School Governing Body Member of Voortrekker High School from 2021 to date.

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

- 6.1. The candidate has over 20 years’ experience in law.
- 6.2. The candidate was employed by Legal Wise as a Legal Advisor from October 2000 to 31 January 2001.
- 6.3. He was a candidate attorney at Legal Aid South Africa, Pietermaritzburg Justice Centre from 2001 to 2003.
- 6.4. The candidate was then employed as an attorney at Legal Aid South Africa from 2003 to 2015.
- 6.5. From 2015 to 2017, the candidate was employed as the High Court Unit Manager at Legal Aid South Africa.
- 6.6. In 2017 the candidate started his own law firm.

6.7. From 2018 to 2020 he was one of the directors of the firm Zaca Stuurman and Magubane.

6.8. In 2020, the candidate was appointed as a magistrate at the Pietermaritzburg Magistrates' Court and is currently an acting Senior Magistrate for the Civil and Family Law Court.

6.9. According to the candidate's questionnaire, the candidate indicated that he occasionally deals with constitutional law matters especially in criminal matters, eviction matters, and matters involving children.

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

7.1. No judgments have been overturned on appeal.

7.2. The candidate records that the Supreme Court of Appeal refused an application for special leave to appeal against his judgment in the matter of *The State vs Shakil Sakhtu*.

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

8.1. The candidate has had a long career in law, spanning over twenty years.

8.2. The candidate is currently the Acting Senior Magistrate for the Civil and Family Law Court of the Pietermaritzburg Magistrates' Court.

8.3. From the period 10 October 2016 to 8 December 2022, the candidate was appointed as an acting judge for six sessions, sitting in both civil and criminal courts of the KwaZulu-Natal Division of the High Court at Durban and Pietermaritzburg.

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

- 9.1. The candidate's judgments appear to be well-written and well-reasoned.

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

- 10.1. The candidate has not indicated the dates of hearing and the dates of judgment on the judgments provided in his application.

- 10.2. The candidate indicated that there are no partly heard matters.

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. He is perceived to act and administer the law without fear, favour, or prejudice.

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

- 12.1. It is not possible to draw any adverse conclusions regarding the candidate's independent mindedness.

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

- 13.1. It is not possible to draw any conclusions on the candidate's administrative ability, from a study of the candidate's application or other sources.

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

- 14.1. The candidate's appointment to the KwaZulu-Natal Division of the High Court will send a message to the public that the judiciary is committed to racial transformation and the appointment of experienced lawyers.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED1. Reported judgments:

1.1. None

2. Unreported judgments:2.1. *The State v Mthobisi Mtho Mchunu and 2 Others* Judgment delivered on 6 December 20222.2. *ABSA Bank Limited v Rubicon (Pty) Ltd* Judgment delivered on 18 November 20222.3. *Shakil Sakhtu v The State* Judgment delivered on 11 November 2022, with Chili J concurring3. Judgments upheld on appeal:3.1. *S Sakhtu v The State*, before the Honourable Justices Mocumie and Hughes JJA (no citation provided). The application for special leave to appeal is dismissed on the grounds that there are no special circumstances meriting a further appeal to this court4. Judgments overturned on appeal:

4.1. None