

JSC INTERVIEW ROUND: OCTOBER 2024

VACANCY: JUDGE, KWAZULU-NATAL DIVISION OF THE HIGH COURT

ADVOCATE MURRAY BREVAL PITMAN

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

1.1. The candidate holds the following tertiary qualifications:

1.1.1. BA, University of KwaZulu-Natal (1981)

1.1.2. LLB, University of KwaZulu-Natal (1983)

1.2. The candidate holds the following professional admissions and honours:

1.2.1. public prosecutor in 1986

1.2.2. admitted as an advocate on 28 March 1988

1.3. The candidate was permanently appointed to the following judicial role:

1.3.1. Magistrate, District Court, Durban (January 1990 to December 1993)

2. The candidate's integrity and ethics

2.1. No circumstances are known to the reviewers 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. The racial and gender composition on the bench

3.1. There are currently 24 permanent judges of the KwaZulu-Natal Division of the High Court:

3.1.1. 8 black women (6 African, 1 Coloured, 1 Indian)

3.1.2. 10 black men (7 African, 3 Indian)

3.1.3. 3 white women, and

3.1.4. 3 white men.

3.2. According to the questionnaire, the candidate is a white man.

4. The maximum period the candidate could serve if appointed

- 4.1. At the time of the interviews, the candidate will be approximately 63 years and 11 months old and will have completed a period of approximately 7 months of service as an acting judge.
- 4.2. If appointed, the candidate would be eligible to serve as a judge for approximately 11 years until the age of 75.

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

5.1. A letter dated 7 June 2024 from Anna Annandale SC, nominating the candidate as a judge states that Advocate Pitman has always been of service to the profession and has cited the following examples:

- 5.1.1. he has been a pupil mentor to at least 8 pupils;
- 5.1.2. he has lectured pupils in criminal law and procedure for some years and assisted in the oral examinations of pupils;
- 5.1.3. he has served as a member of the KwaZulu-Natal Bar Council Complaints Committee;
- 5.1.4. he has acted at the request of the Society of Advocates as a prosecutor in disciplinary proceedings against an advocate;
- 5.1.5. he has frequently assisted by providing *pro bono* work at the request from both attorneys and the Society of Advocates of KwaZulu-Natal; and
- 5.1.6. his commitment to skills transfers and transformation imperatives has also been demonstrated by his choice to use junior advocates to sit with him as assessors when acting as a Judge of the High Court and sitting in criminal sessions. Apart from the fact that this allows the junior members to earn some income, it exposes them to complex criminal trials and affords them the opportunity to benefit from Advocate Pitman's extensive experience in, and knowledge of, criminal law and procedure.

5.2. A letter from Nono Nako of Umhlanga Chambers, written in support of the candidate's application states as follows:

“Pitman promotes an inclusive and progressive bar, and he has worked very hard to assist junior members find their feet in practice. Pitman introduced the

nursery chambers in our group. This affords advocates who are in their first year of practice to receive sponsorship from our group wherein they do not pay for facilities for at least the first year of practice and some have continued on the sponsorship even in their second year if their practice is not yet self-sustaining.”

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

- 6.1. The candidate’s practise of law has spanned a period of 40 years.
- 6.2. He has significant experience across a broad range of law which includes both civil and criminal work.
- 6.3. As a junior advocate, he appeared in a wide variety of courts including the Magistrates’ Court, High Court, Labour Court, the CCMA, the Land Claims Court, and the Supreme Court of Appeal.

7. Judgments of the candidate that have been taken on appeal

- 7.1. The candidate has disclosed that one judgment has been taken on appeal. The matter was argued before the full court in February 2024. The appeal judgment had not been handed down when the candidate’s questionnaire was submitted.

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

- 8.1. During or about 1984, the candidate performed compulsory national service and was posted as a Legal Officer to the 97 Ammunitions Depot for a period of 14 months.
- 8.2. In 1986 the candidate commenced employment as a District Court Public Prosecutor.
- 8.3. On 28 March 1988, the candidate was admitted as an Advocate of the Supreme Court (as it then was).
- 8.4. In 1988 the candidate was promoted to Regional Court Public Prosecutor.
- 8.5. In 1989 the candidate was further promoted to Regional Court Control Prosecutor.
- 8.6. From 1990 to 1993, the candidate was employed as a District Criminal Court Magistrate.
- 8.7. During January 1994 to May 1994, the candidate was called to the bar and did pupillage with the KwaZulu-Natal Bar.
- 8.8. The candidate commenced practice as an advocate in July 1994.

- 8.9. The candidate's criminal law experience involves bail applications, trials involving murder, rape, fraud and drug dealing, criminal appeals, and *pro bono* representations.
- 8.10. The candidate's civil practice involves general litigation in personal injury, insurance, medical malpractice, contractual, property law and administrative law.
- 8.11. The candidate has sat as an Acting Judge in the KwaZulu-Natal Local Division, Durban and KwaZulu-Natal Division, Pietermaritzburg over 6 sessions totalling over 31 weeks, as follows:
 - 8.11.1. 27 February 2020 to 28 March 2020;
 - 8.11.2. 4 October 2021 to 29 October 2021;
 - 8.11.3. 6 November 2023 to 15 December 2023 and 15, 16, and 17 January 2024;
 - 8.11.4. 22 January 2024 to 29 March 2024; and
 - 8.11.5. 20 May 2024 to 20 June 2024.

9. The candidate's linguistic and communication skills

- 9.1. The candidate's judgments are written in English.
- 9.2. Nothing in the judgments and other writings considered by the reviewers indicates that the candidate's linguistic and communication skills are not adequate.

10. The candidate's ability to produce judgments promptly

- 10.1. The candidate indicated that no judgments were outstanding at the time of completing the questionnaire.

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

- 11.1. The reviewers received no adverse comments from colleagues relating to the candidate's ability to conduct court proceedings fairly, efficiently, and effectively.

12. The candidate's independent-mindedness

- 12.1. The reviewers received no adverse comments from colleagues relating to the candidate's independent-mindedness.

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

13.1. According to the candidate's *curriculum vitae*, the candidate held the following positions:

13.1.1. Chairperson of the Loudoun Road Community Association, from 2015 to 2017;

13.1.2. Chairperson of the St Henry's School, Marist Brothers, Parents Association, from 2013 to 2014.

13.2. According to the questionnaire, the candidate was promoted to the "position of Regional Court Control Prosecutor for Durban which involved being in charge of the administration of all Regional Court Prosecutors as well as making final decisions or referrals where the prosecutors were unsure of what to do next."

13.3. The candidate is the Group Admin Head of Umhlanga Chambers and a member of its executive committee.

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

14.1. The candidate's appointment as a judge would send a positive message to the public at large because the candidate has significant and varied experience as a practising legal practitioner and a demonstrated commitment to transformation within the profession.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported judgments

1. None

Unreported judgments

1. *M-B.F.M v H.P.N.P* (5182/2022P) [2024] ZAKZPHC 8 (8 February 2024) (This judgment was referred to with approval by Mossop J in *Nedbank Ltd v Lococo 3 (Pty) Ltd* [2024] ZAKZDHC 30 (22 May 2024) at [55])
2. *Wetlands Country Retreat (Pty) Ltd and Another v Schutmann Agri (Pty) Ltd* (13203/2023P) [2024] ZAKZPHC 13 (23 February 2024)
3. *Nene v District Municipality of Zululand and Others* (332/2024P) [2024] ZAKZPHC 48 (21 June 2024)
4. *Zondo v Premier of The Province KwaZulu-Natal and Others* (15970/2022P) [2024] ZAKZPHC 16 (13 March 2024)
5. *Kufanikiwa Consulting (Pty) Ltd and Others v Member of the Executive Council for the Department of Transport, KwaZulu-Natal Province and Another* (15659/2023P) [2024] ZAKZPHC 24 (22 March 2024)
6. *Banawo v S* (684/2024P) [2024] ZAKZPHC 14 (26 February 2024)

Judgments upheld on appeal

7. None

Judgments dismissed on appeal

8. None