

VACANCY: JUDGE OF THE WESTERN CAPE DIVISION OF THE HIGH COURT

Candidate: Stanley Christopher O'Brien

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

1.1. The candidate holds the following tertiary qualifications:

- BLuris, University of the Western Cape (1982)
- LLB, University of the Western Cape (1996)

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

- admitted as an advocate on 5 November 1999
- conferred senior counsel status and received his letters patent on 28 February 2024

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

- Magistrate in December 1991
- Regional Magistrate in May 1998

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 of the bench

3.1. As far as could be ascertained, there are currently 32 permanent judges of the Western Cape Division of the High Court, Cape Town:

- 12 black women (6 African, 6 Coloured)
- 14 black men (6 African, 6 Coloured, 2 Indian)
- 4 white women

- 2 white men

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

4. The maximum period the candidate could serve if appointed

4.1. At the time of the interviews, the candidate will be approximately 65 years and 5 months old and will have completed a period of approximately 1 year and 10 months as an acting judge. If appointed, the candidate would be eligible to complete a further period of up to 7 years and 8 months of active service, if his acting stints are taken into account, or 9 years and 6 months, otherwise.

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

5.1. The candidate's judgments and his service to the legal profession and to the broader community of which he is part confirm his acute awareness of and commitment to the values of the Constitution.

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

6.1. The candidate's judgments under review read with his application and the letters in support of his nomination reveal that he has a wide knowledge of the law, particularly in the areas of criminal law, labour law, personal injury law, medical negligence, delict, administrative law and constitutional law (subject to the comments in paragraphs 8.2 to 8.5 below).

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

7.1. The candidate has disclosed that one judgment has been taken on appeal, resulting in the setting aside of a cost order.

7.2. The reviewers found no other judgments of the candidate that have been taken on appeal.

7.3. The judgment of the candidate overturned on appeal is:

- *Van Niekerk N.O. v MEC for Health, Northern Cape Province* (CA+R68/2023) [2025] ZANCHE 26 (2 May 2025). The judgment concerning costs was overturned in *VN N.O. (obo Estate Late JCLT) [...] v the MEC for Health, Northern Cape* [2025] 3 ALL SA 552 (NCK) (2 May 2025).

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

- 8.1. The candidate's professional experience spans 43 years, and includes 6½ years as a prosecutor, first in Namibia (one year) then in South Africa, 6½ years as a district magistrate (Bellville), 2½ years as a regional magistrate (Mitchell's Plain), 25 years practising as an advocate at the Cape Bar, and periods as an acting judge in three divisions of the High Court, in the Northern Cape, Free State, and in the Western Cape, which cumulatively amount to 99 weeks (or approximately 10 terms). In addition, he served for two periods of a week each as a *pro bono* acting judge.
- 8.2. Considering his extensive experience as an acting judge, relatively few judgments by the candidate are available. This may be explained by some reticence in releasing his judgments for wider circulation.
- 8.3. The candidate provided details or copies of ten of his judgments in his application pack. The reviewer considered a further judgment by the candidate that has been reported, and a further nine unreported judgments penned by the candidate.
- 8.4. As a general rule, the candidate's judgments are properly structured and readily comprehensible. He pays careful attention to summarising background and factual information and succinctly states the reasons for his ultimate orders.
- 8.5. However, some of his judgments fall short of his general standard:
- In *Hazendal Wine Estate v Pure Electrical Solutions*, Western Cape Division, case number 2025-123216 (27 October 2025), which was an opposed winding-up application, it was difficult at times for the reviewer to follow the excursus of background facts. Save for dealing with points on urgency, and whether there is a right to remain silent in civil proceedings, the judgment did not set out the grounds on which the application was opposed or the issues that required determination. Some of the references to case law were incomplete.
 - In *Lakka v Beukes and Another* (CA&R 60/2018) [2020] ZANCHC 11 (23 March 2020) [full bench], the candidate wrote a dissenting judgment which received criticism from the majority judgment regarding his flawed reasoning pertaining to a lien when resisting eviction.
 - In *Stephen Mark Van Rooyen and 2 Others v s Gary Donovan Wallace and Others*. Western Cape Division, case number 2025-039841 (29 January 2026), the candidate

refused leave to appeal against his judgment dismissing an application to set aside a voluntary winding-up. The reviewer has been unable to locate the candidate's judgment sought to be appealed. However, it is noted that despite twenty-nine grounds of appeal raised, the candidate's judgment on leave to appeal does not deal with each one comprehensively, but opts to group them under three headings, which makes it difficult for an outsider to the proceedings to follow his reasoning in refusing leave to appeal. The reviewer has established that the Supreme Court of Appeal granted leave to appeal. The fate of the appeal is unknown.

9. The candidate's linguistic and communication skills

- 9.1. The candidate's judgments are written in English.
- 9.2. Subject to the comments in the section above, 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 three judgments were outstanding at the time of completing the questionnaire. One of the three was by then outstanding for just over three months, but the dissenting judgment of another judge was awaited. The other two fell within the three month period.
- 10.2. The reviewer has been unable to ascertain at the time of completing this review whether the three outstanding judgments have been delivered.
- 10.3. Of the 20 judgments of the candidate considered by the reviewers, one judgment, in which another judge concurred, was handed down slightly 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.

12. The candidate's independent-mindedness

- 12.1. There is no reason to believe that the candidate, if appointed, would not bring an independent mind to bear on issues presented for judicial determination, nor that the

candidate would be unduly influenced in any way, including by the executive or legislative branches of government.

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

- 13.1. Little is expressly stated in the questionnaire about the candidate's administrative abilities, but his capacity can be gauged from his leadership positions as Chairman of the Ethos Committee at Reddam House, at the School Governing Body at Excelsior Primary School, as chairperson of a board of the Anglican Church, and from his service as a member of the Cape Bar Council and on its Prevention of Sexual Harassment sub-committee and Housing sub-committee.

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

- 14.1. The candidate's appointment would send the message that dedication, sound values, ethical conduct, professionalism and hard work at every stage of a legal career are the path to excellence, which will be recognised by elevation to the bench, notwithstanding past discriminatory practices.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported judgments

1. *Van Rooyen and Another v Minister of Police and Others* 2019 (1) SACR 349 (NCK)
2. *Liebenberg v S* 2022 (1) SACR 43 (NCK)
3. *January v The Minister of Police and Others* LNQD 74 (NCK)
4. *Wingfield Motors (Pty) Ltd v National Consumer Tribunal and Others* 2026 (2) SA 662 (WCC)

Unreported judgments

5. *Simon Woolley N.O. and Another v Cape Royale Luxury Residents (Pty) Ltd and Others*, Western Cape Division, case number 3079/2017 (19 February 2018)
6. *Seng v Experato (Pty) Ltd* (CA&R 2/201818) [2019] ZANCHC 23 (17 May 2019)
7. *JJ van Heerden v Appeal Authority iro The Pixley Ka Seme District Municipality and Others*, Northern Cape Division, case number 2849/2017 (30 August 2019)
8. *Lakka v Beukes and Another* (CA&R 60/2018) [2020] ZANCHC 11 (23 March 2020)
9. *National Real Estates (Pty) Ltd and Another v Mangaung Metropolitan Municipality and Others* (5086/2019) [2021] ZAFSHC 44 (25 January 2021)
10. *Valhalla Fishing Enterprises (Pty) Ltd v Bluefin Holdings (Pty) Ltd and the Minister of Forestry, Fisheries and the Environment*, Western Cape Division, case number 2025-069955 (16 July 2025)
11. *Nevana Juleen Andrews v Road Accident Fund*, Western Cape Division, case number 3606/2021 (29 July 2025)
12. *Hazendal Wine Estate v Pure Electrical Solutions*, Western Cape Division, case number 2025-123216 (27 October 2025)
13. *Stephen Mark Van Rooyen and 2 Others v s Gary Donovan Wallace and Others*. Western Cape Division, case number 2025-039841 (29 January 2026)
14. *Pieter Johannes Lodewyk Venter and Another v s Henry Richard Andre Beirowsky and 2 Others*, Western Cape Division, case number 2025-036551 (12 February 2026)
15. *Kwanele Cuba & Sibusiso Fihla v State*, Western Cape Division, case number A98/2023 (17 February 2026)
16. *Luvuyo Patrick Ndevu v State*, Western Cape Division, case number A199/2025 (16 March 2026)
17. *Francois Els v Jacobus Alexander Van Dyk*, Western Cape Division case number

2025/019457 (22 May 2026)

18. *S Carriem v MG Carriem and Galio Bookkeeping and Accounting Services cc*, Western Cape Division case number 8267/2023 (27 May 2026)
19. *Ma-Afrika Hotels (Pty) Ltd v Avemore Properties (Pty) Ltd* (Appeal) (A229/2025) [2026] ZAWCHC 431 (20 August 2026)

Judgments upheld on appeal

20. The fate of the appeal against the candidate's judgment in *Stephen Mark Van Rooyen and 2 Others v s Gary Donovan Wallace and Others*. Western Cape Division, case number 2025-039841 is unknown.

Judgments overturned on appeal

21. *Van Niekerk N.O. v MEC for Health, Northern Cape Province* (CA+R68/2023) [2025] ZANCHE 26 (2 May 2025). The judgment concerning costs was overturned in *V.N N.O. (obo Estate Late JCLT) [...] v the MEC for Health, Northern Cape* [2025] 3 ALL SA 552 (NCK) (2 May 2025).
22. The fate of the appeal against the candidate's judgment in *Stephen Mark Van Rooyen and 2 Others v s Gary Donovan Wallace and Others*. Western Cape Division, case number 2025-039841 is unknown.

Academic writings

23. Not applicable.