



# JUDGES MATTER

**Judicial Service Commission interviews**

**12 April 2018.**

**KwaZulu-Natal Division of the High Court**

**Interview of Adv G R Thatcher**

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CJ M. Mogoeng: Good afternoon, Advocate Thatcher.

Adv G.R. Thatcher: Good afternoon, Chief Justice.

CJ M. Mogoeng: Are you well?

Adv G.R. Thatcher: I have an incredible cold and huge bout of hick-ups. So I am afraid what I say is going to be punctuated by hick-ups.

CJ M. Mogoeng: I am sorry to hear that. For how many years have you practised law? I will pretend that you have never been here just so that we warm-up first.

Adv G.R. Thatcher: Started at the Bar in January 1985. So that is what, thirty-three years.

CJ M. Mogoeng: And what did you focus on? Which areas of the law did you focus on?

Adv G.R. Thatcher: Well when I started they had the compulsory system with the pro-deo system so for the first five or six years of your practice many trials use to do about four or five pro-deo trials a month so that was the criminal aspect of it. And I gradually drifted into motion court and more civil work and, you know, as you get more senior my preference was for the civil work. So you tend to lose contact with the Prosecutors and the Magistrates and the Attorneys and drift away from the criminal side, so it has been the civil side.

CJ M. Mogoeng: Without in anyway fearing that somebody would say you are arrogant or something how much did you begin to flow in lucrative work?

Adv G.R. Thatcher: Well I am not sure that I –

CJ M. Mogoeng: I was trying to put it -

Adv G.R. Thatcher: -- I, I have a simple lifestyle I do not need money.

CJ M. Mogoeng: You do not need it?

Adv G.R. Thatcher: I do not need it. I do not need a lot of money. I have a simple lifestyle. I am not a materialistic person. I have just been incredibly fortunate at the Bar our overheads are very low in comparison for instance with Attorneys –

CJ M. Mogoeng: Yes.

Adv G.R. Thatcher: -- So if you do have a good month there is a very direct correlation between the good month and what goes into your – you feel it.

CJ M. Mogoeng: Yes.

Adv G.R. Thatcher: But it has been steady. I have been very fortunate, you might have seen from the cases that I have referred to in my application I was in demand with senior counsel, so I had a lot of very interesting cases with very experienced silks, so I was very lucky.

CJ M. Mogoeng: I do not know if the rule still applies, was it not some two thirds or something that the junior would charge of silk?

Adv G.R. Thatcher: When one starts out the custom is half, and as one gets more senior it is really up to the senior decide how much worth you have been to him and he would then turn around and say well, two thirds this time. But you would generally a junior would start off on half.

CJ M. Mogoeng: I used to insist on two thirds. Anyway, I thought you would need money in order to be able to assist those who need assistance even at the Bar. The more money you have the more possibility you have to bring in a junior even if it means you give him or her something from your own pocket.

Adv G.R. Thatcher: Yes. It is -

CJ M. Mogoeng: It is not so much about you, but others that you could help -

Adv G.R. Thatcher: Yes.

CJ M. Mogoeng: -- I thought you think about it along those lines.

Adv G.R. Thatcher: I certainly, you know, that is one nice thing about the Bar is the collegial atmosphere and I do not have a huge senior silk practice. The opportunity to employ juniors is limited but I have, there were two or three occasions when I brought Juniors in and it has always been on a fairly urgent basis. And you ask them for a draft, unfortunately, time has not permitted me to wait for the draft. But on daily basis, I have people coming into my chambers. The other day I had a lady come in

an absolute panic and she was about to consult with the Municipality and I said her why do you not just ask your attorney to come and consult in my chambers. And we went through that process and I assisted her there. And -

CJ M. Mogoeng: I do not understand. Was a member of the public approaching you?

Adv G.R. Thatcher: No, no a junior advocate.

CJ M. Mogoeng: Okay.

Adv G.R. Thatcher: She came for advice and I thought - it was urgent – and I suggested to her just tell your attorney we will meet in my chambers and we had a joint consultation and she went away and we settled a draft together. That is the sort of thing – and I think literally almost on a daily basis I think this legal writing lecturing helps them to get to know me and me to know them. Juniors spend a lot of time in my chambers and it is an absolute pleasure.

CJ M. Mogoeng: Yes. So you were not initially going to do the matter?

Adv G.R. Thatcher: No, no, no.

CJ M. Mogoeng: But when you were consulted, and you were advised that maybe he or she and the attorney could come in you then got involved?

Adv G.R. Thatcher: No, I made it quite clear that I was not part of the team. I was just there to assist.

CJ M. Mogoeng: To help? Yes.

Adv G.R. Thatcher: Yes.

CJ M. Mogoeng: Now I just want to give you a chance since you were here before. Just tell us why you should be the one? I won't interrupt you. I just keep quiet.

Adv G.R. Thatcher: Chief Justice, perhaps I would like to simply refer to the report that the KZN society wrote about me. You know it is not often that people, in our profession have a chance to be viewed by your peers. But they - at paragraphs 18.3 – the report says; “He would in our opinion be an asset to the judiciary and his experienced in litigation would be invaluable”. It is high praise from my colleagues and I was humbled by that. I was somewhat taken aback by the Black Lawyers Association who said that as I only acted for five instances I was therefore not fully exposed to the functioning of the High Court. It made me go back, you know I did appear before the Commission in October 2015, and I came across the report that AFT wrote about me then and it says: “that I have acted on three occasions, he has served the Bar well by educating pupils, he has a Maritime Law practice as reported judgements in Maritime Law. He is a humble person and has a progressive disposition. His dedication to the Bar, his pupillage programme demonstrates his inclination to develop new advocates and it was agreed that he would make a good judge”. That was AFT’s report to me in October 2015, so I prefer to have it from the words of a third party than me.

CJ M. Mogoeng: What do they mean by dedication to the pupillage programme?

Adv G.R. Thatcher: I have always enjoyed writing, and in the early 2000’s pupillage started to become more formalised and they started to have lectures and I started to prepare the pupils for the legal writing exam. There is a syllabus, it is a weekly syllabus they will for instance in the first week, the first week will be opinions; the second week, particulars of claim; and so on. I just found that asking new pupils to do exam question they were not ready for them. So over the years I have prepared simple questions to get them to write as opposed to debate the substantive law. And I meet with the pupils once a week, every Tuesday. I give them a little explanation and then they go away with the exercise I have set them. They deliver it to my chambers every Friday and then I mark them and then the next week we go over them. There could be lots of common errors as we go through the exercises like that, and we once a week for the first six months of the year. It is very satisfying to see their improvement and the confidence that they go, and they really appreciate it, so it is -

CJ M. Mogoeng: So out of your time you have dedicated a portion to assist pupils?

Adv G.R. Thatcher: To prepare them for the – to go through the Legal Aid syllabus with them.

CJ M. Mogoeng: Yes and you volunteer. It is not as if everybody must do it. You have decided to make yourself available.

Adv G.R. Thatcher: Yes, it has been an entirely voluntary thing. As I said I have always had an interest in writing and, you know, I fortunate in that English is my first language. You know for someone who have to start legal writing where English is not their first language it is a daunting, daunting thing where the position of a comma can change the whole sentence or statute. So it is, I have admiration for people who have to practice in a second language.

CJ M. Mogoeng: Yes.

Adv G.R. Thatcher: But it is an entirely voluntary thing and it has been a pleasure and I enjoy it.

CJ M. Mogoeng: Yes, all right. Anything else you want to add.

Adv G.R. Thatcher: No, I do not think so. You know I know the Judge President is inundated with people request to act. I have not pestered him.

CJ M. Mogoeng: People do come and say remember me, it never used to be done. People use to wait to be approached, that was a dignified way of having it done. I never knew that people would sort of approach and say, please when are you going to invite me?

Adv G.R. Thatcher: Yes.

CJ M. Mogoeng: So they do that? These days?

Adv G.R. Thatcher: I think Judge President Japie is probably in a better position to answer –

CJ M. Mogoeng: Yes, I see he is not in.

Adv G.R. Thatcher: -- I understand the position, he is inundated with people.

CJ M. Mogoeng: Okay, all right. DJP?

DJP M.I. Madondo: Thank you, CJ. Mr Thatcher, good afternoon.

Adv G.R. Thatcher: Good afternoon, DJP.

DJP M.I. Madondo: We have met earlier on. What would you regard to be your major contribution to the Bench should you be appointed?

Adv G.R. Thatcher: I would like to think that I can contribute to the more efficient running of the Division. I think over the years I think increasingly there should be more case management. Closure case management. I think that the Rules Board is formulating rules to give Judges orders in case management consultancies, give them teeth, you know the side has got to do something by such and such a date failing which, like we have with Discovery and Further Particulars and I think the efficiency of the Division could be improved by a lot more individual case management. And I think I can help with that.

DJP M.I. Madondo: Yes, what do you mean by individual case management?

Adv G.R. Thatcher: Well there is a system at the moment, I think, where hundred and twenty cases are set down on a Friday. And it is too easy for people who want to retard the progress at the litigation to get past that I think in the present system.

DJP M.I. Madondo: Yes. In the light of the demographics in the KZN Division do you think, or would you say your appointment would in any way benefit the transformation?

Adv G.R. Thatcher: If one is going to count heads, you know I am what I am, I see in AFT's report they say that there ought to be one out of one point four white judges in the Division. It is clearly not going to help the ratio, the proportion but I would like to think that the reports for instance of AFT, my relations with my colleagues see me as a person who treats everyone with respect and has the right values. But from a point of view of colour clearly, I am not going to help.

DJP M.I. Madondo: Thank you, Chief Justice.

CJ M. Mogoeng: Thank you, Deputy Judge President.

MEC W. Thusi: Thank you I am covered he has already answered the question I wanted to ask.

CJ M. Mogoeng: Thank you MEC. Commissioner T. Norman?

COMM T. Norman: Thank you, Chief Justice. Good afternoon, Mr Thatcher.

Adv G.R. Thatcher: Good afternoon, Commissioner.

COMM T. Norman: We are colleagues -

Adv G.R. Thatcher: Yes.

COMM T. Norman: -- And I am aware of your involvement in pupillage matters. But in answer one of the question by the Chief Justice you did indicate that look sometimes you do not have time to wait for a draft and I do not want to misunderstand that. By saying that do you mean that you do not work with juniors because you are impatient to wait for drafts or what did you mean?

Adv G.R. Thatcher: No, it was, it was just – it was two or three occasions where I felt that I could bring someone in but there was an urgent element to it and that unfortunately perhaps they were just the wrong cases. Most of the cases that I,

where I have led people I have actually been approached by the junior counsel to lead them. It has not really been the other way around.

COMM T. Norman: So, in other words, you have not had matters where you felt on your own that you would want to involve a junior, in particular, a black junior?

Adv G.R. Thatcher: I just felt that there has not been the right occasion. Yes.

COMM T. Norman: Thank you. Thank you, Chief Justice.

Adv G.R. Thatcher: But I really do not believe I am an impatient person.

COMM T. Norman: Thank you, I just wanted to clarify it. Thank you.

CJ M. Mogoeng: Why did you seem to think that none of those juniors would be able to work as fast, as fast as circumstances demanded?

Adv G.R. Thatcher: It was, there is an imperative, I mean I have learned a lot from being junior to senior counsel.

CJ M. Mogoeng: Sure, yes.

Adv G.R. Thatcher: And it is the way to go, but unfortunately the size of my practice does not actually enable me to do it -

CJ M. Mogoeng: Okay.

Adv G.R. Thatcher: -- On anything like the scale which ought to happen and which happened to me. So I was very fortunate.

CJ M. Mogoeng: So it is not about urgency, it is about the size?

Adv G.R. Thatcher: Both, a bit of both. Yes.

CJ M. Mogoeng: Okay. Thank you very much, Advocate Thatcher. You are excused, sir.

Adv G.R. Thatcher: Thank you.