

INTERVIEW ROUND: OCTOBER 2024

VACANCY: JUDGE, WESTERN CAPE DIVISION OF THE HIGH COURT

PEARL DEIDRÉ ANDREWS

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.Proc, University of the Western Cape (1992)

1.1.2. LLM, University of the Western Cape (2013).

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

1.2.1. admitted as an attorney in 1994.

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

1.3.1. Additional Magistrate in 2002

1.3.2. Senior Magistrate in 2013

1.3.3. Regional Magistrate in 2016.

2. The candidate's integrity and ethics

2.1. No circumstances known to the reviewers 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. As far as could be ascertained, there are 27 permanent judges of the Western Cape Division of the High Court:

3.1.1. 10 black women (4 African, 6 Coloured)

3.1.2. 12 black men (5 African, 5 Coloured, 2 Indian)

3.1.3. 2 white women

3.1.4. 3 white men

3.2. According to the questionnaire, the candidate is a Coloured woman.

4. The maximum period the candidate could serve if appointed

4.1. At the time of the interviews, the candidate will be approximately 54 years and 9 months old and will have completed a period of approximately 1 year and 3 months of service as an acting judge.

4.2. If appointed, the candidate would be eligible to serve as a judge for approximately 15 years and 2 months until the age of 70.

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

5.1. The candidate was a founding member and former vice president of the South African Women Lawyers Association.

5.2. She is a member of the South African chapters of the International Association of Women Judges and was its provincial coordinator for two years.

5.3. The candidate was a member of the National Democratic Lawyers Association.

5.4. The candidate sat on the advisory board of the Mitchells Plain Small Claims Court for two years.

5.5. The candidate has listed many additional activities over the years that indicate that she has an ongoing personal commitment to the values of the Constitution.

5.6. It is evident from the candidate's judgement in *S v Kapa and Six Others*, case no SS45/2017, which was upheld by the Constitutional Court in *Kapa v S* 2023 BCLR 370 CC; 2023 (1) SACR 583 CC, that the candidate demonstrated her strong personal commitment to the values of the Constitution.

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

6.1. The candidate has experience in criminal matters which involve constitutional principles as referred to in paragraph 5 above.

6.2. In addition, the candidate has written a reported judgment in *S v Karolus* 2018 (2) SA CR 398 (WCC) (29 May 2018), which had been referenced in Du Toit et al Commentary on Criminal Procedure Act [service 68, 2022] 30 – 24b, in respect of the powers of a court as envisaged in section 34(2)(c) of the Criminal Procedure Act.

6.3. The candidate's experience appears to be largely limited to criminal law and family law.

6.4. The candidate's judgment in *Telkom SA SOC Ltd v City of Cape Town* JDR 0623 has been upheld by the SCA, as more fully elaborated upon in the applicant's answers to the questions in paragraph 9.4 of the questionnaire (p 41 of the applicant's application papers) shows that she has good insight in constitutional principles concerning other areas of law.

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

7.1. The candidate has disclosed that 2 of her judgments have been taken on appeal.

7.2. The candidate reports that both appeals have been dismissed.

7.3. According to the candidate, none of her judgments whilst sitting as an acting judge have been overturned on appeal.

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

8.1. The candidate explains the proportion of her litigation work as follows: criminal law 35%; administrative law 5%; constitutional law 5% (although she reiterates that there was a significant amount of matters in which she was involved, wherein constitutional rights and imperatives were applicable); labour law 5% and other areas of civil law, particularly divorces and related applications such as maintenance care and contract disputes, etc. 50%.

8.2. The candidate discloses that she practised as an attorney from 1 June 1994 until 30 November 2002 whereafter she joined the Department of Justice and Constitution Development in various roles as Magistrate until 1 October 2013. From 1 October 2013 until March 2020 the candidate was involved in various roles in the Regional Court, including as Acting Regional Court President. She acted as judge of the High Court in the Western Cape Division from 2017 to 2018 and again from 2023 until 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. According to the candidate only 1 judgment, which was reserved on 27 May 2024, is outstanding.
- 10.2. The candidate reported 5 partly heard civil matters as at 27 May 2024 and 2 partly heard criminal matters as at 27 May 2024, and 2 partly heard full bench appeals as at 27 May 2024.
- 10.3. There is nothing known to the reviewers that suggests that the candidate is not able to produce judgments promptly.

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. The candidate listed as part of her duties as Acting Regional Court President, the judicial management, and the assurance of compliance with norms and standards by 35 permanent and 26 contract regional magistrates in the KwaZulu-Natal province in 2020, during which she arranged training courses to train eligible and prospective candidates aspiring to ascend to the Regional Court.
- 13.2. The candidate appears to have extensive experience in administration and a significant measure of administrative ability.

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

- 14.1. The candidate has an excellent record as a Magistrate and has handed down judgments as an acting judge in different areas of the law. This shows that she is a committed jurist and constitutionalist.
- 14.2. The candidate's appointment would send a message that a history of dedicated work as a judicial officer in various capacities is a relevant consideration when appointing judges to the High Court.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported judgments

1. *S v Singh* 2013 (2) SACR 372 (KZD)

Unreported judgments

2. *ANC v Sparrow* (01/16) [2016] ZAEQC 1 (10 June 2016)
3. *Only If Management v Maphumelo Municipality* (10108/2013) KZP (September 2023)
4. *Stewart N.O and Others v Pillay N.O and Another* (8855/2017P) [2022] ZAKZPHC 49 (16 September 2022)

Judgments upheld on appeal

5. *S v Ntshongwana* KZD (CC13/2012) (4 June 2021)

Judgments dismissed on appeal

6. None