

CANDIDATE: MS COLLEEN JANE COLLIS

**COURT FOR WHICH CANDIDATE APPLIES: HIGH COURT GAUTENG
– NORTH AND SOUTH DIVISIONS**

1. The candidate's appropriate qualifications

1.1. The candidate holds a BProc (University of Pretoria). She is appropriately qualified.

2. Whether the candidate is a fit and proper person

2.1. There is nothing in the candidate's application or the judgments we have considered that suggests that the candidate is not a fit and proper person.

3. Whether the candidate's appointment would help to reflect the racial and gender composition of South Africa

3.1. The candidate is a coloured woman and, as such, her appointment would help to reflect the racial and gender composition of South Africa.

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

4.1. The candidate was a regional court prosecutor in Johannesburg for four years. During that time, the candidate conducted prosecutions of serious offences, with a specialisation in sexual offences committed against women and children.

4.2. The candidate then completed her articles of clerkship and was admitted as an attorney.

4.3. In 2002, the candidate was appointed as a magistrate in Johannesburg (in

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the civil court).

- 4.4. The candidate has held acting appointments in the Gauteng and Limpopo Divisions of the High Court. The candidate reports that she has held acting appointments for a total of 42 weeks intermittently between 2012 and 2015.
- 4.5. The candidate's experience (particularly as a magistrate) and her judgments suggest that she has a good knowledge of the law. The judgments that we have considered demonstrate that the candidate has knowledge of constitutional law, particularly in the area of evictions.
- 4.6. We were unable to find any reported judgments authored by the candidate. She does however have 20 unreported judgments in Juta's unreported law reports series. The candidate referred to a further 6 unreported judgments in her application.
- 4.7. *Mokwana NO v Fakunde* 2015 JDR 1245 (GP): this was an application for eviction. The candidate's judgment is well reasoned and applies the applicable legal framework, with due regard to constitutional considerations.
- 4.8. *Felix v Firstrand Bank Limited* 2015 JDR 1560 (GP): this was an application for rescission of summary judgment. The candidate's judgment set out the applicable legal principles succinctly, and its application to the facts of the case is well reasoned.
- 4.9. *Body Corporate of Galloway v Van Dyk* 2015 JDR 1603 (GP): this was an application for sequestration. The judgment is well reasoned.
- 4.10. *Swanepoel v Van Zyl* 2014 JDR 0984 (GNP): this was an application for

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rescission of default judgment. The candidate provided a thorough exposition of the facts, reaching a well-reasoned outcome.

- 4.11. *Botes v Road Accident Fund* 2014 JDR 2435 (GJ): this was an action for damages against the RAF. The judgment provides a thorough analysis of evidence, including expert actuarial evidence.
- 4.12. Similarly thorough was the candidate's judgment in *Adams v Road Accident Fund* 31049/2011, which merits some attention. The plaintiff had suffered head and lower limb injuries in a motor vehicle collision, and the only head of damage remaining in dispute was the loss of future earning capacity. To determine this, the candidate examined the extensive factual and expert evidence concerning the plaintiff's pre-and-post accident career prospects.
- 4.13. What merits attention, is the manner in which the candidate assessed and evaluated the evidence presented by expert witnesses called on behalf of the plaintiff and the defendant respectively. The candidate did not simply prefer one witness over the other, but subjected the evidence to rigorous testing, at times reaching a conclusion which struck a balance between the opposing views. The resultant award of damages appeared to reflect the true impact of the injuries, and recognised the primary aim of the governing legislation, which is to award adequate compensation to victims of motor vehicle collisions.
- 4.14. *S v Mhlanga* 2013 JDR 0987 (GNP): this was an appeal against a sentence imposed by the magistrates' court for theft. The accused was sentenced to 12 years imprisonment for theft of a wallet. On appeal, the candidate held that the sentence imposed was excessive, and instead

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imposed a sentence of 4 years imprisonment. The candidate's judgment demonstrates a sound appreciation for the legal principles of sentencing. The same is so in respect of another unreported judgment of the candidate dealing with an appeal on sentence in *S v Ntshingila* 2013 JDR 0994 (GNP).

- 4.15. *Vilakazi v Minister of Safety and Security* 2013 JDR 1102 (GNP): this was an action for damages for unlawful arrest and detention. Although the candidate ultimately found that the plaintiff's arrest and detention was justified, she suggested a development of the common law to the extent that, in appropriate cases, complainants in criminal matters ought to be joined as co-defendants in civil claims against the police for unlawful arrest and detention. That would require a drastic development of the ordinary requirements of delictual liability. In addition, the risk of civil liability attaching to a complainant may cause a dampening effect on members of the public, discouraging the reporting of criminal activity.
- 4.16. *Ashwin v The State* A354/13: this was a criminal appeal against conviction and sentence. The candidate's judgment gives a thorough analysis of the evidence and properly applies the legal principles of its evaluation, including in relation to hearsay evidence. Judges Nicholls and Claassen concurred in the candidate's judgment.
- 4.17. *Vox Telecom Limited v Tobias Jermyn and others* 2012/24420: this was a review of an interlocutory ruling made by an arbitrator. The candidate's judgment demonstrates a good understanding of the legal framework governing judicial review of arbitral awards. This judgment shows that the candidate is able to sit as a reviewing court, and her ability to do so is

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likely to be easily transferable to, for example, reviews of administrative decisions.

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

5.1. There is nothing in the judgments of the candidate or in any publically available information which suggests that the candidate is not committed to the values of the Constitution.

5.2. It is notable that the candidate appears to make a concerted effort to deliver her judgments timeously. The judgments that were consulted during this review were delivered within a matter of weeks. The candidate's expediency is admirable, and is a vital contribution to the proper administration of justice.

6. **Whether any judgments have been overturned on appeal**

6.1. The candidate reports that one of her judgments was overturned on appeal: *Old Edwardian Society v South African Securitisation Programme (RF) Ltd* A5021/2013 GSJ. We were unable to find a copy of the appeal judgment.

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

7.1. As appears from the candidate's CV, she has experience as a prosecutor and approximately 13 years experience on the bench in the magistrates' court. Her unreported judgments reflect a wide experience of matters faced by judges and her judgments show a keen and diligent intent to deal properly and thoroughly with each matter before her.

7.2. The candidate is also an active member of the Black Lawyers

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Association and the South African Chapter of the International Association of Women Lawyers. In the past, she occupied an executive role in the Judicial Officers Association of South Africa. Her participation in these organisations demonstrates an interest in the judiciary and its racial and gender transformation.

8. The candidate's linguistic and communication skills

8.1. The judgments written by the candidate appear lucid, considered and reasoned. No problem is foreseen with the candidate's linguistic or communication skills.

9. The candidate's ability to produce judgments promptly

9.1. As already indicated, it appears that the candidate produces her judgments with admirable expediency. The majority of her unreported judgments written have been delivered with days or weeks of the hearing.

10. The candidate's fairness and impartiality

10.1. There is nothing in any of the material reviewed to suggest that the candidate could be criticised for unfairness or for bias.

11. The candidate's independent mindedness

11.1. There is nothing in any of the material reviewed to suggest that the candidate does not bring an independent mind to bear on cases that come before her.

12. The candidate's ability to conduct court proceedings

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12.1. It is likely that with 13 years of experience on the bench in the magistrates' court and 42 weeks of acting appointments in the High Court, the candidate has the ability to conduct court proceedings.

13. The candidate's administrative ability

13.1. The candidate appears to have the necessary administrative ability.

14. The candidate's reputation for integrity and ethical behaviour

14.1. Nothing in the material suggests any adverse criticism of the candidate's reputation.

15. The candidate's judicial temperament

15.1. The information reviewed supports the conclusion that the candidate has the appropriate judicial temperament.

16. The candidate's commitment to human rights, and experience with regard to the values and needs of the community

16.1. There is nothing in the judgments of the candidate or in any publicly available information which suggests that the candidate is not committed to the advancement of human rights. The candidate has, in her position as a magistrate and an acting judge of the High Court, discharged her functions in a responsible and efficient manner. Further, the candidate has been involved in cases which affect the broader community, including eviction cases. The candidate also appears to take an active role in the transformation of the judiciary through her roles in the Back Lawyers Association and the International Association of Women Lawyers.

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17. The candidate's potential

17.1. Based on the information and material reviewed, the candidate has potential to make a valuable contribution to the Gauteng Division of the High Court. This bench will be strengthened by a judge who has experience in trials, who assesses and evaluates evidence efficiently, and who delivers her judgments with admirable expedition.

18. The message that the candidate's appointment would send to the community at large

18.1. The candidate's appointment will send a positive message to the community at large, especially in light of her efficiency in delivering judgments.

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ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported decisions

None were found.

Unreported decisions

Mokwana NO v Fakunde 2015 JDR 1245 (GP)

Felix v Firstrand Bank Limited 2015 JDR 1560 (GP)

Body Corporate of Galloway v Van Dyk 2015 JDR 1603 (GP)

Swanepoel v Van Zyl 2014 JDR 0984 (GNP)

Botes v Road Accident Fund 2014 JDR 2435 (GJ)

Adams v Road Accident Fund 31049/2011 (GJ)

S v Mhlanga 2013 JDR 0987 (GNP)

S v Ntshingila 2013 JDR 0994 (GNP)

Vilakazi v Minister of Safety and Security 2013 JDR 1102 (GNP)

Ashwin v The State A354/13 (GJ)

Vox Telecom Limited v Tobias Jermyn and others 2012/24420 (GJ)

FirstRand Bank Limited NO v Terreno Investments 1023 CC 2014 JDR 0935

Aroonslam v FirstRand Bank Limited 2014 JDR 1164 (GP)

S v Qoka 2013 JDR 0992 (GNP)

Peta v Maake 2013 JDR 1319 (GNP)

Keevy NO v Regent Insurance Company Limited 2009/32288 (GJ)

Parkins v All Steel Services CC 37227/2012 (GJ)

Judgments upheld on appeal

None were found.

Judgments overturned on appeal

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None were found, but the candidate reports that one her judgments was overturned on appeal: *Old Edwardian Society v South African Securitisation Programme (RF) Ltd* A5021/2013 GSJ