

JSC INTERVIEW ROUND: OCTOBER 2024

VACANCY: DEPUTY JUDGE PRESIDENT, KWAZULU-NATAL

JUDGE ZABA PHILIP NKOSI

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. B. Juris, University of South Africa (1984)

1.1.2. LLB, University of South Africa (1996)

1.1.3. LLM, Nelson Mandela Metropolitan University (2011)

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

1.2.1. admitted as an advocate on 11 May 1998

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

1.3.1. Additional Magistrate (1986 to 1998)

1.3.2. Regional Court Magistrate - 1998 to October 2011, and

1.3.3. Judge of the High Court (KwaZulu-Natal Division) – November 2011

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. The Judge President of the division is an African woman.

3.3. According to the questionnaire, the candidate is an African man.

4. The maximum period the candidate could serve if appointed

4.1. At the time of the interviews, the candidate will be approximately 66 years and 2 months old and will have completed a period of approximately 12 years and 11 months of active service.

4.2. If appointed, the candidate would be eligible to complete a period of approximately 3 years and 9 months' active service as Deputy Judge President.

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

5.1. The candidate is the founder member of the Umvoti neighbourhood watch for the purpose of giving free legal advice to ensure that it operates within the confines of the law.

5.2. The candidate initiated and led a private project to have an intermediary room in the Sexual Offences Court in Scottburgh.

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

6.1. The candidate has a long history in the practice of the law and was in the judiciary as a Magistrate from 1986 to 2011 (25 years).

6.2. The candidate has served as a permanent Judge of the High Court for a period in excess of 13 years.

6.3. The candidate has a wide range of experience and knowledge of the law.

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

7.1. The candidate has not disclosed which of his judgments were taken on appeal. The reviewers found one appeal in which his judgment was upheld by the Supreme Court of Appeal in *Padachie v The Body Corporate of Crystal Cove* (704/2015) [2016] ZSCA 145 (30 September 2016).

7.2. In *Padachie*, the case involved an application to review and set-aside an arbitration award. The issue was whether the arbitrator deprived the appellant of his right in terms of section 20 of the Arbitration Act 42 of 1965 to have certain questions of law stated

for the opinion of the court. The court found that the arbitrator did not commit any irregularity and that there was nothing wrong with the approach, as the High Court correctly found.

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

8.1. The candidate has considerable experience in the legal field, especially in the judiciary, being a Magistrate for approximately 25 years.

8.2. The candidate has served a Judge of the High Court for approximately 13 years.

8.3. The candidate has acted as Deputy Judge President for one session.

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 one judgment was outstanding at the time of completing the questionnaire.

10.2. As far as could be ascertained at the time of completing this review, that judgment was still outstanding.

10.3. Of the seven judgments of the candidate considered by the reviewers, five were handed down more than three months after hearing.

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.

11.2. The candidate is known to be fair and courteous and affords everyone a fair and equal hearing.

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. The candidate has acted as the Deputy Judge President for two sessions.
- 13.2. The candidate has organised and conducted-in-service training and refresher courses for Magistrates, prosecutors, interpreters, and administration personnel. As a Magistrate (training officer) he was responsible for inspection of court records and registers in sub-districts. He supervised administrative duties of peers and administration personnel.
- 13.3. The candidate is the founder member of the Umvoti Neighbourhood Watch.
- 13.4. He has initiated and led a private project to have an intermediary room in the sexual offences court in Scottburgh.

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

- 14.1. The candidate's appointment as the Deputy Judge President would send a positive message to the community at large because the candidate has a long career as a judicial officer, starting as a court interpreter and spending many years as a Magistrate in different Magistrates' Courts in KwaZulu-Natal before being appointed as a judge of the High Court.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported judgments

1. Not completed by reviewers

Unreported judgments

1. Not completed by reviewers

Judgments upheld on appeal

2. Not completed by reviewers

Judgments overturned on appeal

3. Not completed by reviewers