



JUDGES MATTER

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Eastern Cape Division of the High Court (Mthatha)

Interview of Mr. M S Jolwana

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CJ M. Mogoeng: Good afternoon Mr Jolwana.

Mr M S Jolwana: Good afternoon. Good afternoon Chief Justice.

CJ M. Mogoeng: Are you well?

Mr M S Jolwana: I'm fine, thanks Chief Justice. How are you?

CJ M. Mogoeng: I'm very well, thank you. For how many years have you been an attorney?

Mr M S Jolwana: For over 20 years, round about 22 years.

CJ M. Mogoeng: And in total how many months have you acted for?

Mr M S Jolwana: Four months, Chief Justice.

CJ M. Mogoeng: And has it prepared -- has that period prepared you adequately?

Mr M S Jolwana: I believe so. I believe so, yes. I believe so Chief Justice, yes.

CJ M. Mogoeng: And what is the longest period you have taken to deliver a reserve judgement?

Mr M S Jolwana: About two months.

CJ M. Mogoeng: Never longer than that?

Mr M S Jolwana: Never long than that yes, Chief Justice.

CJ M. Mogoeng: Yes. Did you find it difficult to adjust to a high court setting as a judge?

Mr M S Jolwana: It was quite a new challenge for me. It was a challenge that I had not faced before and I realised immediately that there were a lot of things that I needed to learn and -- but I did manage quite well.

CJ M. Mogoeng: What is it that prevented you from drowning; what kept you afloat?

Mr M S Jolwana: I would say my character, personality, I generally, as a matter of principle, do not like failing or failing anybody; I do not like giving excuses for not doing that which is expected of me. I prefer to be dependable because there are other people that expect me to do the job that is expected of me and I therefore cannot allow either a feeling of inadequacy or anything to then result in other people being affected negatively.

CJ M. Mogoeng: Yes. And just in passing, why is it that you acquired so many Master's degrees?

Mr M S Jolwana: Chief Justice, the initial degree, the first one was a bit of a miracle sponsored by what was then called Transkei Legal Scholarship Association which enabled me to get a foothold into university and Trans -- once that worked I then told myself that I needed to study; achieve a lot of things, acquire everything that one should study if one is an attorney. That's how I became a conveyancer in the (inaudible 00:03:12) Republic and then went on to further my studies in terms of the Master's degrees that I acquired.

CJ M. Mogoeng: Banking law, why pursue banking law; were you hoping to get banks on your side in terms of instructions?

Mr M S Jolwana: Partly that, but also I realized later on that there were situations where one needed to think what is it that you want to do; what is it that is slightly regarded as a bit of a challenging degree to do? And I wanted to push myself, and because then I wanted to know about all of these areas that interest me because then I had aspirations of doing a PhD but then I needed to find things that would challenge me.

CJ M. Mogoeng: And in terms of attracting work from the banks did you succeed; it's been quite a dry area for many African people, did you succeed --

Mr M S Jolwana: I guess.

CJ M. Mogoeng: -- with some minor connections or did you really make a breakthrough?

Mr M S Jolwana: Not really because the only bank that was interested in me was what was then called Bank of Transkei which later became Absa so in that sense I guess I got something that others did not so I am grateful about that. But then I did knock at a number of doors in terms of other banks without success.

CJ M. Mogoeng: And labour law, did your Master's in labour law, did you get to act in the labour court or something or did you do a lot of labour law, labour matters?

Mr M S Jolwana: I wouldn't call it a lot but yes, I did some labour matters Chief Justice.

CJ M. Mogoeng: Yes.

Mr M S Jolwana: But I wouldn't call it a lot of it. They -- one tended to find clients who would be employees. Most of them would not have even the money to pay in the first place; the person has just lost a job but then on the other hand you do understand where they are coming from; do you understand the situation. You also have your own interest in sharpening your skills in the field because in any event it's something that you are studying. So, it was more not -- I didn't make money in it; I still do not make money, but I just enjoy it.

CJ M. Mogoeng: Yes. And what in your opinion should be the longest period over which judgement is reserved in a very complex matter?

Mr M S Jolwana: I think the period which I understand it to be three months is enough in my view for any matter. I -- but I would imagine that others would disagree who have handled those complex matters. But I think it is still enough because as you handle and deal with a matter you begin to identify narrow down issues that really need your attention and even the area that you need to pay attention to and research and all of that. Judgement writing in my view has got a bit of a planning in it even before you start writing; planning in the sense of psyching yourself for it whether you are running on the road or doing something else but preparation starts even before the -- you start writing your first word.

CJ M. Mogoeng: Would you say six months is also acceptable?

Mr M S Jolwana: Not in my view. And the reason --

CJ M. Mogoeng: By your own standards?

Mr M S Jolwana: By my own standards and by any standards for that matter I think it wouldn't be acceptable. These are some of the things that in the profession we

complain about and I cannot understand why it should be impossible for me to approach the Judge President and say there is this complex matter that I'm handling; I need time to write judgement on it and it looks like I need time to deal with it and I believe I would be accommodated. It's about openness, it's about being in control of the situation I think.

CJ M. Mogoeng: Acting Judge President?

AJP Nhlangulela: Thank you CJ, and good afternoon Mr --

Mr M S Jolwana: Good afternoon. Good afternoon JP.

AJP Nhlangulela: There has been a unique feature about your acting stint. I'll tell you what it is: most senior judges in the division have been approaching me with a comment that you are doing well. Now the question is, is it because you have been sending them to come to me or it's because of their own initiative where they had to come to?

Mr M S Jolwana: Acting Judge President, I -- it is just not in my nature to do that. I wouldn't do that. I do not approach anyone for anything. In fact, I can actually say that I have been privileged in that you did ask me to act for the second term, for the third term and I'd never approached you for that. I don't do that; it's just wrong.

AJP Nhlangulela: And that's because all those people were speaking well about you. Thank you.

Mr M S Jolwana: Okay.

AJP Nhlangulela: Can you tell the Commission about your association with The Law Society in so far as that might compensate for your short acting stint? It's important for us to examine your readiness in terms of experience and perhaps maturity in the law and its application.

Mr M S Jolwana: Perhaps let me mention even at the risk of repeating what has already been said, and that is that all I have done in my life is law and nothing else. I have never worked anywhere else. And for the greater part, about 17 years of those 22 years I was running my own practice. What did happen was that at some stage there were issues with The Law Society and other people were moving out of The Law Society and the senior attorneys approached me to say Mr Jolwana, what do you think about going to The Law Society? And I said to them there are people -- others who are more deserving than I to do that but then they insisted, approaching me together with the late Judge Dukada. We went there, you know, at -- I think it was around 2011; the end of 2010 we didn't know that we'd be required to go there and we did, and when we went there we were basically -- found no one to tell us how The Law Society works. We had to make a difference because there are people that trusted us and we believe we did make a difference and in fact it -- soon thereafter the -- I was asked to be involved in the disciplinary committee of The Law Society which involved a lot of reading, a lot of understanding The Law Society's rules and the statutes and everything else and also understanding the complaints that come from the profession and other clients about attorneys' behaviour and all of that; the regulatory framework. One needed to understand those issues and deal with them; I did. Soon to be elevated thereafter to the position of a Vice President which again being approached I -- by those that I worked with I agreed and all of this took time away from my practice but then, you know, it's one of those situations where you then begin to say the others who have done, you know, taken a lot of trouble to serve others. If I may mention my mother who is 70 years old is in her little garden growing vegetables and using ordinary manure to grow those vegetables and she's involved in other things that help the community. Now here is the profession saying to me go and serve and I served diligently; I believe I served openly and frankly. In fact, so much so that I'm proud to say here amongst the many people that support my being here are the Counsellors of the Cape Law Society, not just counsellors from BLA in Natal but all of them. In fact, the proposal that let that be a comment about that is addressed to the JSC about me came from what is referred to as the statutory component of The Law Society who are saying they believe that there is something in me that could make a good judge and I'm proud to say I have no regrets for taking time away from the profession, but then it did also mean that the time that I would have spent in court and other things was not spent in court, was

spent elsewhere. The involvement with The Law Society entailed that at times I've got to be involved with The Law Society of South Africa which is the national body; it entailed there is another obligation with the Black Lawyers Association, the other obligations with the Transkei Attorneys Association. It was an honour that people felt that there is a good that I add in the development of the law, in the development of what it is to be a black professional who can serve at any level, any time when called upon to do so by others. That has been the story of my life and I think those who have worked with me would agree that I am who I am; I love this profession, and I try to be very honest in how I deal with others. I do work well with others wherever they are and I'm very vocal in the structures in which I serve; not so much because of the good ideas that come from me but I believe that even if what comes out of my mouth could be seen to be a stupid idea, it is still an idea that will result in others to come up with a better idea and once that happens I believe we're moving in the right direction. Thank you. Thank you Chair.

AJP Nhlangulela: Mr Jolwana, you have given me an impression personally that you take a special interest in the transformation of the judiciary in that when I was involved in acting, which often took me away from my office to the point when I could not pay rent when I was struggling but you became the only practitioner who stood up and took over my conveyancing work just for me to have some rentals to pay at the end of the month. What is it that motivated -- I had no arrangement with you, but what is it that was motivating you to do that? You knew that I was acting; I never wrote you a letter but on your own you just stood up and you did this. Can you inform the Commission about that?

Mr M S Jolwana: Thanks to my involvement with the other structures within the profession, BLA and Natal I became aware about the need for some of us to make those sacrifices that you were making and I understood quite clearly from my own practice that that had to come at a price and it -- to the extent that opportunity allowed me, I just felt that it's something that I needed to do. It's something that was necessary not just for you but for those that you employ in your -- you employed in your small practice; they needed that job and for that job to be done, to be there for them to feed their own families they needed me to act in the manner that I did and I - - again, I was quite happy to do that. I have no regrets.

AJP Nhlangulela: Thank you. The Commission has been informed about what has been referred to as a Dies non, your Fridays Dies non in the Mthatha Court. Let me put it into the right perspective. Judges disappearing on a Friday for whatever reason; are you aware of that?

Mr M S Jolwana: It has been a problem that we --

AJP Nhlangulela: Thank you. I just wanted you to confirm to the Commission that you know.

Mr M S Jolwana: Oh.

AJP Nhlangulela: We've discussed this before.

Mr M S Jolwana: We have, yes indeed.

AJP Nhlangulela: The real question is here: where do you reside?

Mr M S Jolwana: I -- perhaps let me start back. I was born in Mqanduli, Mqanduli is 30 kilometres from Mthatha and I reside in Mthatha. My house is there, my wife is there, my family, my mother is in Mqanduli; my relatives, most of them are there; my in-laws are in Mqanduli. Basically that's where I am. I have never lived in any town say for visiting other areas for purposes of doing work but as for being based, I'm literally based there. In fact, so based there that some of the judges who have the privilege of having houses elsewhere have been approaching me, you know, when Friday is about to come to say will you stand in for me and I did that with pleasure because I -- my feeling again, it is that they -- those judges worked very hard I believe and if their families are elsewhere it is necessary that they go elsewhere and I'm here in Mthatha. Why not come to the bridge so that the court system continues to function and it serves the people that it must serve? But also you don't want the families to collapse because the family just does not understand why you must drive at night from Mthatha on a Friday afternoon and all of that. So, I -- yes, yes JP, I -- I'm aware of those situations.

AJP Nhlangulela: So, in a nutshell, if appointed, you would be a judge who is present in the court from Monday to Friday?

Mr M S Jolwana: Yes, Judge President. Actually the attorneys by and large my association is within that jurisdiction that by association I mean Transkei Attorneys Association that though some of the attorneys or structures that nominated me, those are the people that believe in me, have seen me in action, know what I'm made of; those are the people that I would like to serve. And secondly they -- Transkei area is basically largely a poor area with, you know, attorneys that would want nothing more than having a judge available whenever it is necessary and it would be an absolute honour for me to serve in that town in which I practiced for so many years and deal with the same issues that as an outsider, as an attorney I well, felt that perhaps the judges were not understanding because I was not a judge at this stage and -- but then now I believe, I understand it from both sides as an attorney but also as a judge I would be more than happy to serve there.

AJP Nhlangulela: Is it correct that you, by virtue of you having acted and perhaps by you having been all the time a member of the attorneys' profession exposed to case-flow management; have you been exposed to that?

Mr M S Jolwana: A lot of it. In fact case-flow management is happening in the Mthatha High Court, it's fully happening, and it's quite a recent development for which I'm very proud. There were times when we didn't know how cases get to be heard; we didn't know what happened to cases. Why do you have a recent case being heard when there is still an old case? Case management, case-flow management is in my view an answer to those problems; it also as well needs to be managed very carefully because who -- there is a sense in which some of these things, if they are not carefully managed they can be misused to benefit others, is against others. There is a situation in Mthatha where a lot of firms are small man firms. That small, young attorney would want nothing more than having his little, not so important matter heard so that he can, you know, present a bill and then tax it and do all of those things. But now if there is a situation in which those things are not attended to, it would create problems.

AJP Nhlangulela: During your free -- few trips around the Eastern Cape courts as an acting judge what have you or rather what do you know about the application of case-flow management and what is the impression that you may share with the Commission?

Mr M S Jolwana: My sense, my impression is that case-flow management, for a reason that still escapes even today, does not happen in Grahamstown, at least at the last time that I checked, and that was before you went there. I do not know if things have changed now but it is a matter of concern. My -- I know that it is something that you have been working very hard on. I remember when I was in Grahamstown to do appeals there I had a discussion with you about case-flow management and I shared my own ideas about what I -- why I think it would be wrong if it were to be the case that case-flow management happens in one local division and does not happen elsewhere. It's just wrong. It has to happen for the good that it has and in any event I understand it will be a national prerogative or national idea that came from the office of the Chief Justice that is being implemented whether or not it will solve all the problems. That's a different matter but the fact of the matter is unless it is done nobody will know how to improve it; how to deal with whatever challenges there may be and so my sense is it's something that a way has to be found so that we do the same thing across the province.

AJP Nhlangulela: Thank you. If you are ready as you sound to be to work as permanent judge what promise can you give to the Commission? This is my last question CJ.

Mr M S Jolwana: I -- Judge President, thank you for that question. I have convinced a lot of people in the structures and that was in which I serve, I have served that I actually care about the affairs of the profession. I am very engaging; I'm very frank and open. If there is a problem I believe that let it be identified and dealt with and solved and be solved. And my promise would be that of supporting the leadership that is there and to the extent that one is given an opportunity to express a view I will do that honestly. If my view is not shared by the leadership, that is still fine, I have learned from the organisations that I've served that I will come up with what I

consider to be a very brilliant idea except that nobody shares that, and if they do not share that and they take a different approach, mine is to support in the approach that is being taken and the times people will come back to you and say you were right we should have adopted your approach which is fine again. But the point is simply this: you cannot be part of the problem; you should help identify what it is and if you are given an opportunity try to assist to deal with it, and if you must approach the leadership to say you do not understand why this thing is not being done this way, whatever good idea I have, if I do not express it they will not consider it because they don't know it and at times it will be good because I do not know that it has been considered. I need to hear what other people think and they will tell me that your idea will not fly for whatever reason. So, mine would be to say it would be an honour for me to make sure that the judiciary works and works effectively to the extent that that contribution is necessary from my little small office as a judge. Thank you.

CJ M. Mogoeng: Premier?

Premier: Thanks CJ. I don't want a long answer; I want a very crisp answer. There was put earlier a question about the accumulative stint or the amounts of time you've acted. I do want to ask again how could four months could have prepared you for this full time job? And I do want to think -- reflect a bit to the answer you gave and be crisp in taking this again.

Mr M S Jolwana: Thank you. Thank you Premier. Mthatha High Court is a very busy high court, let me start there, but again that four months acting period is adding to someone who has been in the profession, very heavily involved, understanding all of these things.

Premier: No, thank you JP; I'm answered.

Mr M S Jolwana: Thank you.

Premier: I'm answered. Thank you, thank you.

CJ M. Mogoeng: Thank you Premier. Mr -- Commissioner Nokesi?

Commissioner Nokesi: Thank you Chief Justice. We -- I must disclose that we've served together when I was in the Cape Law Society, in fact I was your president at that time. Now you serve in the disciplinary committee of the Cape Law Society; did your service in that committee which deals with the disciplinary -- I mean which deal with judiciary proceedings against attorneys who have been reported; did it assist you in your adjudication skill or would it assist you, or how it has assisted you?

Mr M S Jolwana: It has assisted a lot Commissioner Nokesi because as I -- as you know because incidentally you were in that disciplinary committee as well, there's a lot of reading there and you are basically dealing with attorneys, you are dealing with legal issues and matters that arose in a practice.

Commissioner Nokesi: Okay. Now, the Black Lawyers Association, which is your organisation, in its comments has this to say: it would appear that he has only acted for the second terms. It would appear that he has not served the minimum of three terms given his experience and the fact that he has written judgements that appear to have been well thought and well written. The Black Lawyers Association supports his appointment. Secondly, this is very important; the Transkei Attorneys -- Transkei Association of Advocates here is what they say: it is emphasised, I'm just reading from this letter, it is emphasised by our members that have appeared before him as a judge that there can be no doubt that he has agreed potential for future appointment as a permanent judge; he has the correct acuity of mind and proper judicial disposition but he's not yet ripe for such appointment. Now, -- and they base for instance the Transkei -- I mean the Association of Advocates that your practice mainly has been focussing on conveyancing so you have not been exposed though they accept that you have a potential. How would you respond at -- what would you respond in that? Briefly.

Mr M S Jolwana: Briefly I would say let's start by understanding and accepting that conveyancing involves a huge area of the law, that's the starting point. The only thing about it is that you do not go to court; that's the first thing. The second thing is that Commissioner Nokesi, my practice has not just been conveyancing; I have -- there are two main areas; it's conveyancing and civil litigation. In fact, a lot of --

some of the current judges right across up to the constitutional court are judges that have been briefed by me in my practice and I have consulted with them in those matters personally being personally engaged and involved in them because I just do not believe that I should give that job to a candid attorney. So, I -- if I may mention though, it escapes me that it should be said that you have potential but you should not be appointed because then it suggests that let us appoint people that have experience. Now we need to say what is experience; is it the number of appearances in court; is it the quality of your output; what is it? So, I believe that potential would assist transformation as a general principle that all of us should be concerned with and if you ignore it then there is going to be a problem.

Commissioner Nokesi: Last question. Perhaps in this letter of the -- I mean Society of Advocates of Transkei, I mean I don't know where they get it in any way. They refer to three terms of acting. I'm not too sure who told them that. And there is in the -- they say they don't support you simply because you have not acted for three term. Do you know of any document which says a person must act for three terms or two terms or four terms?

Mr M S Jolwana: I'm a student of the constitution; I'm not aware of that. I -- when I became aware that there is this issue about three terms I then approached -- I raised that with those who were saying to me I should avail myself and I even went to senior judges to say I have acted for two terms and there is this thing about three terms; they didn't know about it. So, I do not know where it comes from but I'm happy to say those judges have actually encouraged me to apply because they believe that notwithstanding whatever witnesses there may have been in me, they believe that I do have what it takes to deliver justice.

Commissioner Nokesi: Thank you very much Chief Justice.

CJ M. Mogoeng: Thank you Commissioner Nokesi. Commissioner Fourie?

Commissioner Fourie: Thank you Chief Justice. Good afternoon Mr Jolwana.

Mr M S Jolwana: Good afternoon Commissioner Fourie.

Commissioner Fourie: Are you well?

Mr M S Jolwana: I'm good, thanks. How are you?

Commissioner Fourie: Good, good, good. Just on the issue of experience --

Mr M S Jolwana: Yes.

Commissioner Fourie: -- and I don't want to cross-examine you but we're here to interrogate --

[Crosstalk]

Mr M S Jolwana: Yes, I'm sure. I understand.

Commissioner Fourie: Because I think apart from the issue of experience or the difficulty with the experience --

Mr M S Jolwana: Yes.

Commissioner Fourie: -- I'm otherwise, not only today, but elsewhere as well favourably impressed.

Mr M S Jolwana: Thank you.

Commissioner Fourie: But if we can look at your questionnaire --

Mr M S Jolwana: Yes.

Commissioner Fourie: -- paragraph 6.2. You've got it in front of you?

Mr M S Jolwana: Let me get to it Commissioner Fourie. Yes, I'm there. 6.2?

Commissioner Fourie: Yes.

Mr M S Jolwana: Yes, I'm there.

Commissioner Fourie: Say what proportion of your litigation work has been in the field of one, criminal law, you say small --

Mr M S Jolwana: Yes.

Commissioner Fourie: -- two, administrative law, you say small, three, constitutional law, you say none, four, labour law, you say small.

Mr M S Jolwana: Yes.

Commissioner Fourie: Then the fifth question other areas of civil law; specify the general areas involved e.g. personal injury, tax, shipping, intellectual property, divorce etcetera. Then your answer is in small practices in a small town like Mthatha one does everything however other than divorce I have not done any of the areas listed in the examples. So, if I understand your answer correctly that includes something like personal injury matters?

Mr M S Jolwana: Yes, Commissioner Fourie. Indeed that is so.

Commissioner Fourie: And then just on the comments received I wish to refer you to the comments of the Advocates for Transformation.

Mr M S Jolwana: Yes.

Commissioner Fourie: And they say this attorney of considerable experience in practice has unfortunately concentrated mostly in conveyancing in his practice. Accordingly the view is that he has not accumulated much court experience through the years. He has recently had about two or three stints on the bench during which he has shown great potential as an aspirant judge material in the near future, in the near future. However, the feeling is that presently he's not yet ripe enough for

judicial appointment at this stage but if he's afforded a few more acting stints as an acting judge he will soon be ready and will enjoy the support of the branch. In the premises, AFT does not support his appointment to the vacancy at this stage.

Would you like to comment on that Mr Jolwana?

Mr M S Jolwana: Yes, yes, Commission Fourie. Let me start by saying that -- and I'm being absolutely honest when I say that they have not been in the habit of supporting attorneys. In fact, the late Judge Dukada, they had to find a reason not to support him. I have never understood why because unlike me he had tremendous litigation experience but they still did not support him. Now that is the first thing. The second thing, let's then come to the very issue of them acknowledging my potential and then focussing on saying I need to act a little bit more. Well, I understand that I have been recommended for another acting stint in the fourth term. I would imagine that that will solve the -- that issue but secondly, the character that I have is such that those senior advocates who practice there, some of whom I go to church with, if there was an issue about the incorrect manner in which I handle court cases and all of that, that would have been brought to my attention. The leadership of the division would have spoken to me about it. The senior judges that I have had the absolute pleasure in sitting together with, sometimes hearing, you know, Commissioner Fourie matters that have been referred to the hearing of (inaudible 00:40:37) and sometimes appeals if there were concerns. They are senior enough and they have been literally mentoring me, guiding me; they would have pointed that out to me. I indicate and emphasise I'm here with their support; very senior, senior, senior judges that have said please do apply when I showed hesitation precisely because I have been understanding that you need to act for at least a minimum of three terms; they said they don't know that but in any event, even if that is so let the Commission evaluate me; let the people comment about me and let the decision be made by the Commission as to whether with all of those witnesses I have what it takes to overcome them. I am a reader, I read, I try to read a lot; that comes naturally to me. I like preparing for court because it just does not make sense for me to sit there and listen and then go home and write a judgement. I believe that there has to be issues that I need to clarify and I will not clarify those issues if I do not understand even the papers before me. So, I believe that those fears should be allayed and to the extent

that they need to be taken care of my character, the way I do things, will do that.
Thank you. Thank you Commissioner.

Commissioner Fourie: As you're aware I'm a practicing attorney as well.

Mr M S Jolwana: Yes.

Commissioner Fourie: I'm obviously sympathetic towards the cause of attorneys.
So, what you are suggesting on the comments of the Advocates for Transformation
is that there may be some advocates that still hasn't come around to the idea that
attorneys might also make good judges?

Mr M S Jolwana: Indeed, indeed.

Commissioner Fourie: Is that what you're saying?

Mr M S Jolwana: Thank you. Exactly, exactly Commissioner.

Commissioner Fourie: Need we then remind them that our period of articles is longer
than their period of (inaudible 00:42:49)? Thank you Chief Justice.

Mr M S Jolwana: Thank you. Thank you, thank you Commissioner Fourie.

Commissioner Fourie: It's getting title.

CJ M. Mogoeng: Commissioner Singh?

Commissioner Singh: Thank you Chief Justice. Very quickly hello Mr Jolwana.

Mr M S Jolwana: Hello, hello Commissioner Singh.

Commissioner Singh: I think it's a question Chief Justice is the pastor ready to take
the seat? That's the question. And Commissioner Fourie asked you the question on
6.2. I see the Society of Advocates of Transkei.

Mr M S Jolwana: Yes.

Commissioner Singh: You've seen their comments. They praise you; you're a perfect gentleman. Well, I can see that. Of clean and sober habits; I don't know about that. His moral fibre is also impeccable, well spoken, yes, and friendly in disposition. But in the end they say similar to the AFT in the premises his appointment is not supported by our bar at this stage and the feeling is that there should be no appointment made to fill the two vacant positions at this stage. So, I'd just like you to comment on that and my last question which you can comment on together.

CJ M. Mogoeng: I think that one was put to him.

Commissioner Singh: The AFT and the --

CJ M. Mogoeng: No, no, no. That particular one as well.

Commissioner Singh: Alright, fine. But when we look at the questionnaire that you filled in, that's sent to us, you know, we read that --

Mr M S Jolwana: Yes.

Commissioner Singh: -- and then we hear you, you have an interview. On question ten what would you regard as your most significant contribution to the law and the pursuit of justice in South Africa? And your answer to that is nothing worth mentioning.

Mr M S Jolwana: Yes.

Commissioner Singh: You go on to say something else but your immediate answer is nothing worth mentioning. Isn't there something that you should have mentioned there when you filled in this? You are saying nothing worth mentioning. Thank you.

Mr M S Jolwana: Commissioner Singh, I -- when I say that it goes against my character to serve in the structures in which I did and do the things that I did and then use that experience for something that others could easily see as something of a personal benefit for me. I wanted at some stage not to go beyond nothing worth mentioning but then I was persuaded by others that the Commission does not necessarily know about you; you need to mention these things and I is -- then said to that -- to them on condition that my nothing worth mentioning remains there because when I worked in the BLA and The Law Society it was at the instance of other attorneys who do not have the privilege that I do of coming here and answer these questions and have potentially an opportunity to serve at a different level. Now for me to boast about an opportunity that I didn't deserve but was handed literally to me by the elders in the profession, it just does not sound right and so that was in that context that I said those things.

Commissioner Singh: Thank you. Thank you Mr Jolwana.

CJ M. Mogoeng: Well, I don't ordinarily say this but let me say that's unusual selflessness.

Mr M S Jolwana: Thank you Chief Justice.

CJ M. Mogoeng: An amazing kind of humility really.

Mr M S Jolwana: Thank you Chief Justice.

CJ M. Mogoeng: President Maya?

President Maya: Thanks CJ, I'll pass.

CJ M. Mogoeng: Commissioner Mpofu.

Commissioner Mpofu: Thank you Mr Jolwana. I'm not going to ask you a question but I think through you I'll address you and Mr Fourie here by saying that I'm a member of Advocates for Transformation and I was also an attorney so I did both the

privilege and the board. And for the record I want to say that even at the risk of annoying that branch there I support you --

Mr M S Jolwana: Thank you.

Commissioner Mpofu: -- after having heard your interview.

Mr M S Jolwana: Thank you very much. Thank you, thank you Commissioner.

CJ M. Mogoeng: I must say Commissioner Mpofu I should have done some orientation. There used to be a Commissioner Van der Merwe, he did to me what he used to do to people. I will vote for you so as soon as I took over as Chief Justice I stopped it because sometimes they say it and there's another candidate coming. You've already voted before you've heard another one but anyway I'll excuse it for today. Commissioner Norman?

Commissioner Norman: Thank you Chief Justice. Good afternoon Mr Jolwana.

Mr M S Jolwana: Good afternoon Commissioner.

Commissioner Norman: Just one question. You've listed reserve judgements in 9.5.

Mr M S Jolwana: Yes.

Commissioner Norman: I just want to know whether you've since delivered those judgements.

Mr M S Jolwana: All of them and many others after that Commissioner Norman.

Commissioner Norman: Yes, thank you. Thank you Chief Justice.

CJ M. Mogoeng: Thank you very much Mr Jolwana. We really appreciate your patience with us. We should have finished a long time ago; we delayed you. We apologize to you. You are excused.

Mr M S Jolwana: Thank you Chief Justice. Thank you very much.

CJ M. Mogoeng: Thank you.