

JSC INTERVIEW ROUND: MAY 2024

CANDIDATE: JUDGE PETRUS ARNOLUS KOEN

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 qualifications:

- 1.1.1. Bachelor of Commerce (BCom), The University of Natal, Pietermaritzburg (now the University of KwaZulu-Natal) - 1980;
- 1.1.2. Bachelor of Laws (LLB) (Cum Laude), The University of Natal, Pietermaritzburg (now the University of KwaZulu-Natal) - 1982;
- 1.1.3. Diploma in Arbitration - 1986, The Association of Arbitrators of South Africa.

1.2. The candidate's professional admissions:

- 1.2.1. admitted as an Attorney, Notary Public and Conveyancer - 30 March 1987;
- 1.2.2. the candidate commenced practice as an advocate and a member of the Society of Advocates KwaZulu-Natal, in Pietermaritzburg - July 1988 to 31 October 2006;
- 1.2.3. the candidate was appointed as Senior Counsel (Silk) on 13 November 1997.

1.3. The candidate was appointed as a Judge of the High Court, KwaZulu-Natal, on 1 November 2006 to date.

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.

2.2. The candidate has disclosed in his application that he was interviewed for a position in the SCA on 14 April 2021. At the end of the interview, he was accused by the former Chief Justice, Mogoeng CJ, of having been rude to him during a meeting of judges held in Durban on 2 September 2016. The former Chief Justice wondered whether the candidate was similarly rude to counsel and litigants, and further questioned how the candidate was ever appointed as a judge.

2.3. The candidate has stated in his application that the above accusations were unfounded and unjustified.

2.4. The candidate has attached to his questionnaire an official typed transcript of the meeting held on 2 September 2016.

2.5. From a reading of the transcript the reviewers were unable to discern or reach the conclusion that the candidate was rude or disrespectful to the former Chief Justice as alleged, or to any other member of the judiciary present at the meeting.

2.6. The candidate has further disclosed that an in-person litigant, one Mr Ramnarain Manilal, lodged a complaint against him with the Judicial

Services Commission, which complaint was dismissed summarily. The complainant then appealed the decision. The tribunal which considered the appeal, per Goliath DJP (with Nkabinde ADCJ, and Molemela (then) JP) unanimously dismissed the appeal.

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

3.1. There are currently 22 judges permanently appointed to the SCA. Based on the names listed on the SCA website, the SCA's racial and gender composition appears to be:

3.1.1. 11 black women (8 African, 1 Indian, 2 Coloured);

3.1.2. 2 white women;

3.1.3. 7 black men (5 African, 1 Indian, 1 Coloured); and

3.1.4. 2 white men.

3.2. The candidate is a white 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. When the interviews take place, the candidate will be 64 years old. He has completed a period of 17 years of active service as a judge.
- 4.5. If appointed, the candidate could serve up to 6 years in office.

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

- 5.1. During his tenure at the Bar, the candidate served as the Vice Chairperson of the Society of Advocates of KwaZulu-Natal for the period 2003 – 2004.
- 5.2. The candidate served as the Chairperson of the Society of Advocates of KwaZulu-Natal, Pietermaritzburg Bar in 2005.
- 5.3. He was a Council Member of the Community Chest, Pietermaritzburg from 2014 to 2018. On 20 September 2018, he was awarded a Certificate of Recognition by this organisation for services rendered. The Community Chest describes its work as instrumental in galvanizing members of the community to give of their resources – both financial and in-kind – which the Community Chest then allocates on an annual basis to its Community Impact Partners (“CIPs”), and this enables the CIPs to deliver their services to those in the community who are in need.
- 5.4. The candidate is a Member of the Editorial Board of the South African

Criminal Justice Journal since 2019 to date.

- 5.5. The candidate lectured while he was an advocate at the Practical Training Schools for Attorneys.
- 5.6. As a judge, the candidate lectured Regional Court Magistrates with the introduction of Civil Regional Courts and during the LSSA week, a course for aspirant judges.
- 5.7. The candidate is still involved in pupil training and presides at the annual final motion and appeal moot court hearings arranged by the Pietermaritzburg Bar at the conclusion of the trainee advocates vocational training. He has also presided over final moot court hearings for law students at the University of KwaZulu-Natal, in both Durban and Pietermaritzburg.
- 5.8. From the candidate's *curriculum vitae*, it is apparent that he has dedicated his time to training legal practitioners, advocates, magistrates, and aspirant judges.
- 5.9. This long service and commitment to the public good and his commitment to legal training are concrete steps that the candidate has taken to ensure that an efficient legal service is promoted by new entrants and those seeking advancement to higher office. The candidate has played an important part in giving time, effort, and resources to achieve a better life for those who require assistance.

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

- 6.1. From the *curriculum vitae* submitted, the candidate has extensive legal experience in various legal fields, having practised as an advocate for

approximately 18 years, 9 years of which the candidate has practised as senior counsel.

- 6.2. The candidate has served as a permanent Judge of the High Court for a period of approximately 18 years.
- 6.3. The candidate therefore has extensive experience and diverse knowledge and understanding of various areas of the law.

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

Judgments overturned on appeal

7.1. *Mahlangu and another v Minister of Police* [2020] ZASCA 44; 2020 (2) SACR 136 (SCA); [2020] 2 All SA 656 (SCA); [2020] JOL 47140 (SCA). The candidate's majority judgment was overturned in *Mahlangu and another v Minister of Police* [2021] ZACC 10; 2021 (2) SACR 595 (CC); 2021 (7) BCLR 698 (CC):

7.1.1. The appeal centred on whether the Minister should be held vicariously liable for damages flowing from the detention for the entire period following the arrest up to the time of release. A related issue is whether the Supreme Court of Appeal was correct in holding that the failure by Messrs Mahlangu and Mtsweni to apply for bail shifted the onus from the Minister to Messrs Mahlangu and Mtsweni to prove the lawfulness of their detention from 14 June 2005 to the date of their release.

7.1.2. The Constitutional Court found that the approach adopted by the

Supreme Court of Appeal, in shifting the onus onto the applicants, constituted an error in law.

7.1.3. The Constitutional Court further found that the SCA erred in refusing to award damages for the full period of detention from the date of their arrest to the date of their release.

7.2. *Marshalls World of Sport (Pty) Ltd v Tellytrack* (unreported), overturned in *Tellytrack v Marshalls World of Sport (Pty) Ltd and Others* 2020 (2) SA 435 (SCA):

7.2.1. The appellant claimed that the respondents, who all ran bookmakers' businesses, infringed Tellytrack's copyright in cinematographic films by allowing the public to view, at the respondent's places of business, live national and international horse racing events, on Tellytrack's DSTV channel 239.

7.2.2. The SCA had to decide whether enabling the public to view horse racing events at bookmakers' business locations constituted an infringement of the appellant's rights in cinematographic film as provided for in s 8 of the Copyright Act 98 of 1978. The SCA found that there had been an infringement of copyright. The appeal was upheld with costs.

7.3. *S v Mthimkulu* (unreported PMB judgment) where the order was altered on appeal in *Mthimkulu v S* [2013] ZASCA 53; 2013 (2) SACR 89 (SCA):

7.3.1. It is noted that the appellant appealed to the SCA against the order, with leave of the court a quo. The principal issue for determination on appeal was whether s 276B(2) of the Criminal Procedure Act, 51

of 1977 (the Act) compels a court which sentences a person to imprisonment, following a conviction for two or more offences where the sentences of imprisonment are ordered to run concurrently, to fix a non-parole period in respect of the effective period of imprisonment. The subsidiary issue was whether or not the appellant had a right to be heard before the court *a quo* invoked s 276B(2) of the Act.

- 7.3.2. The appellant was convicted in the KwaZulu-Natal High Court, on one count of murder, possession of a fully automatic firearm (an AK47 assault rifle) without a licence to possess such firearm and possession of five rounds of live ammunition (7.62 mm) without the required licence. He was sentenced to 20 years' imprisonment on the murder count and five years for both unlawful possession of a prohibited firearm and ammunition.
- 7.3.3. The court *a quo* directed that the term of five years' imprisonment in respect of the latter two counts run concurrently with the 20 years' imprisonment imposed in respect of the murder count, and then proceeded to fix a non-parole period of 13 years.
- 7.3.4. The SCA essentially dealt with the question of interpretation of the relevant provision. The judgment as per Leach JA found that the court *a quo* erred and that its judgment on the non-parole period should be set aside.
- 7.4. *Craig NO v Minister of Safety and Security (unreported PMB Judgment). Order altered on appeal in Minister of Safety and Security and others v Craig and others* [2009] ZASCA 97; [2010] 1 All SA 126 (SCA); 2011 91) SACR

469 (SCA):

- 7.4.1. The plaintiff instituted the action both in her personal capacity and as legal guardian of her three minor daughters, claiming delictual damages for loss of support. The plaintiff asserted that police at the Hammarsdale police station were under a legal duty to ensure the well-being of an arrested person, such as the deceased, and that they had negligently breached that duty in relation to him. According to the plaintiff, the police were negligent in that they had detained the deceased without ensuring that he had immediate medical attention.
- 7.4.2. The appeal turned on whether the assessment of the evidence by the court below was correct. The SCA determined that it was necessary to examine more closely the findings of the court below and to consider them against the recorded evidence and then to decide whether intervention by the SCA was justified.
- 7.4.3. At para 64 of the judgment the Court found that “*the court below was manifestly wrong in accepting the evidence of Dr Thompson. He made the verbal report relied on by the court below to Captain van Zandten after the deceased’s death was reported in the media and was common knowledge in Camperdown, and after it must have become known to him at least that there was a concern about culpability.*”
- 7.4.4. The SCA upheld the appeal with costs and the order of the court a quo was set aside and substituted.
- 7.5. *S v Coetzee* 2008 JDR 0803 (N); [2008] ZAKZHC 40, (with Gorven J, now JA concurring). A sentence altered on appeal in *Coetzee v S* [2009] ZASCA

134; 2010 (1) SACR 176 (SCA); [2010 2 All SA 1 (SCA):

- 7.5.1. The appellant was convicted in the Regional Court, Richards Bay, on four (4) counts of indecent assault and two (2) counts of crimen injuria. He was sentenced to an effective term of four (4) years' imprisonment. An appeal against conviction and sentence was dismissed by the Pietermaritzburg High Court (Koen J, Gorven AJ concurring). The appeal was against the sentence only.
- 7.5.2. The SCA found that all the counts should be taken as one for purposes of sentence. Accordingly, a sentence of four (4) years' imprisonment in terms of s 276(1)(i) of the Act was appropriate.

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

- 8.1. The candidate has considerable professional experience in the legal field, as an attorney, as junior counsel, and a silk.
- 8.2. The candidate has served as a permanent Judge of the High Court for a further period of approximately 18 years.
- 8.3. The candidate was appointed as an Acting Judge of Appeal of the Supreme Court of Appeal for seven (7) sessions during the following periods:
 - 8.3.1. 1 December 2014 to mid-February 2015;
 - 8.3.2. 1 October 2019 to 30 November 2019;
 - 8.3.3. 1 December 2019 to 31 March 2020;
 - 8.3.4. 1 April 2020 to 31 May 2020;

- 8.3.5. 1 October 2023 to 30 November 2023;
- 8.3.6. 1 February 2024 to 23 February 2024; and
- 8.3.7. 1 April 2024 to 31 May 2024.
- 8.4. The extensive and well-considered judgments of the candidate reflect his extensive professional legal experience.
- 8.5. The candidate has cited the following matters that he dealt with and the judgments he wrote that involved extensive facts and lengthy records:
- 8.5.1. *Price Waterhouse Coopers Inc and Others v The National Potato Co-operative and Another* (451/12) [2015] ZASCA 2; [2015] 2 All SA 403(SCA) (4 March 2015), where the record exceeded 84 000 pages (p 20 of the candidate's application).
- 8.5.2. *Shange and Others v S* [2017] 3 All SA 289 (KZP); [2016] ZAKZPHC 115, which involved an extended trial relating to two cash in transit robberies involving 26 accused and 31 charges. In this matter the record exceeded 10 000 pages.
- 8.5.3. The candidate's recent acting appointment at the SCA from 1 February 2024 in the appeal for *SAP SE v Systems Application Consultants (Pty) Ltd t/s Securinfo and Another*, comprised of 63 volumes and approximately 12 000 pages.

9. The candidate's linguistic and communication skills:

- 9.1. The candidate has excellent linguistic and communication skills. The candidate is able to crystallise and distil all the issues in dispute. The

candidate's judgments follow logical reasoning, and the relevant legal principles are applied to the facts of the matter.

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

10.1. The candidate has no outstanding judgments. He is not known to delay judgments.

10.2. The candidate has disclosed that the judgment in *SAP SE v Systems Application Consultants (Pty) Ltd t/s Securinfo and Another* SCA Case number 376/2022, which was heard on 20 and 21 February 2024 is outstanding. The candidate clarified that he was not the scribe of that judgment, but one of four members of that court (p 18 of the candidate's application).

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

11.1. The letter from TSI Mthembu SC, dated 1 March 2024, nominating the candidate for appointment to the SCA describes the candidate as follows: "*I found him to be a man of excellent character and integrity*", and further that "*he is courteous to counsel and members of the public appearing before him in court. He has, by virtue of the number of reported judgments, contributed immensely to the law*" (p 4 of the candidate's application).

11.2. Comments to the reviewers variously described the candidate as cordial and respectful. The candidate has been praised for his patience and his assistance to counsel and to unrepresented parties. The candidate is efficient and is able to identify the issues quickly so as to direct parties to the evidence and the

legal principles applicable. This trait has led to the candidate's ability to optimise court time and to guide the parties to address the pertinent issues.

12. The candidate's independent mindedness:

12.1. The candidate's vast legal experience, independent, and open-minded approach to his work is demonstrated in his judgments. There have not been any reports of executive-mindedness, bias, nor prejudice to particular persons or parties. This has gained the candidate great respect and admiration.

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

13.1. The candidate has held positions of leadership, within and outside of the legal profession. The candidate led the Bar with distinction during a difficult period when co-governance was at stake. Under his leadership, the PMB Bar was well managed and well resourced. He contributed meaningfully to the KZN Bar as a whole in his service to the KZN Society of Advocates.

13.2. The candidate is known as a judge who prepares diligently for hearings before him and delivers prompt judgments.

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

14.1. The candidate's appointment as a Justice of the SCA would send a positive message to the community at large for the following reasons:

14.1.1. The candidate is a senior judge with considerable experience and

expertise in diverse areas of the law.

- 14.1.2. The candidate has practised as an attorney and a conveyancer, then as junior counsel and as a senior advocate for close on 18 years. This experience would assist the SCA in shoring up the expertise lost due to the recent retirements.
- 14.1.3. The candidate has acted in the SCA for seven sessions and has written a number of unanimous and majority judgments. This demonstrates that his elevation will help to improve the specialist knowledge required by the SCA for complex civil and commercial cases.
- 14.1.4. The candidate has considerable knowledge and experience in various fields of the law.
- 14.1.5. The candidate engages courteously with legal practitioners and members of the public. He is respected by members of the Bar for his legal acumen and for being approachable, engaging and committed to training pupils and newly admitted advocates.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

1. Reported judgments:

- 1.1. *Maharaj's Coach and Bus Hire CC v Dealership Middelburg Man (Pty) Ltd and Others* [2022] ZAKZPHC
- 1.2. *Staufen Investments (Pty) Ltd v The Minister of Public Works, ESKOM Holdings SOC Ltd & The Registrar of Deeds, Cape Town* (200/2019) [2020] ZASCA 18; [2020] 2 All SA 738 (SCA); 2020 (4) SA 78 (SCA) (20 March 2020)
- 1.3. *Intech Instruments v Transnet Ltd* 2018 JDR 0506 (KZD) [2017] ZAKZDHC 49, upheld on appeal in *Intech Instruments v Transnet Limited t/a South African Port Operations* (1165/18) [2019] ZASCA 79; [2019] 3 All SA 357 (SCA)
- 1.4. *Africa Cash and Carry (Pty) Limited v The Commissioner for the South African Revenue Service* (783/18) [2019] ZASCA 148; [2020] 1 All SA 1 (SCA); 2020 (2) SA 19 (SCA) 21
- 1.5. *University of KwaZulu-Natal v Independent Newspapers (Pty) Ltd and Others* [2018] JOL 40414 (KZD); 2018 JDR 1623 (KZD)
- 1.6. *Media 24 (Pty) ltd and Others v Department of Public Works and Others* [2016] 3 All SA 870 (KZP); [2016] ZAKZPHC 52; 2016 JDR 1148 (KZP)
- 1.7. *Kwa Sani Municipality v Underberg/ Himeville Community Watch Association* 2013 JDR 2506 (KZP); [2013] ZAKZPHC 60. Appeal was dismissed and judgment confirmed on appeal in *Kwa Sani Municipality v Underberg/ Himeville Community Watch Association and Another* [2015] 2 All SA 657 (SCA); [2015] ZASCA 24
- 1.8. *Cape Bar Council v Judicial Service Commission and Another (Centre for Constitution Rights and Another as Amici Curiae)* [2012] 2 All SA 143

WC; 2012 (4) BCLP 406 (WCC)

- 1.9. *Shoprite Checkers (Pty) Ltd v Everfresh Market Virginia (Pty) Ltd* (previously known as *Wild Brek 166 (Pty) Ltd*) [2010] JOL 25835 (KZP); 2010 JDR 0818 (KZP); [2010] ZAKZPHC 34. Leave to appeal was refused by SCA. Thereafter the applicant was unsuccessful before the Constitutional Court in *Everfresh Market Virginia (Pty) Ltd v Shoprite Checkers (Pty) Ltd* 2012 (1) SA 256 (CC); [2011] ZACC 30; 2012 (3) BCLR 219 (CC)

2. Unreported judgments:

- 2.1. *Rabinowitz v Levy and Others* (Case no. 1276/2022) [2024] ZASCA 8 (26 January 2024)
- 2.2. *BG Bojosintane & Associates v Sheriff and Another* (1072/22) [2023] ZASCA 174 (8 December 2023)
- 2.3. *City of Cape Town v Nqulelwa Mtyido* (Case no. 1272/2022) [2023] ZASCA 163 (1 December 2023)

3. Judgments upheld on appeal:

- 3.1. *Intech Instruments v Transnet Ltd* 2018 JDR 0506 (KZD) [2017] ZAKZDHC 49, upheld on appeal in *Intech Instruments v Transnet Limited t/a South African Port Operations* (1165/18) [2019] ZASCA 79; [2019] 3 All SA 357 (SCA)
- 3.2. *Moor and another v Tongaat-Hullet Pension Fund and other* [2017] JOL 37333 (KZD); 2017 JDR 0138 (KZD); [2016] ZAKZDHC 55. Appeal was dismissed by the SCA in *Moor and another v Tongaat-Hullet Pension Fund and Others* [2018] ZASCA 83; [2018] 3 All SA 326 (SCA)
- 3.3. *Transnet Ltd v Newlyn Investments (Pty) Ltd* (unreported PMB judgment)

- Confirmed on appeal in *Transnet Ltd v Newlyn Investments (Pty) Ltd* 2011 (5) SA 543 (SCA) [2011] ZASCA 44
- 3.4. *Robertson v Hangar* (unreported PMB judgment dated 19 January 2015). Confirmed on appeal in *Hangar v Robertson* (211/2015) [2016] ZASCA 102 (10 June 2016)
- 3.5. *Clearing Agents, Receivers & Shippers v The Members of the Executive Council: Transport, KwaZulu-Natal, and Minister of Transport and Commissioner for the South African Revenue Service* (unreported Durban Judgment). Appeal was dismissed with costs in *Clearing Agents, Receivers & Shippers v The Members of the Executive Council: Transport, KwaZulu-Natal, and Others* [2007] ZASCA 35 (RSA); [2008] 1 All SA 1 (SCA)
- 3.6. *Gainsford v Argent Industrial Limited* (unreported PMB judgment). Confirmed on appeal to the full court in *Argent Industrial Limited v Gainsford NO and Others* [2018] ZAKZPHC 37; [2018] JOL 40406 (KZP)
- 3.7. *Malani v Natalia Financial Brokers CC* 2016 JDR 1039 (KZP). Order confirmed on appeal in *Malani v Natalia Financial Brokers CC* [2016] ZASCA 84; Referred to by D Millard 'Insurance Law' 2016 Annual Survey 517
- 3.8. *Kwa Sani Municipality v Underberg/ Himeville Community Watch Association* 2013 JDR 2506 (KZP); [2013 ZAKZPHC 60. Appeal was dismissed and judgment confirmed on appeal in *Kwa Sani Municipality v Underberg/ Himeville Community Watch Association and Another* [2015] 2 All SA 657 (SCA); [2015] ZASCA 24
- 3.9. *Magudu Game Company (Pty) Ltd v Mathenjwa NO and Others* [2008] 2 All SA 338 (N). Confirmed on appeal in *Mathenjwa NO and others v Magudu Game Company (Pty) Ltd* [2009] 4 All SA 15 (SCA); 2010 (2) SA 26 (SCA); [2008] ZAKZHC 3

3.10. *Shoprite Checkers (Pty) Ltd v Everfresh Market Virginia (Pty) Ltd* (previously known as *Wild Brek 166 (Pty) Ltd*) [2010] JOL 25835 (KZP); 2010 JDR 0818 (KZP); [2010] ZAKZPHC 34. Leave to appeal was refused by SCA. Thereafter the applicant was unsuccessful before the Constitutional Court in *Everfresh Market Virginia (Pty) Ltd v Shoprite Checkers (Pty) Ltd* 2012 (1) SA 256 (CC); [2011] ZACC 30; 2012 (3) BCLR 219 (CC)

4. Judgments overturned on appeal:

- 4.1. *Mahlangu and another v Minister of Police* [2020] ZASCA 44; 2020 (2) SACR 136 (SCA); [2020] 2 All SA 656 (SCA); [2020] JOL 47140 (SCA). The candidate's majority judgment was overturned in *Mahlangu and another v Minister of Police* [2021] ZACC 10; 2021 (2) SACR 595 (CC); 2021 (7) BCLR 698 (CC)
- 4.2. *Marshalls World of Sport (Pty) Ltd v Tellytrack* (unreported), overturned in *Tellytrack v Marshalls World of Sport (Pty) Ltd and Others* 2020 (2) SA 435 (SCA)
- 4.3. *Tutton v S*, with Tshabalala JP and Govindsamy AJ concurring (unreported). The appeal was upheld in *Tutton v S* (294/18) [2019] ZASCA 3 (20 February 2019)
- 4.4. *Airports Company South Africa Limited v Masiphuze Trading (Pty) Ltd* 2018 JDR 08169 (KZD); 2018 ZAKZDHC 19, overturned in *Airports Company South Africa Limited v Masiphuze Trading (Pty) Ltd* [2019] ZASCA 150
- 4.5. *Valuline CC and others v Minister of Labour and others* [2013] 6 BLLR 614 (KZP); [2013] ZAKZPHC 9 (KZP); 2013 (4) SA (KZP); 2013 (5) BCLR 589 (KZP); (2013) 34 ILJ 1404

- 4.6. *Jerrier v Outsurance Insurance Company Ltd* 2013 JDR 0562 (KZP); [2013] ZAKZPHC. Overturned on appeal to the KZN full court in *Jerrier v Outsurance Insurance Company Ltd* [2015] 3 all SA 701 (KZP); 2015 (5) SA 433 (KZP)
- 4.7. *S v Mthimkulu* (unreported PMB Judgment) order changed on appeal in *Mthimkulu v S* [2013] ZASCA 53; 2013 (2) SACR 89 (SCA)
- 4.8. *Rampar Trading (Pty) Ltd v Puma AG Rudolph Dassler Sport* (unreported DBN Judgment). The order was substituted on appeal in *Puma AG Rudolph Dassler Sport v Rampar Trading (Pty) Ltd and Others* [2010] ZASCA 140; 2011 (2) SA 463 (SCA); [2011] 2 All SA 290 (SCA)
- 4.9. *Singh and Another v Ebrahim* [2010] 3 All SA 249 (D). The order was amended on appeal in *Singh and Another v Ebrahim* [2010] ZASCA 145
- 4.10. *Craig NO v Minister of Safety and Security* (unreported PMB Judgment). Order altered on appeal in *Minister of Safety and Security and others v Craig and others* [2009] ZASCA 97; [2010] 1 All SA 126 (SCA); 2011 91 SACR 469 (SCA)
- 4.11. *S v Coetzee* 2008 JDR 0803 (N); [2008] ZAKZHC 40, (with Gorven J, now JA concurring). A sentence altered on appeal in *Coetzee v S* [2009] ZASCA 134; 2010 (1) SACR 176 (SCA); [2010 2 All SA 1 (SCA)