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HEARING PROCEEDINGS

November 14, 2022

Judicial Merit Selection Commission

REPORTER: Jennifer Nottle

1 STATE OF SOUTH CAROLINA)

2 COUNTY OF RICHLAND)

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JUDICIAL MERIT SELECTION COMMISSION

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TRANSCRIPT OF PUBLIC HEARINGS

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BEFORE: SENATOR LUKE A. RANKIN, CHAIRMAN

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MICAJAH PICKETT "MICAH" CASKEY, VICE CHAIRMAN

10

SENATOR RONNIE A. SABB

11

SENATOR SCOTT TALLEY

12

REPRESENTATIVE J. TODD RUTHERFORD

13

MS. HOPE BLACKLEY

14

MR. J.P. "PETE" STROM

15

MS. LUCY GREY MCIVER

16

MR. ANDREW N. SAFRAN

17

REPRESENTATIVE WALLACE H. "JAY" JORDAN

18

MS. ERIN CRAWFORD, CHIEF COUNSEL

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DATE: November 14, 2022

21

TIME: 9:54 a.m.

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LOCATION: Gressette Building

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1101 Pendleton Street

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Columbia, South Carolina 29201

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REPORTED BY: JENNIFER NOTTLE, COURT REPORTER

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1 CHAIRMAN RANKIN: All right we are on the record for
2 the fall '22 session of JMSC screening. Welcome
3 everyone. I want to welcome the only new face to
4 our midst -- and that is actually not one but
5 two, and they are both house members, Micah
6 Caskey, Representative Micah Caskey and
7 Representative Jay Jordan. Welcome, gentlemen,
8 welcome aboard. I want to welcome Micah and Jay
9 to this process. Y'all are familiar with it,
10 having seen the work product that comes out of
11 this. Now you're going to be a part of producing
12 that work product. And so, formally, let me just
13 say this. We are called pursuant to Chapter 19
14 of Title 2, requiring the review of candidates
15 for judicial office. The function of the
16 Commission is not to choose between the
17 candidates, but rather to declare whether the
18 candidates who offer for positions on the bench
19 are, in our judgment, qualified to fill the
20 positions they seek. The inquiry we undertake is
21 a thorough one centered around our nine
22 evaluative criteria involving a complete personal
23 and professional background check on each
24 candidate. And for these public hearings,
25 they're convened for solely the purpose of

1 screening candidates. This slate we screen one
2 open seat in the Supreme Court, one seat for re-
3 election and one open seat on the Court of
4 Appeals, two open seats on the Circuit Court, two
5 seats for re-election and five open seats on the
6 Family Court, an open seat on the Administrative
7 Law Court, one seat for Master-in-Equity and four
8 retired judges. And with those introductory
9 remarks, unless there are comments from our new
10 members, you'll have ample time to be heard
11 later. We will request that you defer now, but
12 again, welcome. This is an interesting process
13 that has been tried and true. And hopefully each
14 go round we learn and we do exactly as we're
15 charged by the statute to do. And again, I
16 welcome you with that. And now on motion of my
17 motion maker to the right. Erin, she's
18 motioning, and so we want to hear from Erin
19 Crawford, counsel to the Committee.

20 MS. CRAWFORD: Mr. Chairman, before we go into
21 executive session I just want to introduce the
22 screening attorneys and the staff. If you could
23 stand and wave so the Commission members will
24 know who to contact if they have a question about
25 any candidate. For the Senate, we have Paula

1 Benson, Bob Maldonado, Maura Baker, Madison
2 Faulk, Sharon Wilkinson, Breeden John, Catherine
3 Hart -- I don't see Catherine. House, we have
4 Emma Dean, Jimmy Hinson, Patrick Dennis, Haley
5 Mottel Symmes, Julia Foster, Emma Hall, Erica
6 Starnes and Macey Webb. Senate staff I'd like to
7 thank that are helping a great deal, Maxine
8 Henry, Elizabeth Harrell, Susan Gibson, Marie
9 Waller, of course, Lindi Putnam. Mr. Chairman,
10 at this time I'd like to request a vote on the
11 cover page for the draft report. It shows that
12 the report will be delivered on Thursday, January
13 12th, 2023, and the 48-hour period ends at noon
14 on Tuesday, January 17th, 2023. The election
15 tentatively scheduled, pursuant -- you know,
16 depending on the concurrent resolution, for noon,
17 Wednesday, February 1st.

18 CHAIRMAN RANKIN: All right. Is there a motion for
19 that?

20 SENATOR TALLEY: Motion.

21 SENATOR JORDAN: Second.

22 CHAIRMAN RANKIN: All right. Moved and seconded. All
23 in favor, say aye.

24 (Ayes are heard.)

25 MS. CRAWFORD: Mr. Chairman, at this time I'd like to

1 distribute the signature page.

2 CHAIRMAN RANKIN: For the record, unanimously adopted.

3 MS. CRAWFORD: Okay, sorry. Can we please distribute
4 the signature page for the report. Lindi will do
5 that.

6 CHAIRMAN RANKIN: Very well.

7 MS. CRAWFORD: At this time, Mr. Chairman, I'd like to
8 suggest that we move in executive
9 session regarding legal matters.

10 CHAIRMAN RANKIN: All right. Any opposition of that.
11 Motion by Senator Talley, seconded by
12 Representative Jordan. All in favor, say aye.

13 (Ayes are heard.)

14 CHAIRMAN RANKIN: There being no opposition, we will
15 go in executive session.

16 EXECUTIVE SESSION

17 CHAIRMAN RANKIN: All right. Thank you, ladies and
18 gentlemen. We are now back on the record, and
19 for the record I'd like to state that in
20 executive session no decisions were made and no
21 votes taken. And we will now proceed to our
22 first candidate. I'm sorry. First before we get
23 to our first candidate, we are now going to the
24 election of the Vice Chair of JMSC. Motion of
25 Representative Jordan.

1 REPRESENTATIVE JORDAN: Thank you, Mr. Chairman. I'd
2 like to nominate Representative Micah Caskey to
3 serve as your Vice Chairman.

4 CHAIRMAN RANKIN: All right. And seconded by Senator
5 Talley and a host of others. Any other
6 nominations? There being none, all in favor of
7 Representative Caskey being Vice Chair, say aye.

8 (Ayes are heard.)

9 CHAIRMAN RANKIN: And there are no dissenting votes.
10 Welcome Representative Caskey, Chairman Caskey.
11 Now, to our first candidate, and that is Judge
12 Anderson, who will be making his way in.
13 Welcome, and there you are. Come on around, sir.
14 All right, Judge Anderson, welcome.

15 THE HONORABLE RALPH K. ANDERSON, III, being duly
16 sworn, testifies as follows:

17 CHAIRMAN RANKIN: Welcome. You have submitted for us
18 a PDQ, Personal Data Questionnaire and Sworn
19 Statement. And those are ready to be submitted
20 by you to the Commission; is that right?

21 JUDGE ANDERSON: Correct.

22 CHAIRMAN RANKIN: Any changes, additions, deletions
23 that you would like to make before they're
24 admitted into the record?

25 JUDGE ANDERSON: Yeah, I've made a --

1 MS. PUTNAM: Yes, I have your amendment.

2 JUDGE ANDERSON: I've got an amendment.

3 CHAIRMAN RANKIN: But any other than those --

4 JUDGE ANDERSON: No, no other amendments.

5 CHAIRMAN RANKIN: Okay, very well. And you have no
6 objection to them being entered into the record,
7 do you?

8 JUDGE ANDERSON: No, sir.

9 (Exhibit Number 3 was marked for identification
10 purposes - (17 pages) Personal Data Questionnaire for
11 The Honorable Ralph K. Anderson, III.)

12 (Exhibit Number 4 was marked for identification
13 purposes - (3 pages) Amendment to Personal Data
14 Questionnaire for The Honorable Ralph K. Anderson,
15 III.)

16 (Exhibit Number 5 was marked for identification
17 purposes - (6 pages) Sworn Statement of The Honorable
18 Ralph K. Anderson, III.)

19 CHAIRMAN RANKIN: Okay. Lindi has now handed those to
20 our Court Reporter, and they are now part of the
21 record. Judge Anderson, as you know, in this
22 process the Commission investigates your
23 qualifications for the bench. Our efforts to
24 conduct a thorough investigation focuses on nine
25 evaluative criteria, including a ballot box

1 survey, a thorough study of your application
2 materials, verification of your compliance with
3 the state ethics laws, a search of newspaper
4 articles in which your name appears, a study of
5 previous screenings and a check for economic
6 conflicts of interest. No affidavits have been
7 filed in opposition to your election, and no
8 witnesses are here to testify. You have the
9 opportunity to make a brief opening statement if
10 you would like to. If not, we will move to
11 questions of you.

12 JUDGE ANDERSON: I'll waive that.

13 CHAIRMAN RANKIN: All right, sir. Thank you. Paula
14 Benson will now direct questions to you. Thank
15 you, so much.

16 MS. BENSON: Thank you, Mr. Chairman. I note for the
17 record that based on the testimony contained in
18 the candidate's PDQ, which has been included in
19 the record with the candidate's consent, that
20 Judge Anderson meets the Constitutional
21 requirements for this position regarding age,
22 residence and years of practice.

23 JUDGE ANDERSON - EXAMINATION BY MS. BENSON:

24 **Q. Judge Anderson, why do you now want to serve as a**
25 **judge on the Supreme Court?**

1 A. I'll start by saying, as I have in the past, that I
2 recognize that there are so many lawyers and judges
3 that would love to be on the Supreme Court. And
4 for me to ask for the privilege to do that I
5 recognize that that is a significant step for
6 anyone to take. And I'll say that my journey to be
7 on the Supreme Court has taken an interesting path,
8 because when I started with the Attorney General's
9 office, my hopes and dreams were to be a trial
10 lawyer. And I was told -- I'm in a wheelchair that
11 -- and back then we didn't have the ADA. So I was
12 told I couldn't be a trial lawyer because my hands
13 don't work that well. I couldn't handle exhibits,
14 but I found out about magistrate court cases being
15 tried in Greenville. So I drove up back and forth
16 to Greenville to prove I could do that level. And
17 I worked my way up to be the -- a if not the lead
18 trial lawyer for the Attorney General's office in
19 both the criminal and civil side, because I helped
20 Ed Evans. And then the opening of the
21 Administrative Law Court -- or the Administrative
22 Law Court came into existence. I ran for it, got
23 elected in the second wave. And I even had second
24 thoughts then because I loved being a trial lawyer.
25 Although I will say I used to go in the court --

1 and I think some of y'all can relate to this --
2 right when the case was again -- the stress of the
3 case would come down, and I'd be thinking why the
4 heck does anyone ever want to be a trial lawyer.
5 And then as soon as the case began, I would be why
6 would anybody want to be anything but. But I
7 started at the Attorney General's office -- I mean,
8 at the Administrative Law Court. And at the time
9 we didn't have a lot of appellate jurisdictions.
10 Originally it was only around ten percent. Now
11 it's evolved around 60, but I'll just cut to the
12 chase a little quicker. I just over the years --
13 both the appellate jurisdiction of our court and
14 also even the contested case jurisdiction, we hear
15 a lot of statutory construction issues. So our
16 cases, you know, are fairly a gambit. We have to
17 do findings of facts and conclusions of law.
18 They're a gambit of that of an appellate case. But
19 I've developed a love for appellate law. And I
20 think I would do a very good job, and that's part
21 of my path why I would like be on the Supreme
22 Court.

23 **Q. Judge, how would you describe your general judicial**
24 **philosophy?**

25 **A.** My judicial philosophy, I believe -- I guess that

1 comes somewhat from my father is that I believe in
2 hard work. And I believe in issuing orders that
3 are scholarly, you know, well reasoned. I enjoy
4 that aspect of blending the understanding of
5 statutory construction with logical principles.
6 That would be my approach concerning that question.

7 **Q. What is your vision for the future of the judicial**
8 **system, and what changes would you advocate and**
9 **why?**

10 A. I would hope that the judicial system for the
11 future would just maintain its respect and be a
12 forum for people to come and to receive justice
13 under our laws. There's a lot of ways to answer
14 that question, but for the future I think currently
15 there's a backlog of cases. I really think that
16 the court needs to take that on and allow people --
17 and we have articles, Article 1, Section 9, that
18 people have a right to a speedy resolution of their
19 cases therein in the courts. And I think that
20 needs to be addressed. I think we're going to have
21 to address the blending of technology. We've seen
22 that with Covid that technology is coming to the
23 forefront in the judiciary. But, you know, we've
24 got to marry that with the aspect of having in-
25 person hearings. Because I just think that just

1 like we're here today, rather than doing this via
2 Zoom or whatever. I think there's a benefit to be
3 gained by that. So I think I would see that as an
4 important issue coming forward.

5 **Q. What deference would you give to the actions of the**
6 **General Assembly?**

7 **A.** Well, on that one I'll start with the Constitution.
8 Article 1, Section 8 says, in the government of
9 this state, the legislative, executive and judicial
10 powers shall be forever -- shall be forever
11 separate and distinct from one another. And that's
12 a pretty strong statement. And it goes on to say,
13 though, that no person or persons exercising the
14 functions of one said department shall assume or
15 discharge the duties of any others. So, I mean,
16 you've got the principles that are carried forward
17 about giving deference to the co-equal branches of
18 government, the political question doctrine. But
19 in our Constitution, at least in our State, is even
20 more so emphasized. So I think that judicial
21 deference in that regard is important -- or
22 judicial restraint, judicial deference. I guess
23 when you speak of judicial restraint, the question
24 is what are you restraining from, and what you're
25 restraining from is stepping on the toes of co-

1 equal branches of government. And then the next
2 question would be in what regard are you deferring
3 to, and that would be -- two scenarios there I
4 would see is -- one would be the fact that where
5 the General Assembly has already passed laws, there
6 would be deference there. But then the secondary
7 aspect is well, if the case comes before you, and
8 there is no laws that have been passed, but it is
9 still an issue, the case before you -- the issue is
10 still one that should reside in the General
11 Assembly. Do you scratch that itch to try to put
12 your stamp on how things should be, tell people
13 what you think is fair or not, or do you leave that
14 to the branch of government that has been granted
15 that authority? And I would leave it to the
16 General Assembly.

17 **Q. Judge, congratulations on having written a book,**
18 **The Majesty of the Lord's Prayer, which is a legal**
19 **analysis of the Lord's Prayer. Have you given that**
20 **book out to members of the General Assembly at any**
21 **time?**

22 **A. Yes, a few of them.**

23 **Q. Could you tell the Commission when that was and if**
24 **you were a candidate for judicial office at that**
25 **time?**

1 A. It's been some time ago. I can't even remember
2 when it was published.

3 **Q. The publication date of the volume was December the**
4 **23rd, 2020.**

5 A. It was given out based shortly after -- or when I
6 gave it out. I mean, shortly after it was
7 published. It was to those members of the General
8 Assembly that were in a prayer group that I was in.
9 And then there's a few others that were pastors,
10 one situation was a pastor's wife, but I thought
11 that would be helpful for them. But I will note
12 that the book is valued at less than \$25. So it's
13 not even something that would be reportable, and I
14 really don't think that any member of the General
15 Assembly would be influenced by a 250-page book
16 with 700 footnotes. They may use it more to
17 facilitate nap time.

18 **Q. And Judge, just to be clear, when you gave the book**
19 **out, you were not a candidate for judicial office;**
20 **is that correct?**

21 A. Correct, correct.

22 **Q. Thank you, Judge. Judge, the Commission received**
23 **566 ballot box surveys regarding you with 86**
24 **containing additional comments. And most of those,**
25 **had some very positive comments. In fact, 73**

1 praised you for your intelligence, your
2 professionalism, your fairness, your ethics, your
3 work ethic and your analytical abilities. Thirteen
4 of the comments expressed some concerns, and they
5 were mostly divided into two areas. One, that you
6 might show bias toward state agencies. How would
7 you respond to that?

8 A. The last time I was in here, it was split. And
9 half the people said -- or made the comment that I
10 showed bias toward state agencies. The other half
11 made the comment that I showed bias toward
12 businesses. The bottom line is I just call it like
13 I see it. And I guess some people are disappointed
14 when I call it like I see it. But I do my best not
15 to show bias toward anybody. My job is to follow
16 the law, and that's where my direction is made when
17 I consider a case.

18 Q. Judge, the other concern is about your conduct in
19 the courtroom, that sometimes you seem to have a
20 superior attitude in the courtroom. How would you
21 respond to that comment?

22 A. Well, I would respond to that that anyone that's
23 ever been in my courtroom, I think they would
24 completely disagree with that. I try to be -- as
25 the judicial canons instruct us, to be patient,

1 courteous and dignified toward the litigants and
2 the parties and the lawyers in the case.

3 MS. BENSON: I would note that the Midlands Citizens
4 Committee reported that Judge Anderson is qualified
5 in the evaluative criteria of Constitutional
6 qualifications, physical health and mental
7 stability and well qualified in the criteria of
8 ethical fitness, character, professional and
9 academic ability and experience, reputation and
10 judicial temperament. The Committee further noted,
11 "very sincere in his relationship with the law,
12 good work ethic that will get opinions out sooner."

13 **Q. Judge, I have a few housekeeping issues. Since**
14 **submitting your letter to run for this seat, have**
15 **you contacted any members of the Commission about**
16 **your candidacy?**

17 A. No.

18 **Q. Are you familiar with Section 2-19-70, including**
19 **the limitations on contacting members of the**
20 **General Assembly regarding screening?**

21 A. Yes, I am.

22 **Q. Since submitting your letter of intent, have you**
23 **sought or received the pledge of any legislator**
24 **either prior to this date or pending the outcome of**
25 **your screening?**

1 A. No.

2 Q. Have you asked any third parties to contact members
3 of the General Assembly on your behalf, or are you
4 aware of anyone attempting to intervene in this
5 process on your behalf?

6 A. No.

7 MS. BENSON: Mr. Chairman, I would just note for the
8 record that any concerns raised during the
9 investigation regarding this candidate were
10 incorporated into the questioning of the candidate
11 today. I have no further questions.

12 CHAIRMAN RANKIN: Okay. Thank you, Ms. Benson.

13 Questions by members of the Commission.

14 JUDGE ANDERSON - EXAMINATION BY CHAIRMAN RANKIN:

15 Q. Judge Anderson, I just want to just start one --
16 not the last question, but near the end. You gave
17 me a copy of that book about a year ago, a year and
18 a half ago, two years ago, maybe?

19 A. Actually you're the only person that I have ever
20 actually ever given a book to who turned around and
21 paid me for it, so --

22 Q. Well, let the record reflect. Well, but that was
23 well before any interest in --

24 A. Yeah.

25 Q. And so in the vein of that book, I want to know,

1 and having not found this or read close enough to
2 see, why do the Presbyterians say -- shorten it as
3 compared to the Baptists with the Lord's Prayer,
4 those who trespass against me versus the
5 Presbyterian version of that prayer?

6 A. I don't know the Presbyterian version of the
7 Prayer, so you would have to tell me that for me to
8 respond.

9 Q. Well, debts and debtors forgive -- anyway, so it is
10 very efficient --

11 A. Personally I -- all right. I'm familiar with that
12 underlying issue, but I think that just the better
13 rendition of the Hebrew is debt and debtors. And
14 if you had read my book, you would have seen the
15 point that I made that when you consider debts, you
16 consider not just the sin, the trespass, but the
17 results of that sin and trespass, that you've
18 committed, and you owe a building of more and more
19 and more debt. And that debt is owed to the very
20 person that you were seeking the forgiveness from,
21 and that would be God.

22 Q. Well, it's definitely efficient. I grew up
23 Baptist, and there are far fewer words in the
24 Presbyterian vernacular of that with debt and
25 debtors --

1 A. Yeah.

2 Q. -- but shifting to -- I'll call it the religious or
3 Christian theme, you've got, as one of your letters
4 of reference, the retired Shandon Baptist Church,
5 right?

6 A. Yeah.

7 Q. Dick Lincoln has written on your behalf as well as
8 Mr. Jones, who you worked with years ago.

9 A. One of the duties I had with the Attorney General's
10 office was I was counsel to the State Ethics
11 Commission for several years until they finally got
12 their own in-house general counsel. And I gave
13 legal advice to the Ethics Commission and also,
14 depending upon the chairman, I would rule on
15 evidentiary issues in the Commission, or I would
16 give advice on the evidentiary issues.

17 Q. Well, a couple of the highlights in terms of
18 humility, professionalism, work ethic and
19 courageous. So anyway, nice things to have said
20 about you in your walk and your quest to become a
21 Supreme Court justice.

22 A. My walk? Just messing with you.

23 Q. You said it. I didn't. But it is a closer walk
24 with thee; right, isn't that the song?

25 A. Yeah.

1 Q. So I don't think they changed that, but you, sir,
2 are a mark of courageousness that I've admired for
3 a long time.

4 CHAIRMAN RANKIN: So with that, questions by other
5 members of the Commission? Representative
6 Rutherford.

7 JUDGE ANDERSON - EXAMINATION BY REPRESENTATIVE RUTHERFORD:

8 Q. Good morning. Something that you kind of touched
9 on, and I was taking notes on something else, but
10 we talked about judicial economy and moving cases.
11 And something that I've struggled with lately --
12 and I don't want to burden every candidate with it,
13 but I probably will -- what I believe is now the
14 antiquated notion that a criminal case is old after
15 one year. And it has come up lately because the
16 chief has put an emphasis on changing the way that
17 our docket is structured. And the courts have kind
18 of followed that lead with, I believe, the problem
19 being that defendants are getting the short end of
20 the stick because they're being forced into the
21 courtroom when the only person that wants them in
22 there is the chief and the chief judge at that
23 point. But when I first started practicing law in
24 '96, we were basically doing murders by blood type.
25 Type O -- and the offender had Type O blood, so

1 most likely you're the guy that did it. But we've
2 now moved on to DNA and cell phone dumps and social
3 media and all of these things that took a criminal
4 case and made it where -- again, going backwards,
5 the first murder case that I ever was given in the
6 solicitor's office was a file that had eight pieces
7 of paper in it, a couple of pictures, an incident
8 report, and that was it. And now a DUI case has
9 three body cams. It had two dash cams. It has
10 statements by the defendant and statements by
11 officers. And when that case comes to trial,
12 you're not doing your client a good service if
13 you're not looking at the social media of all of
14 the potential jurors and the social media of the
15 police officers because of all the data that we now
16 have available to us that, as lawyers, we have to
17 look into. And so, cases that were, again when I
18 first started, a year old, because they were
19 legitimately a year old, and that was technically
20 old, are now at this point just beginning because
21 there's so much information and so much obligation
22 by lawyers to consume all of that and then put out
23 a just result. So how is it that we are going to
24 take all of that and create a construct that allows
25 for us to be honest with the citizens of this state

1 and say, what used to be old is now at some points
2 in its infancy and somewhat just beginning. And so
3 to make it so that every criminal lawyer and every
4 prosecutor and every criminal judge must try and
5 meet that one year mark or we have somehow fallen
6 behind to me is antiquated. But not only that, it
7 is causing a great deal of stress on those of us
8 that practice criminal law. Do you have any ideas
9 as to how we can address that and deal with what,
10 again, was the practice of law but no longer is at
11 least in the field that I practice, which is mostly
12 criminal law?

13 A. I'll start by saying that a lot of times when
14 lawyers ask questions that long, I say that that
15 question ought to be taken out and shot. But your
16 question started with that which the Chief Justice
17 has been doing. And you seem to be asking me -- if
18 you go through the logical progression of that
19 question, that potentially I may be stepping on the
20 toes of the Chief Justice of whom's court I wish to
21 sit upon.

22 Q. Or in the seat of at some point.

23 A. Well --

24 Q. And that's why we have to ask now. So --

25 A. Okay. But you could also ask me if I ever had the

1 privilege of doing that -- but I think that the
2 Supreme Court should always be attuned to both
3 sides. And it doesn't hurt -- sometimes things can
4 get so bogged down with committees. But I think
5 given the scenario that you just gave, it wouldn't
6 hurt to have a committee of lawyers on both sides
7 who're here to hear that issue out. I do recognize
8 that -- I mean, I'm with you. I was prosecuting
9 felony DUI cases back when they were pretty simple
10 and I was asking people about whether they had a
11 refrigerator in the back of the car because the
12 beer was cold, but -- and murder cases, too, that
13 just didn't have that much paperwork to them. But
14 there needs to be a happy medium, because you still
15 need to have a speedy trial. And it behooves
16 defense lawyers sometimes. The older the case
17 gets, the more advantage it is to the defense. But
18 my answer would be that I would -- the approach
19 that I would take is to hear from both sides and
20 let's just see if we can come up with a time frame
21 to say, okay, in this type case, we need to look --
22 I think it would be individual cases too. So you
23 would ultimately reach more of an instructive
24 rather than a bright line test of if this case
25 involves this complexity of the law, then the

1 lawyer needs to be given time to develop it. And I
2 think you would instruct the circuit court to be
3 attuned to that. But maybe attuned to that with a
4 more developed understanding as a result of this
5 committee approach I'm thinking. Does that help?

6 Q. It does, and it's -- as we refer back to the civil
7 side, if it's a car accident. If a car accident
8 happens today, a lawyer has three years to file the
9 case. After they file it, typically in Richland,
10 you're at trial within about the first year. So
11 you're four years old before the case ever gets up
12 to the point where it's in court, potentially. And
13 at that point, the lawyers can decide on both sides
14 to 40J it and move it back even further.

15 A. Yeah.

16 Q. But there's no mechanism like that on the criminal
17 side, and --

18 A. No mechanism for the filing of it. When you say
19 that -- a criminal case can be brought even further
20 back than three years. The issue is not
21 necessarily when the case is brought. It's the
22 discovery that is allowed the lawyer representing
23 their clients that they're allowed to make after
24 the case is brought; is it not?

25 Q. Well, that's part of the problem in that, for

1 example, if you compare the federal courts to the
2 way that we do it in the state, and seemingly after
3 Langford, we have tried to move the state court
4 system to be more like the federal courts. The
5 federal courts typically are doing years of
6 investigation before they actually bring the
7 charges. In state court, they may go out and make
8 an arrest today and then continue to do
9 investigation, investigation, investigation up
10 until six months, a year later. While they're
11 still investigating, maybe they even bring new
12 charges, which the statewide grand jury does all
13 the time. But all the while that case is ticking
14 to become at that year old mark old when the
15 investigation has not even been complete. And at
16 that point, as soon as it's declared an indictment,
17 a charge or whatever, the defense lawyer -- the
18 perception is he's gaining some advantage by this
19 case getting old. Where the new model is, there's
20 so much investigation still going on --

21 A. I think I could stop you there.

22 Q. All right, go ahead.

23 A. The one year scenario or time frame you just gave,
24 under a case like that, it's somewhat silly, isn't
25 it?

1 Q. It is.

2 A. And that would be my response, obviously. If the
3 prosecutor's still investigating the case, and the
4 defense lawyer has to respond to the investigation,
5 once all that's laid in your lap -- so -- but under
6 the scenario you just gave, you would need time to
7 respond to that, which you've been given. You
8 can't just throw it in your lap and ask you to walk
9 into court the next day. For instance, the DNA --

10 Q. But how do you address that?

11 A. -- the DNA results, you --

12 Q. Well, I think you're on target. The problem is,
13 how do you address that en masse? How do you
14 address it so that the lawyers --

15 A. I don't think you can.

16 Q. -- and the reason why, because as a criminal
17 defense lawyer I walk into court, and this is the
18 hand I've been dealt. I'm having to now ask for a
19 continuance. And the judge is going, oh, you're
20 going to get an advantage, because this case is
21 getting older. And so if I give you a continuance,
22 I've got to give everybody else a continuance. The
23 case is getting older on my docket. The chief says
24 I've got to move them. So en masse, how do we
25 start to recognize -- because currently the system

1 doesn't have a way to recognize what you just said

2 --

3 A. Yeah, but what you -- the point I was making is you
4 change the en masse approach, that you recognize
5 that cases should be viewed on a case-by-case
6 basis. And you may have an en masse fundamental
7 approach, but the court should be instructed that
8 that is only a fundamental or general way of
9 looking at the case. But you -- when it's laid at
10 your lap, you should give more time for any
11 attorney to develop their case so they can properly
12 represent the client.

13 Q. Lastly, something that we've talked about up here
14 for a while and has obviously gained no traction.
15 How do we deal with lawyer lifestyle? How do we
16 make sure that a lawyer who needs time, who needs
17 mental space, who needs family time -- how do we
18 ensure that a lawyer is capable of getting the time
19 that they need to spend with their family to do
20 whatever it is they're entitled to do under any
21 other scenario but for the fact that they're a
22 lawyer and have to get permission from a judge in
23 order to even take time off, if we have judges that
24 don't sign orders of protection for lawyers. Or
25 that tell lawyers you need to go check with the

1 other side and see whether they're okay with you
2 scheduling this vacation six months from now? How
3 do we stop talking about mental health when we
4 bring in people to tell us what stress looks like
5 and where stress comes from when the people that
6 are giving lawyers stress don't seem to recognize
7 the fact that lawyers need family time, vacation
8 time, and at some point, if we're not accumulating
9 it the way that any other employee would who's been
10 -- he's been practicing law 40 years and still is
11 not guaranteed two weeks vacation a year. Whereas
12 almost any other employee is. How does he say,
13 guys, I'll be off this week and have the court go,
14 he's off, leave him alone. How do we get to that
15 point? North Carolina has two weeks times that a
16 lawyer gets to take without having to answer
17 depositions, without having to be bothered with
18 things. How do we get to that point here in South
19 Carolina without paying lip service to the stress
20 that we all know that we're under, but just being
21 told to deal with it?

22 A. All right. Implicit in your question was that most
23 of this problematic aspect lies at the feet of the
24 judges that you're bringing the cases or seeking to
25 continuances to. So that would need to be

1 addressed as far as -- at least the court I'm
2 running for -- the Supreme Court would instruct
3 judges in that regard, and certainly the Supreme
4 Court can develop rules that allow lawyers to
5 select two weeks a year. Man, I don't see why
6 there would be a problem with that, if that's what
7 you're asking. Now my father, I remember when he
8 was on the bench, and he was good friends with Jack
9 Swerling. I think, Mr. Safran, dad would say -- to
10 answer Mr. Rutherford's question, he just needs to
11 become Jewish, because Jack had all kinds of
12 religious holidays that he was asking off for. But
13 the two weeks, I just think that would be something
14 that any court should be open to for a year. And
15 regarding the rest, I mean, judges need to be, I
16 guess, more sensitive to the fact that if Mr. Strom
17 has been practicing for 40 years, he just needs
18 more time off.

19 **Q. And I hear you. And I appreciate you saying that,**
20 **but I can tell you -- and this is not a question**
21 **but a comment that that's not what's going on. In**
22 **fact, I received a prelim notice for 4:30 afternoon**
23 **on the Wednesday prior to Thanksgiving that**
24 **Richland County has court -- not just the county,**
25 **but, if we practice in federal court, we are in**

1 court 52 weeks a year, including the week after
2 Christmas. So at some point, without the Supreme
3 Court saying, we've got to do something here,
4 nothing's going on. It's just getting worse. And
5 so that's why I'm asking you these questions. I
6 hope that it wasn't too much of a bother that I'm
7 going to bother everyone on the panel every time we
8 get people. Because it's becoming just untenable
9 at this point, especially after Covid when nobody
10 wants to work. Lawyers can't hire staff, but we're
11 still now being pressed to do more and produce more
12 when everybody knows that there's nobody out there
13 that wants to work, but anyway, thank you.

14 CHAIRMAN RANKIN: Mr. Strom.

15 MR. STROM: Thank you, Mr. Chairman. Judge Anderson, you
16 and I were in law school together, so we've known
17 each other a good long time and --

18 JUDGE ANDERSON: That makes both of us old.

19 MR. STROM: Right. And I don't have a question. And I
20 think most of the people in this room know you and
21 know your reputation, but I'm just looking at one
22 of the comments. And it's absolute gentleman and
23 scholar, and I think that sums you up. And I don't
24 have any questions about your qualifications
25 whatsoever. Thank you for your service.

1 JUDGE ANDERSON: Thank you. That really is my goal.

2 CHAIRMAN RANKIN: Mr. Safran.

3 JUDGE ANDERSON - EXAMINATION BY MR. SAFRAN:

4 Q. Judge, I echo those comments. I think the first
5 time I had any interaction with you, you were doing
6 extradition issues for the Attorney General's
7 office many, many, many, many years ago.

8 A. That was my first job.

9 Q. And so -- one of my first. Let me look at some of
10 these comments, and we see them in everybody's. I
11 guess I've got a question that you may or may not
12 be able to answer, but to some extent it relates to
13 some of the negative comments that you got. When I
14 first started, they had a term for that. They
15 called it robitis.

16 A. That's a term is use.

17 Q. And I guess, do you feel like that that malady has
18 struck you?

19 A. Oh, my gosh, no. And the good thing is I was
20 brought up with a father who was a judge, but not
21 only a judge but one that did not have robitis at
22 all. And I think that just was an excellent
23 teaching tool to learn by someone who had
24 authority, not to let it go to his head. And I
25 have seen robitis though. And I've had to deal

1 with it in my court, but I'm pretty confident that
2 I haven't been bit by that particular bug.

3 Q. Well, and I guess my question is, is that -- I'm
4 assuming that in the times that you actually were
5 in court, I'm sure you also kind of might have been
6 the recipient of the effects of robitis from some
7 of the judges; am I fair in that?

8 A. I think only on just maybe one or two occasions,
9 but I really think -- I can remember one right now.

10 Q. And you never forgot it, did you?

11 A. No. From just now when I said I could remember.
12 No, I never forgot that one.

13 Q. Well, and I guess my question is -- and it leads to
14 the other point. We seem to get a lot of negative
15 comments about judges that make it appear as if
16 that type of attitude is commonplace. Do you think
17 it's increased in the last 30 years in terms of at
18 least what you've seen and heard? Because I
19 certainly don't have, anecdotally, a recollection
20 that it was as, I guess, widespread as what we're
21 led to believe based upon some of these ballot box
22 comments that we get. I mean, you think it's worse
23 now?

24 A. Boy, I don't -- I hate answering that question.

25 Q. Well, let me ask a different way.

1 A. No, I'll answer it. I'm not going to shy away from
2 a question. But I think I see it more with the
3 younger judges. And I will say most of the time
4 robitis is a temporary affliction. But I think
5 that robitis is a combination of sometimes
6 arrogance, but sometimes it's -- and the Chairman
7 and the screening attorney is asking about judicial
8 deference. Robitis can be, from my perspective, as
9 something -- these younger judges may come in with
10 an agenda. And the attorney comes in, and you're
11 not open minded. Because even if you believe that
12 there is a preexisting view of the law, and an
13 attorney is arguing against that preexisting view,
14 it's still important to just listen. And I've gone
15 into court absolutely convinced that one side was
16 going to lose and turn around and decide in favor
17 of that side. And so I think it's both of -- I
18 think a lot of people think of robitis as arrogance
19 and a lack of humility. But I think judges need to
20 be instructed that there is no -- they're not to
21 have an agenda. I laugh about the phrase justice.
22 They need to make sure that they don't come into
23 the courtroom and rather get -- rather than justice
24 they get just us. So I hope I've answered that
25 question.

1 Q. You have, and I appreciate it. Thank you very
2 much.

3 CHAIRMAN RANKIN: All right. Any other questions of
4 Judge Anderson. All right, sir. Thank you, and
5 this will now conclude this portion of our
6 screening process. And let me remind you, as you
7 know, that pursuant to our evaluative criteria we
8 expect you and the other candidates to follow both
9 the spirit and the letter of the ethics law. And
10 any violation of the appearance of impropriety will
11 be deemed very serious and potentially deserving of
12 heavy weight in our screening deliberations. On
13 that note, as you know, this record will remain
14 open until the formal release of the report of
15 qualifications. You may be called back at such
16 time if the need arises, which we certainly would
17 not expect. Again, thank you for your service.
18 Thank you for your willingness to offer for this
19 position, and unless you have anything further to
20 say, Judge Anderson, you are now dismissed.

21 JUDGE ANDERSON: Thank you, and thank you for your
22 questions. I would have enjoyed even more of them,
23 because I find this process interesting, but, thank
24 you.

25 (Off the Record)

1 CHAIRMAN RANKIN: Very good, thank you. I'm going to
2 recognize Erin Crawford.

3 MS. CRAWFORD: Mr. Chairman, I neglected earlier to point
4 out to the Commission that in your notebooks we do
5 have the judicial seats that we expect to screen
6 next time. And there are several new seats that I
7 have highlighted, I believe. And those are pending
8 funding in the budget. It's my understanding we'll
9 have those new seats as well. Mr. Chairman, I'd
10 like to offer and have made as exhibits to the
11 record the following: the 2022 Citizens Committee
12 Reports from the Low Country, Midland, Pee Dee,
13 Piedmont and Upstate as well as the 2022 South
14 Carolina Bar's Judicial Qualifications Report.

15 CHAIRMAN RANKIN: All right. And any objections to those
16 coming in? Hearing none, at this time those
17 reports will be marked as exhibits and entered into
18 the public record. And next we will hear from
19 Judge Gary Hill.

20 (Exhibit Number 1 was marked for identification purposes
21 - (37 pages) SC Bar Reports.)

22 (Exhibit Number 2 was marked for identification purposes
23 - (43 pages) Citizens Committee Reports.)

24 CHAIRMAN RANKIN: Judge Hill, come on up, if you will,
25 sir.

1 JUDGE HILL: Yes, sir.

2 THE HONORABLE DAVID GARRISON HILL, being duly
3 sworn, testifies as follows:

4 CHAIRMAN RANKIN: While Lindi is close by, you have
5 prepared a Personal Data Questionnaire and Sworn
6 Statement for submission to the Commission, and do
7 you have any changes that you need to make before
8 they're admitted into evidence or into the record?

9 JUDGE HILL: No, sir.

10 CHAIRMAN RANKIN: Any you have no objection to them
11 coming in, correct?

12 JUDGE HILL: No, sir.

13 CHAIRMAN RANKIN: They are now in the record. Thank you.
14 You, Judge Hill, are familiar with this process and
15 our investigation of your candidacy. We look at
16 nine evaluative criteria, which includes a ballot
17 box survey, a thorough study of your application
18 materials, verification of your compliance with
19 state ethics laws, a search of newspaper articles
20 in which your name appears, previous screenings and
21 a check for economic conflicts of interest. There
22 was one affidavit filed in opposition to your
23 election, which has been dismissed pursuant to JMSC
24 Rule 13 for failure to, on its face, state
25 allegations related to your character, competency

1 or ethics as required by our rules. And therefore,
2 no opposition is filed as to your candidacy, and
3 likewise, no witnesses are present to testify. You
4 have the opportunity to make an ever so brief
5 opening statement if you would like. Otherwise, we
6 will turn it over to Haley for questions.

7 (Exhibit Number 6 was marked for identification purposes
8 - (16 pages) Personal Data Questionnaire for The
9 Honorable David Garrison "Gary" Hill.)

10 (Exhibit Number 7 was marked for identification purposes
11 - (4 pages) Sworn Statement of The Honorable David
12 Garrison "Gary" Hill.)

13 JUDGE HILL: Other than to thank Ms. Mottel and Ms.
14 Crawford, I'll spare you an opening statement. I
15 know you've got a full agenda.

16 CHAIRMAN RANKIN: Thank you so much. All right.

17 MS. SYMMES: Thank you, Mr. Chairman. I note for the
18 record that based on the testimony contained in the
19 candidate's PDQ, which has been included in the
20 record with the candidate's consent, David Garrison
21 "Gary" Hill meets the Constitutional and statutory
22 requirements for this position regarding age,
23 residence and years of practice.

24 JUDGE HILL - EXAMINATION BY MS. SYMMES:

25 **Q. Judge Hill, why do you want to serve as a judge on**

1 **the Supreme Court?**

2 A. Well, like pretty much everyone in this room I
3 suspect, I have a passionate commitment to the rule
4 of law, and I also have a passionate devotion to
5 our state. And I think I have an obligation to
6 provide service where it can be most useful, and I
7 think the Supreme Court is certainly an opportunity
8 to help protect an important central institution in
9 our government and work on the rule of law
10 preservation in our state.

11 **Q. Thank you. Judge Hill, how do you feel your legal**
12 **and professional experience thus far will assist**
13 **you to be an effective judge on the Supreme Court?**

14 A. Well, first of all, I was very fortunate to start
15 my career with some excellent lawyers, and we had a
16 general practice firm. So I was exposed to a lot
17 of different areas, which has given me a great
18 perspective since being a circuit judge and on the
19 Court of Appeals. I mean, I did everything from
20 Magistrate's Court to arguing cases in the Fourth
21 Circuit and the Supreme Court. I even once tried a
22 case in front of the South Carolina Mining Council.
23 I don't know how many people have done that before,
24 but did quite a --

25 CHAIRMAN RANKIN: Where is that?

1 JUDGE HILL: The South Carolina Mining Council.

2 CHAIRMAN RANKIN: Where? Where did they hold that
3 hearing?

4 JUDGE HILL: It actually was in the Blatt Building they
5 held that.

6 A. And so I saw a little bit of everything, enough to
7 be dangerous in some areas. And I think that's
8 just given me a broad perspective that has
9 certainly served me well thus far.

10 **Q. Thank you. How would you describe your general
11 judicial philosophy?**

12 A. Well, it's pretty simple. My philosophy is I think
13 the judge's role is to preserve the fairness of the
14 proceedings. And the chief aspect of that is to
15 allow the lawyers and litigants to be heard.
16 That's -- after all, that's due process, and that
17 means you have to really hear them. You have to
18 listen and listen courteously. And then you have
19 to consider fairly the facts and the law. And you
20 have to let the parties know they've been heard,
21 and you have to decided promptly and in the most
22 narrow way possible. All of that designed to
23 ensure the fairness and integrity of the process.

24 **Q. Judge Hill, what is your vision for the future of
25 our judicial system, what changes would you**

1 **advocate and why?**

2 A. Well, I'm not sure if I have an all-encompassing
3 vision. I know that I think our court system has
4 some challenges right now. First of all, in the
5 speed with which we dispose of cases on the
6 appellate level. That's one thing I've been
7 working on in the Court of Appeals is improving
8 disposition time of our cases. And it's just not
9 acceptable the current delays that people
10 encounter. That's been going on a long time.
11 Certainly the Supreme Court has its own delays with
12 their considerations of ** docket. So improving
13 the speed of the process would be -- and the
14 efficiency to process would be one thing I would be
15 interested in. I would also be interested in the
16 transparency of the court system and improving
17 that. Of course, you have to balance the speed and
18 efficiency with the transparency. And essentially
19 what I'm talking about are some of our opinions
20 come out, at least at the Court of Appeals level,
21 unpublished. And they come out in these 220 style
22 opinions, which is not something I'm a big fan of.
23 Because as a circuit judge, and even a lawyer, I
24 remember getting those opinions and not really
25 understanding what had happened other than that I

1 had lost or won. So I think there has to be better
2 transparency in the process on the unpublished
3 opinion side. We have improved, I think, our
4 transparency at the Court of Appeals with the video
5 archive we now have of the oral arguments so
6 lawyers and litigants can go back and see arguments
7 and much like the Supreme Court archive as well. I
8 think another issue that we have is preserving and
9 improving the public perception of our court
10 system. And I also think that the court system can
11 do a better job of helping assist with the
12 improvement of civics education in our society.

13 **Q. Thank you. Judge Hill, to what extent do you**
14 **believe that a judge should or should not defer to**
15 **the actions of the General Assembly?**

16 **A.** Well, of course, our case law is pretty clear on
17 that. We have the separation of powers, which of
18 course is the central keystone of our government.
19 And of course as a court we have to assume the
20 constitutionality of statutes. And in fact, as was
21 set forth in the Wilson v. City of Columbia case
22 last year, the court has a "solemn duty to uphold
23 General Assembly policy, in body and legislation."
24 And absent a clear constitutional violation, we
25 have to uphold the statute. The burden to prove

1 the unconstitutionality is beyond a reasonable
2 doubt on the party challenging it. And most
3 recently, just a couple of months ago in the
4 Richardson case out of Horry County, the Supreme
5 Court upheld the constitutionality of our state
6 forfeiture law, as you know. So those are the
7 standards I would have to adhere to.

8 Q. Thank you. Judge Hill, the Commission received 652
9 ballot box surveys regarding you with 138
10 additional comments that I would note were
11 overwhelmingly positive. The ballot box survey,
12 for example, contains the following brief comments,
13 and briefly: "He is the best example of what a
14 judge should be. Unquestionable integrity and
15 sound judgment." And finally: "This candidate
16 possesses all of the traits and skills one would
17 need and others would expect a person to have who
18 seeks this judicial office, including intelligence,
19 substantial knowledge, experience, good character,
20 integrity, fair temperament, common sense and a
21 sense of humor." Only a few of the written
22 comments expressed concerns specifically regarding
23 your temperament. What response would you offer to
24 this concern?

25 A. Well, first of all, it saddens me to think anybody

1 would think my temperament was not excellent. I've
2 been doing this quite a while, as y'all know, and
3 that's one thing I've always strived to be is an
4 even-keeled, patient, courteous and kind judge.
5 And so I don't know the context of what happened.
6 I know one thing in the Court of Appeals that's a
7 little different than the Circuit Court is we only
8 have a very short window of time to ask questions.
9 And there are also two other people who want to ask
10 questions too. So sometimes when the question's
11 not answered, it may appear that the judges are
12 becoming impatient, but they're just trying to get
13 the answer to their question. They've only got one
14 opportunity. And that's what oral argument is
15 designed to do, is to get the answers to those
16 questions. So I could see where perhaps the
17 questioning is a little more pointed and aggressive
18 perhaps, but it shouldn't be that way. The oral
19 argument ought to be a conversation with the
20 lawyers. But I can see where occasionally in the
21 hurly burly of it someone might think that the
22 judge was being unpleasant or unkind, but I
23 certainly would regret if that ever occurred.

24 **Q. Thank you, Judge Hill.**

25 MS. SYMMES: I would note that Upstate Citizens Committee

1 reported that Judge Hill is well qualified as to
2 the evaluative criteria or ethical fitness,
3 professional and academic ability, character,
4 reputation, experience and judicial temperament and
5 qualified in the criteria of constitutional
6 qualification, physical health and mental
7 stability.

8 Q. Since submitting your letter of intent to run for
9 this seat, have you contacted any members of the
10 Commission about your candidacy?

11 A. No, ma'am.

12 Q. Are you familiar with Section 2-19-70, including
13 the limitation on contacting members of the General
14 Assembly regarding your screening?

15 A. Yes, ma'am.

16 Q. Since submitting your letter of intent, have you
17 sought or received the pledge of any legislator
18 either prior to this date or pending the outcome of
19 your screening?

20 A. No, ma'am.

21 Q. Have you asked any third parties to contact members
22 of the General Assembly on your behalf, or are you
23 aware of anyone attempting to intervene in this
24 process on your behalf?

25 A. No, ma'am.

1 MS. SYMMES: I would just note for the record that any
2 concerns raised during the investigation regarding
3 the candidate were incorporated into the
4 questioning of the candidate today. And Mr.
5 Chairman, I have no further questions.

6 CHAIRMAN RANKIN: Okay. Thank you, Haley. I'll start it
7 off unless someone else has questions right away.

8 JUDGE HILL - EXAMINATION BY CHAIRMAN RANKIN:

9 Q. To the temperament question, again, we don't call
10 them. We highlight. We try to get something that
11 is reflective. As Haley said, your comments
12 overwhelmingly are positive. In fact, you have one
13 of the highest percentages of judges in the regard
14 of those who have commented about you as being
15 well, well qualified in the area of judicial
16 temperament. So again, as she qualified, that is a
17 sampling of, but not -- certainly not reflective of
18 the opinion of your peers, albeit anonymous. I
19 want to tack, though to the -- a couple of things
20 that strike me. Obviously, I know you. We were in
21 law school together. I think maybe I'm
22 substantially older than you, but we were there at
23 similar times. But your father and my father were
24 contemporaries. Past records, I think we have --
25 maybe I've screened you once --

1 A. Right.

2 Q. -- for his position. But Leo Hill was llegendarily
3 (sic) a gentleman, smart lawyer and most friendly.
4 I remember meeting him when you and I were punks --

5 A. That's right.

6 Q. -- at Hilton Head with the thought of law school
7 perhaps ahead of us, but no college degree at that
8 point perhaps. So obviously, a sharp father. To
9 you as a father, though, yourself, two things that
10 strike me in these letters of reference about you
11 as a father to your children, but you as a son to
12 your mother and someone commenting on your well and
13 good faithful service to your family, not a
14 surprise at all. Very touching that someone would
15 comment about you in that vein. So I'm curious,
16 why in the world would you want to go to the
17 Supreme Court, having said all that?

18 A. Well, I'll have to -- since you brought up my
19 mother, who died in May, as you probably know, she
20 told me to do it. So --

21 Q. What conjecture would that be? Noted for the
22 record. Struck down. The question and answer are
23 proper. And this is not a political position, but
24 again, Trey Gowdy references the times of which
25 we're serving and the times of which your candidacy

1 is based and this divided country, divided state
2 perhaps, but does that -- your mother's, your
3 father's advice to you have anything to do with and
4 can it speak to the times which Trey Gowdy
5 references to help restore and/or at least uphold
6 the integrity of our courts, which seem to be in
7 question by some that, I guess, are on the losing
8 side?

9 A. Well, first of all, I think this Commission does a
10 wonderful job of helping with that public image.
11 I'm not vain enough to think that I've got some
12 special talents to bring to the job. I just think
13 it's, as I've said earlier, an obligation. And
14 I've reached a point in my career where I think
15 with my experience and background it seems like
16 something that I should try to do. And to be
17 helpful to the state and to the court system and
18 use whatever experience I've accumulated to share
19 with that job of trying to preserve our rule of law
20 and our system of justice. So I feel very strongly
21 about that, as I've said. And I do think my
22 parents instilled in me, as it did I'm sure
23 everybody in this room -- you wouldn't be here
24 otherwise -- that it was important to participate
25 in public service. And I've been fortunate enough

1 to serve as a judge for 18 years now. And I think
2 with that experience I just feel an obligation to
3 try to do that. And I do think, as you're alluding
4 to, Mr. Chairman, the times are such where our
5 institutions, the legitimacy of our institutions,
6 is something that is very much at stake. And I'd
7 like to contribute whatever talents I have to help
8 preserve that.

9 **Q. Okay, thank you.**

10 CHAIRMAN RANKIN: Senator Talley.

11 SENATOR TALLEY: Thank you, Mr. Chairman.

12 JUDGE HILL - EXAMINATION BY SENATOR TALLEY:

13 **Q. Judge, I want to follow up on that point, because**
14 **you touched on the timing of appellate matters, and**
15 **obviously from those of us that practice but also**
16 **the public perception, that's something that plays**
17 **into to how they feel. It seems to become one of**
18 **the civil mediators greatest tools, depending on**
19 **which side you're on, that the threat of an appeal**
20 **will delay the ultimate outcome of this case two**
21 **years, and we hear that often when we're mediating**
22 **civil cases. So give us some thoughts on what's**
23 **causing that delay at the Court of Appeals. You**
24 **know, if you're elevated to the Supreme Court, the**
25 **timing aspect my colleague touched on earlier and**

1 **how we continue to catch up from Covid is going to**
2 **be something that everybody is wrestling with. So**
3 **--**

4 A. That's an excellent question. I don't -- the
5 mediator, he or she, may be a little optimistic at
6 two years.

7 **Q. Fair point.**

8 A. I'll just be frank about that, and since I've
9 gotten there -- you know, as a circuit judge you
10 would get these opinions from the Court of Appeals
11 or the Supreme Court, and it's been so long, you're
12 like, what is this case, I don't even remember this
13 case. So, you know, the law's delay was one of the
14 gripes Hamlet had about the world. So I think it's
15 important that we try to keep the things moving as
16 quickly as we can. So you asked what caused it,
17 and you also mentioned Covid. And one thing I've
18 been harping on at the Court of Appeals is that
19 Covid did give us a lag in the appeal pipeline.
20 And the best statistics I've seen, it's about a 30
21 percent reduction. This is the time for us to
22 improve the speed of the disposition, because we do
23 have a lag. It's starting to fill back up, but
24 there's a law that we could take advantage of, and
25 so this is a perfect opportunity. And there are

1 many things we've been doing. I'm on the docket
2 committee. We have a docket committee to -- trying
3 to improve the speed of it. Judge Konduros is on
4 it, Judge Hewitt is on it and Judge Thomas, and we
5 are all very keen on trying to improve the speed.
6 We've come up with one alternative way to resolve
7 cases. And it's called par panel alternative
8 resolution -- I believe is what the acronym is, but
9 it allows us to decide cases. Having the staff
10 attorneys, instead of them writing a bench memo
11 that takes a week to compile, they can come in and
12 orally present the case to us. And we have the
13 briefs in the record, and then we can decide the
14 case that way. And that has improved the
15 disposition of cases. We can -- I remember one
16 afternoon just about a month ago we resolved almost
17 20 appeals that way. Now not every case is
18 suitable for that. And of course you also hear
19 sometimes that we don't have enough oral arguments,
20 and oral arguments are important to the process,
21 but they take a lot of time. And if a case is
22 orally argued, the queue gets backed up at the oral
23 argument stage and sometimes at the staff attorney
24 stage. We've gotten, thanks to the legislature and
25 the chief justice, we have, I think, five new staff

1 attorney positions that have been filled. And
2 that'll help us process cases. Because we can
3 increase the workloads of the staff attorneys all
4 day, but it's a finite matter. So that's one thing
5 we're doing, increasing the staff attorneys, this
6 alternative resolution, and then trying to find out
7 kind of where the logjams come in the pipeline.
8 And that's taking some time to figure out, but it's
9 something that's worrisome to me, and I think, as
10 you say, it's important to the transparency and the
11 legitimacy of the appellate courts. Because, you
12 know, litigants can't wait that long. So that
13 would be my response.

14 CHAIRMAN RANKIN: Vice Chairman Caskey.

15 VICE CHAIRMAN CASKEY: Thank you, Mr. Chairman.

16 JUDGE HILL - EXAMINATION BY VICE CHAIRMAN CASKEY:

17 Q. Being it is my first day here, I intended to wait
18 to ask any questions. But as the dumbest member of
19 the Commission I couldn't resist the impulse to
20 follow up on a different aspect of what the
21 Chairman had asked you about with respect to
22 preserving the public's confidence in the
23 institutions. Because earlier a response to one of
24 Ms. Symmes' questions, your answer was the role the
25 judge was to preserve the fairness of proceedings.

1 And then you went on to broaden that a bit. And as
2 you've talked about judicial restraint and
3 respecting coequal branches of government -- a term
4 that -- coequal, I always wonder why we have to say
5 co. If it's equal, it's just equal, but
6 nonetheless that's what we do. Where these things
7 intersect in my mind is not the procedural due
8 process questions that you've sort of been speaking
9 to, but the doctrine of substantive due process.
10 And my question is where do you see substantive due
11 process operating in our law, because certainly at
12 the federal level it's a question that seems to
13 increasingly sound, in the public's mind, even if
14 they don't know that's what we're talking about.
15 But long question to say, how do you see
16 substantive due process as a legal doctrine?

17 A. Well, of course, substantive due process is very
18 controversial because there you're getting into the
19 subjective mind set of the judges, and are you
20 getting away from the plain meaning of statutes or
21 constitutional provisions and coming up with what
22 the judges thoughts or policy views might be about
23 what process is due under that particular
24 situation. That forfeiture case I mentioned that
25 you know about, I believe they discussed

1 substantive due process in that in *Matthews v.*
2 *Eldridge*, which is the leading U.S. Supreme Court
3 case on it. It talks about weighing -- you know,
4 there's a weighing of the factors, like what is the
5 interest of the state, what's the risk if the
6 procedure used could cause an unconstitutional
7 deprivation of the interests at stake, but
8 substantive due process -- I'm not sure I'm
9 answering your question directly, but I don't know
10 if we have a very elaborate definition of it under
11 South Carolina law, because it has been
12 controversial at the federal level.

13 **Q. Thank you, Judge, and I appreciate that. And I**
14 **would be remiss if I didn't point out -- and I know**
15 **that your application packet was submitted before I**
16 **was a member of the Commission. But in your**
17 **writing sample you did an excellent job in ruling**
18 **that I was right as assistant solicitor prosecuting**
19 **the Miles case, which was turned around**
20 **expeditiously. So not only did you get the**
21 **decision right from my opinion as the prosecuting**
22 **attorney in that case, but also you turned it**
23 **around pretty quickly, so thank you.**

24 **CHAIRMAN RANKIN:** For the record, a nod of the head was
25 the response from a number of people.

1 Representative Rutherford.

2 JUDGE HILL - EXAMINATION BY REPRESENTATIVE RUTHERFORD:

3 Q. Good morning, Judge. In the seven years prior to
4 Langford, the courts were addressing the backlog,
5 moving the numbers, actually reducing the backlog.
6 Since Langford, the numbers have shot up, and the
7 backlog continues to get worse. How do we address
8 that, and how do we look at the fact that what
9 maybe was supposed to be the answer to allowing
10 litigants in the court faster has become more of an
11 impediment?

12 A. Well, Representative Rutherford, it's been almost
13 six years since I've been at Circuit Court. So I
14 can't say my fingers on the pulse of what's going
15 on in General Sessions court right now. I see my
16 office thankfully is -- I'm still on the hall with
17 several circuit judges, so I hear occasionally
18 things, but I'm not well versed on the statistics.
19 Greenville, of course, we hold ourselves out as
20 having this great system up there, and it was a
21 good system. I don't know if it still is because
22 of Langford. And I frankly don't know what the
23 current state of it is. I know at one point they
24 said they were going to leave Greenville alone, and
25 then they changed their minds. But I'm not so sure

1 that should not be a decision for the legislature
2 and not the courts anyway. I don't know how to
3 govern that. But Langford is there, and I remember
4 -- you mentioned Trey Gowdy. When he was solicitor
5 I remember there was a lot of talk about -- this
6 was before Langford. There was a lot of talk about
7 giving the control to the judges rather than the
8 solicitor, and a lot of solicitors of course were
9 very adamant that that shouldn't happen. And I
10 remember Solicitor Gowdy at the time basically
11 saying throw me in the briar patch. I mean,
12 because he understood what probably would happen.
13 So I'm not sure if that's helpful to what you're
14 asking about, but --

15 Q. Well, I mean, it kind of gets to -- I think that's
16 what eventually did happen is now we've put the
17 judges in control --

18 A. Right, yes.

19 Q. -- which I believe gives judges a vested interest
20 in each case moving, rather than being in a
21 position to simply call balls and strikes, because
22 they have to report back --

23 A. Right.

24 Q. -- that they've moved these cases --

25 A. Right.

1 Q. -- rather than simply reporting back that justice
2 has been served.

3 A. And also, do the judges have the resources to do
4 it. That's the other thing.

5 Q. Well, and I'm glad you brought that up. Because
6 that gets into, in 2022, whether any of us have the
7 resources to act as if this was 15 years ago where
8 we could all hire how ever many people we needed to
9 hire and be as hard on law clerks and paralegals as
10 we wanted to be. And now if you raise your voice
11 to somebody, they'd probably quit tomorrow if
12 they're not quiet quitting while they're sitting at
13 their desk. And so how is it that we continue to
14 act like things are the way that they used to be?
15 You mentioned something earlier about the backlog.
16 What are your thoughts on -- do we need to increase
17 the number of judges on the court of appeals? I
18 mean, South Carolina, when I got elected, had a
19 budget of about six billion, and we had about three
20 and a half million people. We've now almost
21 doubled the number of people and tripled the
22 budget. So are we in a position where maybe that
23 arcane way of thinking that we've got to keep with
24 what we had rather than looking at a way to
25 increase the numbers? What are your thoughts on

1 **that?**

2 A. Well, that's within y'all's purview. It's not, of
3 course, a policy decision for the courts. I was
4 just reading this morning -- you know, The
5 Southeastern Reporter was sitting on my desk, and I
6 just opened it up. And it has list of all of the
7 judges in the southeast on the appellate courts,
8 and we do have, by far really, the smallest
9 appellate body. Now we're probably the smallest
10 state too. But Georgia, by contrast, they probably
11 have -- I would say 12 to 15 on their court of
12 appeals. That's just by eyeballing it on the list,
13 but they have a much larger population. But at
14 some point it's group dynamics. The group may
15 become unmanageable if it gets too small. If you
16 went to 12 on our court, for instance, then you'd
17 have an even number, and that might could be a
18 problem. But I think it's certainly something to
19 explore. Like I said, the addition of the staff
20 attorneys I think will greatly help us, and, you
21 know, more judges. You could certainly move more
22 cases. But whether it's a good policy choice
23 that's up to the legislature.

24 **Q. I'm told that this is one of the first years where**
25 **offers were made to law clerks to come to the**

1 Supreme Court, and they were actually declined,
2 because there's simply so many jobs out there for
3 lawyers. And we know that this hasn't always been
4 the case. But how do we, if you are successful to
5 get on the Supreme Court, and the Supreme Court
6 judges the conduct of all the lawyers, how do we
7 deal with lawyers that are understaffed,
8 overworked? How do we allow those lawyers to still
9 a) operate a business and b) still enjoy a
10 lifestyle that does not drive them to early graves
11 because we're simply doing too much with judges
12 that don't allow them to have orders of protection,
13 with judges that don't believe in continuances?
14 How do we -- and you were probably most recently on
15 the Circuit Court bench in terms of the other
16 candidates -- I haven't studied it, but -- and I
17 know you did a great job when you were there, but
18 how do we dig down to make sure that lawyer
19 lifestyle is an important part of the judiciary and
20 our expectations of lawyers?

21 A. Well, that's a great question. Because like you
22 said, the jobs are out there now. I mean, when we
23 advertise for clerk opportunities or whatever, we
24 used to get dozens of resumes. Now I get maybe one
25 or two. And the same thing with the solicitor.

1 You mentioned the solicitor's office and the public
2 defender's office. I know we had Fielding Pringle
3 come and talked to us back in March, and she was
4 talking about the difficulties she was having
5 finding quality people, which the Richland County
6 Public Defender's Office was always kind of a
7 golden place to work and the solicitor's office for
8 sure, and they're having difficulty. So I don't
9 know. I know that the -- because I was in a small
10 firm, and I was the managing partner for a while.
11 And I know how difficult that is to do, because
12 there's all that paperwork a small business person
13 has to complete that can trip you up if you're not
14 careful, but it's very time consuming. I know that
15 Justice Kittredge was very keen on this mentoring
16 program. And I'm not sure of the current status of
17 it. I think it's still thriving, but I think
18 that's something that maybe we ought to be more
19 involved with is trying to create some kind of
20 mentoring. Because I don't think the culture is
21 the same when you and I probably started out. So I
22 think it's a little more artificial to have a
23 mentoring program like that, but you just don't see
24 the same types of mentoring happening in the Bar
25 that you used to see.

1 Q. How do we get to the point where we actually have
2 concrete answers on things regarding lawyer
3 vacation, time that we take off? You and I
4 probably came right after when courthouses in
5 Columbia, I know, were shut down in August because
6 it was too hot. They didn't have air conditioning
7 so they shut it down, and lawyers kind of worked
8 around that. But now Richland County, for example,
9 we got 52 weeks a year, magistrate court, municipal
10 court, federal court. And so at what point is a
11 lawyer that's been practicing for a while or
12 somebody that's even brand new -- at what point are
13 they guaranteed to get vacation? If they worked
14 for somebody else, they would. If they worked for
15 Amazon, they certainly get this many vacation days
16 --

17 A. Right.

18 Q. -- this many sick days. What do lawyers get. And
19 how is it that we can make sure that we're
20 addressing that as the pressure becomes greater, as
21 the ability to hire out and spread that pressure
22 out becomes less and less? How do we make sure
23 that lawyers are not simply being driven to an
24 early grave?

25 A. Well, I'm not sure there's protection. Yeah, my

1 view is that the lawyers -- if somebody wants
2 protection for a vacation, it's no questions asked.
3 I mean, it should be granted as long it's submitted
4 timely. And when I was practicing it used to be
5 you had to get it in two weeks before your trial or
6 something like that. But as long as you sent it
7 in, there weren't any questions asked. It's a
8 little different with maybe the way the docketing
9 is done now where you have day-certains or weeks-
10 certains. But I think there has to be a balance
11 and appreciation for lawyers' schedules, certainly
12 for lawyers who are also legislators. It's
13 something that judges need to protect. Because if
14 we deter lawyers from serving in the legislature,
15 then we're going to have a whole lot of other
16 problems. So I don't know if there's some magic
17 bullet for that, but I empathize with your plight.

18 **Q. To your point, last week I had a felony DUI death**
19 **case up. And so the judge said, well, we'll go**
20 **ahead and start in that case on Monday. I said,**
21 **Judge, Tuesday's election day. He says, then okay,**
22 **we'll pick a jury on Monday and then you can start**
23 **back on Wednesday. Well, I had federal court on**
24 **Tuesday. And they didn't care that it was election**
25 **day either. So as the minority leader, I had a**

1 felony DUI death case starting on Monday, federal
2 court on Tuesday and continuing that felony DUI
3 death case on Wednesday. And because it might run
4 long, the judge had offered, well, we'll take the
5 federal holiday away, and you can just -- y'all can
6 work through the federal holiday. And so as it
7 relates to lawyer legislators, but also as it
8 relates to lawyers, it gets to the point where at
9 some point I don't get the federal holiday back.
10 And I've been trial during federal holidays before.
11 I don't get the time back of dealing with the
12 people that elected me, the minority leader, who
13 have questions about elections and what's going on
14 in their case. And so to your point about lawyer
15 legislators, but in the broader sense of lawyers in
16 general, is there some magic finish line that you
17 think that people have in their head that we're
18 going to rush to. And all of a sudden if we get
19 across it by moving this case or that case, then
20 we're going to be better off and be able to lift
21 the chief on our shoulders and run around? I guess
22 I'm asking for questions that don't necessarily
23 have an answer. But I do want you to know because
24 the Supreme Court is in charge of lawyers, what's
25 going on, because I think the -- as you move to

1 appellate courts, and as you stated, you kind of
2 get away from what's going on --

3 A. Right.

4 Q. -- where the rubber meets the road? And so how do
5 you do that. And how do you guide lawyers that, as
6 you become further removed from it, you're not
7 seeing that -- for example, I was first up in five
8 different counties three months ago, one on a
9 felony DUI death, the same case, the other one a
10 five-defendant murder case. And so what are the
11 guidelines that the court is saying, well, this is
12 what you're supposed to do in that scenario?
13 Because I'm not alone. I mean, this is going on
14 not just with defense attorneys but with solicitors
15 as well. Do you have an idea of what the answer
16 is? If these are real-life problems, people need
17 real-life guidance on how to deal with them.

18 A. Well, no, I don't have any answer for it other
19 than, you know, it sounds like it needs to be
20 studied more and have more input from the Bar and
21 perhaps lay people, business people. And this
22 sounds like another blue-ribbon committee idea, but
23 I think it's very important to have the Bar's
24 input. I mean, I remember the Chairman mentioning
25 my father, and he used to say that the lawyers on

1 the civil docket, they used to control the docket.
2 They decided when the cases were going to be tried.
3 And he rued the day they ever lost that. But I
4 think there probably needs to be more input from
5 the lawyers on how to do that. Because as you well
6 know, there's a lawyer perhaps on the other side of
7 your case who doesn't like the fact that you're
8 getting protection. And that puts the judge in a
9 bind sometimes. But, as I said, it's important
10 that the system recognize the legislators and what
11 they do, who also practice law. So I don't know
12 any magic bullet for that but I think it probably
13 needs to be comprehensively studied. And you're
14 right, the more removed the judges get -- first of
15 all, they aren't really good at running dockets
16 anyway. But second of all, the more removed they
17 get from where the boots are on the ground, the
18 less effective they are.

19 CHAIRMAN RANKIN: All right. Other questions? Judge
20 Hill, you invoked Hamlet, Shakespeare's line in
21 Hamlet. I'm trying to figure out what -- did I
22 hear that wrong?

23 JUDGE HILL: No.

24 CHAIRMAN RANKIN: Well, not in response to that question
25 but earlier. Delay?

1 JUDGE HILL: The law's delay was one of the things he was
2 griping about when he was doing his to be or not to
3 be.

4 CHAIRMAN RANKIN: Ah. Well, so I did hear Shakespeare,
5 Hamlet. And you also know that Shakespeare wrote
6 in Henry the whatever, the first thing to do is to
7 kill the lawyers. Did you know that line?

8 JUDGE HILL: I've heard that.

9 CHAIRMAN RANKIN: You don't support that, do you?

10 JUDGE HILL: No.

11 CHAIRMAN RANKIN: All right. Any other questions by
12 members of the Commission? If not, Judge Hill,
13 thank you. And this concludes this portion of our
14 screening process. And let me remind you that
15 pursuant to the nine evaluative criteria we talked
16 about, that we expect the candidates to abide by
17 and adhere to both the spirit and the letter of the
18 ethics law. Any violation or appearance of
19 impropriety we will deem very serious, potentially
20 deserving of heavy weight in our deliberations.
21 And you do know, do you not, that this record will
22 remain open until the formal release of the report
23 of qualifications, and you may be called back at
24 such time if the need arises? You do know that?

25 JUDGE HILL: Yes, sir.

1 CHAIRMAN RANKIN: All right, sir. So and with that,
2 again, thank you for your service. I think your
3 father and your mother would be proud of your
4 continuing in that vein, and that will conclude
5 this portion of our hearing. Thank you.

6 JUDGE HILL: Thank y'all very much.

7 (Off the Record)

8 CHAIRMAN RANKIN: Good morning.

9 JUDGE KONDUROS: Good morning.

10 THE APHRODITE KONDUROS, being duly sworn, testifies
11 as follows:

12 CHAIRMAN RANKIN: You have before you the PDQ, Personal
13 Data Questionnaire and Sworn Statement that you
14 prepared, correct?

15 JUDGE KONDUROS: Yes, sir.

16 CHAIRMAN RANKIN: Any additions that need to be made to
17 those?

18 JUDGE KONDUROS: Yes, sir. I have in the -- it was
19 question 47 about lawsuits, and there's some
20 changes. There was a 1983 action called Henderson
21 v. Fisher in federal court, which was dismissed in
22 August of 2018. There was a case of Gray v.
23 Forsythe, which I did list, that was dismissed with
24 prejudice in district court in August of '22. And
25 there was Gibbs v. Lockemy, which was dismissed,

1 the Supreme Court said, on August 11th, 2022. So I
2 would like to add those to -- and the dispositions
3 to question 47.

4 CHAIRMAN RANKIN: Okay. And then any other written
5 additions that need to be made?

6 JUDGE KONDUROS: No, sir.

7 CHAIRMAN RANKIN: Do you object to them coming into the
8 record?

9 JUDGE KONDUROS: No, sir.

10 CHAIRMAN RANKIN: If you will hand them to Lindi, they
11 will be included in the record. Judge, as you
12 know, we in the Commission's investigation of your
13 qualifications on the bench, thoroughly investigate
14 and focus on nine evaluative criteria, including
15 which are the ballot box survey, a thorough study
16 of your application materials, verification of your
17 compliance with state ethics laws, a search of
18 newspaper articles in which your name appears, past
19 screenings and a check for economic conflicts of
20 interest. You have no affidavits filed in
21 opposition to your election, and no witnesses are
22 here to testify. You have the opportunity if you
23 like to make an ever so brief opening statement.
24 If not, we will turn it over to able staff counsel,
25 Sharon, for questions. Again, you can give a

1 statement if you like or waive it.

2 (Exhibit Number 8 was marked for identification purposes
3 - (17 pages) Personal Data Questionnaire for The
4 Honorable Aphrodite Konduros.)

5 (Exhibit Number 9 was marked for identification purposes
6 - (5 pages) Sworn Statement of The Honorable Aphrodite
7 Konduros.)

8 JUDGE KONDUROS: This is my ninth screening. I know you
9 don't want a statement.

10 CHAIRMAN RANKIN: So not true but we'll leave it at that.
11 All right, Sharon.

12 MS. WILKINSON: I note for the record that based on the
13 testimony contained in Judge Konduros' PDQ, which
14 has been included in the record with her consent,
15 Judge Konduros meets the constitutional and
16 statutory requirements for this position regarding
17 age, residence and years of practice.

18 JUDGE KONDUROS - EXAMINATION BY MS. WILKINSON:

19 **Q. Judge Konduros, why do you want to serve as a**
20 **justice on the Supreme Court?**

21 A. This is my second run for the Supreme Court after
22 14 years on the Court of Appeals, and I think
23 particularly for the lawyers in the room, getting
24 to be on the Supreme Court is like an actor getting
25 to play Hamlet, finally. It is something to which

1 I have always striven. I am the granddaughter of
2 four Ellis Island immigrants, and I would very much
3 like to serve. Most of the reason would be not
4 only because of the work, because after 14 years on
5 the Court of Appeals, I've written over 400
6 opinions and signed onto another 800, so you know
7 my work. But I enjoy the administration of justice
8 very much. I like being on committees. I like
9 doing things that further how we're seen by the
10 people at large of South Carolina. I've served on
11 Lawyers Helping Lawyers. Kindly y'all put me on
12 the Sentencing Reform Commission for prisoners and
13 worked on a case or a law that let people out of
14 jail when they were going to die and were no longer
15 a threat to anyone. The administration aspect of
16 it interests me, and there is almost no way to do
17 that on the Court of Appeals unless you're just put
18 on a committee. But to actually be involved in the
19 betterment of my profession would be something to
20 which I aspire and which I would love to do.

21 **Q. How do you feel your legal and professional**
22 **experience thus far will assist you to be an**
23 **effective justice on the Supreme Court?**

24 **A.** I have probably the longest history of public work
25 of any candidate because I spent so many years at

1 DSS and the Department of Social Services. I
2 always joke whenever I have a termination of
3 parental rights case because I'm the only one that
4 was ever a county attorney, who was a state
5 attorney, who was a county director, who was a
6 family court judge, who was a Court of Appeals
7 judge. As my mother used to say, I practice poor
8 law, which was her way of calling that service, but
9 when I was at DDSN and helped write the Adult
10 Health Care Consent Act, and that sort of thing,
11 plus I practiced with very small firms when I was
12 at Todd and Barber, when I practiced in Greenville.
13 It was just three of us. And then I worked at
14 large firms. So I think it gives me a broad
15 perspective about -- and I will come to the
16 conclusion, that the practice of law is incredibly
17 hard. And I think when you see cases and you've
18 tried them in federal and family and circuit and
19 whatever with big firms and small firms, I think it
20 gives me a sure footing to work with the lawyers
21 who are going to be arguing cases in front of the
22 Supreme Court.

23 **Q. How would you describe your general judicial**
24 **philosophy?**

25 **A.** The case before me and only the case before me, no

1 friends to reward or enemies to punish. I think,
2 like I said -- I don't want to put anybody on the
3 spot, that they've read my 400 and whatever
4 opinions or looked at the 36,000 cases I heard on
5 Family Court, but I think there's no mystery with
6 me. It is about the case in front of me and the
7 facts in front of me.

8 **Q. What is your vision for the future of our judicial**
9 **system, and what changes would you advocate and**
10 **why?**

11 A. This is like a personal thing as opposed to
12 speaking for the chief justice of the court to
13 which I aspire, but I hate how far away we're
14 gotten from trying cases. I love trial lawyers and
15 lawyers trying cases. And I think the greatest
16 settlement mechanism in the entire world is call
17 your first witness. And I think mediation has got
18 its place. And I think it's probably so wonderful
19 when someone, especially in Family Court, can see a
20 mediator who will look them in the eye, as a judge
21 cannot, and say you are not going to win. You are
22 not going to win. You must think this back. And I
23 think it saves people a lot of trouble. But I
24 think for the judiciary we're going to start --
25 maybe not in my life time but in the next life time

1 -- the judges are not going to have the trial
2 experience that your judges do now when they were
3 lawyers. And I don't want us to get away from
4 that.

5 **Q. To what extent do you believe that a judge should**
6 **or should not defer to the actions of the General**
7 **Assembly?**

8 A. I've got a very easy job. We have three branches
9 of government, and I know which branch I'm in. And
10 I read -- when you pass and we get all those
11 wonderful -- I keep up with it. I did have a case
12 one time where I ruled *Lamprese v. Saluda*, which
13 was a Freedom of Information Act case, and you said
14 this, and I ruled that way. And I don't think it
15 was popular, and they changed the bill, but that's
16 what it said. And if the legislature wants to say
17 the sky is orange, I will enforce the sky is orange
18 until they say it is purple. I have never been one
19 to want to read outside of it. Now on the Court of
20 Appeals you have to agree with two other fine
21 judges. On the Supreme Court it will be four other
22 very fine judges. So we'll see where that goes,
23 but I am -- I think after being on the bench 20
24 years, I can firmly tell you that you will not see
25 me legislating.

1 Q. Judge Konduros, the Commission received 999 ballot
2 box surveys regarding you with 141 additional
3 comments. The ballot box surveys were
4 overwhelmingly positive. Some of those positive
5 comments include, and I quote: "Judge Konduros is
6 compassionate, courteous, intellectual, kind and
7 diligent. These make her an ideal candidate for
8 this position. Judge Konduros enjoys a superior
9 reputation among members of the Bar. She is
10 bright, diligent, engaging and has superior
11 judicial temperament. Judge Konduros exemplifies
12 every trait of a great justice. Her proven record
13 should speak volumes to this committee. She is
14 simply the best and most qualified candidate for
15 the position." And lastly: "We cannot do better
16 than Judge Konduros on our Supreme Court. Her
17 judicial temperament is second to none, and her
18 opinions are always well written and consistent
19 with respect to the laws of this state." There
20 were a few negative comments. I'll ask you a
21 question now regarding the negative comments.
22 These comments stated that you are influenced by
23 liberal bias and that you are too political to be a
24 Supreme Court justice. What response would you
25 give to these concerns?

1 A. I don't want to accept the premise and argue
2 against myself on something like that, and I also
3 don't want to accept that they assume it was meant
4 as derogatory. And obviously without saying why
5 they think this, I will state very firmly I do not
6 speak to politics. You will not ever find me
7 speaking to politics personally. Politically I
8 don't do Facebook, that sort of thing. You're
9 never going to hear something out of my mouth about
10 another branch of government. So I do want to say
11 if they're talking about in terms whether I'm
12 willing to accept opinions different than my own
13 and consider them in the context of deciding a
14 case. But when they make a comment like that
15 they're also speaking to two of my colleagues who
16 have signed on to every single opinion I've ever
17 written while I'm on the Court of Appeals. So
18 that's an interesting point. Now if you want to
19 talk about liberal as whether I give generously of
20 my time as a lawyer and to teach school -- and I'm
21 working as a substitute teacher in Simpsonville
22 right now with the Chief Justice's blessing a
23 couple mornings a month. But again, I don't speak
24 to politics. I never have. You wouldn't know what
25 my personal beliefs are. So I don't want to accept

1 the premise of that question.

2 MS. WILKINSON: Mr. Chairman, I would note that the
3 Upstate Citizens Committee reported Judge Konduros
4 as qualified in the evaluative criteria of
5 constitutional qualifications, physical health and
6 mental stability and well qualified in the
7 remaining evaluative criteria of ethical fitness,
8 character, professional and academic ability,
9 experience, reputation and judicial temperament.
10 The Committee did not include any related comments
11 or a summary statement.

12 **Q. There are a few housekeeping issues to go over,**
13 **Judge Konduros.**

14 A. Yes, ma'am.

15 **Q. Since submitting your letter of intent to run for**
16 **this seat, have you contacted any members of the**
17 **Commission about your candidacy?**

18 A. I have not. We do see each other at various
19 events. We can't help that we're all invited to
20 the same thing, but the firm answer is I have not.

21 **Q. Are you familiar with Section 2-10-70, including**
22 **the limitations on contacting members of the**
23 **General Assembly regarding your screening?**

24 A. Yes.

25 **Q. Since submitting your letter of intent, have you**

1 sought or received the pledge of any legislator
2 either prior to this date or pending the outcome of
3 your screening?

4 A. No.

5 Q. Have you asked any third parties to contact members
6 of the General Assembly on your behalf, or are you
7 aware of anyone attempting to intervene in this
8 process on your behalf?

9 A. Firmly, no.

10 MS. WILKINSON: I would note for the record that any
11 concerns raised during the investigation regarding
12 Judge Konduros were incorporated into the
13 questioning of her today. Mr. Chairman, I have no
14 further questions.

15 CHAIRMAN RANKIN: Thank you. I'm going to start it with
16 a few questions.

17 JUDGE KONDUROS - EXAMINATION BY CHAIRMAN RANKIN:

18 Q. You, Judge, a few questions ago you gave
19 effectively the chronology of your assent to this
20 bench that you currently serve on and that you now
21 seek to move higher to the Supreme Court level.
22 And I'm curious to your view of if you had to pick
23 of the evaluative criteria that people judge us by,
24 or you particularly as a judge, where would you
25 direct us in your view that is most important?

1 **They could be -- you can include all of them, but**
2 **do you have a top three that you say this helps**
3 **define me as a candidate for the Supreme Court?**

4 A. A little bit to reiterate for the fact that I was a
5 real trial lawyer, and I really think in working
6 and meeting with people and the Sunday night crowd
7 that comes in to sign affidavits for Family Court
8 or going to the jail to meet with the mother of the
9 gentleman who's locked up or whatever, there is
10 always -- you've got to temper firmness with
11 kindness. And everybody that appears in a court
12 hearing is having the worst day of their life,
13 usually, unless they've had cancer. Nobody's happy
14 at court. Nobody's on their A game. They're
15 upset. They say things wrong. And I think being
16 kind and letting people have a chance to say what
17 they want to do. I hope I'm famous for, on the
18 Court of Appeals, redirecting a lawyer. I remember
19 one of my many Court of Appeals arguments I got all
20 the way to the car and realized I had not spoken to
21 my attorney's fees, you know, which is disastrous
22 if you're lawyer. So especially when I'm lead
23 chair, which I am now, most of the time because I'm
24 third in seniority on the court, I will stop you
25 and say, Mr. Smith, there's two more minutes.

1 Would you like to speak to your third issue or your
2 second issue and try to redirect them so that they
3 have a chance to -- there was a dissent in Atlantis
4 Coast Builders that talks about the fact that we
5 can't be playing gotcha with lawyers. And you've
6 got to let people argue their case within the time
7 frames, within the parameters. But I find that
8 probably my strength is the fact that I am a
9 calming influence on what's happening in a court
10 hearing, whether it was Family Court or any court I
11 appeared in front of, and give people a chance to
12 speak. Not go on forever, but let them make sure
13 they have their case. There is a place for a judge
14 to say, "is there anything else you want to tell
15 me." And someone will say something -- this is
16 going to sound like such a stupid story, but the
17 gentleman said yes. "Every time I went to my in-
18 laws they gave me dark meat and they knew I didn't
19 eat dark meat." And I said, "anything else?" He
20 goes, "no, ma'am. I've wanted to say that for ten
21 years." And I said, "all right." And he left
22 happier than he probably would have. And it was
23 just a moment where you recognize the humanity of
24 who was appearing in front of you.

25 **Q. Well, and the comments that you have been asked of,**

1 are certainly a -- hopefully a cross reference of,
2 and are reflective of some of the good, some of the
3 bad, but overwhelmingly those who have taken the
4 time of -- some 999 --

5 A. I think it was one percent that I called it less
6 favorable.

7 Q. Did you not answer your own survey?

8 A. I have a husband for that, who is a lawyer.

9 Q. But it is overwhelmingly positive. And one of
10 which I want to focus on is -- again, we see the
11 good, we see the bad. You, from a judicial
12 temperament standpoint, are incredibly well
13 received by, again, those who take the time to
14 participate. And again, you've heard a negative.
15 There are tons of positives, one of which writes,
16 as cancer survivor, I was appreciative of the time
17 that you gave to this person, perhaps as spouse.
18 I'm not sure of the context of that. So the role
19 not as a trial judge, but as a person now reviewing
20 the tape of the trial judge, has that been a
21 difficult transition for you, and how do you
22 anticipate, if successful, doing it at the Supreme
23 Court level, reviewing the trial court's decisions?

24 A. Because I have served already for 14 -- February
25 will be 15 years on the Court of Appeals. And we

1 at the Court of Appeals handle 97 percent of the
2 appeals filed at the appellate level in South
3 Carolina. So any given month I might look at 40 or
4 45 that the breadth of the experience is such that
5 I don't think there will be the transition.
6 Somebody asked me one time what's going to be hard
7 about going to the Supreme Court, and I said
8 turning left on Devine Street instead of right.
9 And that was a terribly simplistic thing. But I've
10 also been very lucky to have sat very many times on
11 our Supreme Court and interacted. You know, right
12 now, every one who serves is someone that I have
13 served with in another capacity. Chief Justice
14 Beatty granted me the only summary judgment I ever
15 had when I was a trial lawyer. John Few was chief
16 of my court. Judge Kittredge is who I went to when
17 I thought about running for Family Court. Buck
18 James' sister, Rosemary is my oldest friend from
19 childhood. There is a camaraderie and a fit for me
20 already with them, and I really think it will be
21 more of a seamless transition -- now don't get me
22 wrong, the five types of cases that they hear that
23 I don't hear I have very little experience. I
24 argued a couple. There will be -- I think it would
25 be pompous to say that there won't be a learning

1 curve but I am prepared to join the curve.

2 **Q. Very good.**

3 A. I also, if I could say right then, I stay very
4 current. I think that -- I did as a Family Court
5 judge. And right now I owe one case from June, and
6 the rest are from October. I don't owe anything
7 older than that as an opinion. And I think that's
8 important both to the lawyers and the litigants
9 that they not wait. My staff knows I require it.
10 I require it of myself. I stay as current as I
11 can. Because usually by the time it's gotten to me
12 the trial could have been 2015. It is long enough
13 to wait for a decision.

14 **Q. You mentioned the, I guess, fear or I'll say fear,**
15 **that the judges coming up will have had little**
16 **trial practice. Which begs a question for me -- as**
17 **we've seen in the workers' comp fields, the trial**
18 **docket fields, whether it's family court, criminal,**
19 **civil, et cetera where the work comes from at the**
20 **appellate level. What cases are you getting more**
21 **of in the advent of a lack of actual trials or**
22 **cases going to trial where there's a complaint of**
23 **some improper ruling or admission of evidence,**
24 **whatever, that would otherwise come to the**
25 **appellate court?**

1 A. It's overwhelmingly criminal. And we actually had
2 a little lull that took care of Covid where they
3 weren't trying them, but it -- I can't quote you
4 that percentage. It might be 70 percent. We see a
5 fair amount of workers' comps since the Supreme
6 Court took that over right before I came on.
7 Family Court cases still have to still go forward
8 because it's your things, it's your child, there's
9 no insurance. We see a lot of those. I think
10 mostly the civil litigation is seeing a higher
11 settlement rate with all the -- and then the growth
12 of arbitration takes care of things. Although
13 frankly we see so many cases about whether or not
14 it needed to go to arbitration. And I'm sorry that
15 it takes another two years to decide whether it
16 should have gone there to begin with. I know that
17 was supposed to make -- Judge Hill, who was just
18 here, has written a marvelous body of work about
19 arbitration cases. But those -- it's going to be
20 the civil litigation that's going to be lacking in
21 what we see.

22 CHAIRMAN RANKIN: All right. Questions by anyone else?
23 Lucy Grey.

24 JUDGE KONDUROS - EXAMINATION BY MS. MCIVER:

25 Q. Thank you, Mr. Chairman. Thank you for being here

1 today, Judge Konduros. I wanted to talk a little
2 bit about, not so much your role in writing
3 opinions, but a little bit to your character. You
4 just mentioned that you are doing some
5 substituting.

6 A. Yes, ma'am.

7 Q. And I wanted to talk kind of about how you're
8 impacting young people. I've heard some stories.
9 We do happen to be from the same hometown. But not
10 stories from people that I know in the legal
11 profession, but from young people. I'll touch on
12 that in a minute, but could you tell us a little
13 bit about the substituting that you're doing now?

14 A. So it hasn't been that much. But we were coming
15 out of Covid there was an article in the Greenville
16 News that said that Greenville County alone was
17 short 1,600 teachers as they started back in class.
18 And so I had taught law school for a number of
19 years, although not since Covid, at Charleston
20 School of Law, and obviously -- I mean, I think I'm
21 on -- I think it's going to be something like 12 to
22 15 CLEs, including one I have this Friday, which I
23 enjoy, and I try to make them fun. But I checked
24 with the Chief Justice and said, if it works with
25 my schedule, could I substitute. And he said, yes,

1 and so I got in touch with Molly Spearman. And I
2 said, "I do not have a degree for teaching although
3 I've taught law school, but nobody's going to die
4 on my watch." I mean, I made that joke. I might
5 not -- so frankly, a lot of it's been independent
6 study. And what I do is I give them three mornings
7 a week and somebody texts me by 7:30 if they need
8 me. And if they don't -- and right here lately,
9 I'm pleased to say they have not. But while I did
10 it, it was a little frightening, you know, the
11 answers to the questions. You know, when was the
12 war of 1812, dead silence. How many moons does the
13 earth have, dead silence. You know, it just kind
14 of sounds like, okay, let's back this up and try to
15 work on -- we did not gain our independence from
16 Vietnam. Let's back this up. And so I worried a
17 little bit about it. And I thought, well, maybe I
18 can do some more in that area, and I'd like to
19 continue to do so if it allows. But I do a lot
20 with mentoring young people. One of my greatest
21 things is Girls State, the Palmetto Girls State,
22 and I speak at that every June. As a matter of
23 fact, one year they even moved it one day so that I
24 could be there and then follow those 700 or 800 17-
25 year-old girls through there, and they all apply

1 and want me to come. And y'all all know, if you do
2 something like that, it'll get you a lot of high
3 school commencement address requests. But I think
4 sometimes people that don't have children speak to
5 other people's children better. I try to call just
6 about all I can of anybody who flunks the Bar to
7 tell them it's not the end of the world and they
8 will be fine. And so these things matter, you
9 know. Y'all know we are not on Olympus -- no pun
10 on my name, but when you call somebody and reach
11 out to them like that -- I actually had a lady in
12 my hairdresser's the other day that was telling me
13 that she called Senator Alexander and asked him a
14 question, that he had called her back and answered
15 it. And that was the whole talk of the beauty
16 parlor the other day. And it does matter that you
17 reach out, so I try to.

18 **Q. I appreciate you bringing those examples of**
19 **Palmetto Girls State and calling these law**
20 **students, because that was one of the things that I**
21 **had written down to ask you about. Certainly you**
22 **hold a tremendous reputation in Sumter as a jurist,**
23 **but also in my house, I have a girl that went to**
24 **Palmetto Girls State, and she's not terribly**
25 **impressed with anything I've done in the law. But**

1 when she met you she came back and said she was
2 very interested in going to law school and how well
3 you had done and speaking to all of your
4 accomplishments and how proud she was to be from
5 Sumter when she got to State.

6 A. It's a wonderful program.

7 Q. So thank you for that. And also I've heard from
8 people that you've called who failed the Bar exam,
9 and going back to Representative Rutherford's
10 concerns about mental health. I mean, that can be
11 truly devastating for a kid who's been through law
12 school.

13 A. And sometimes you have to call the mom or the dad
14 who's the lawyer. You know, you have a dad who's a
15 named partner at a fantastic firm whose child
16 fails. And he really doesn't know what to say to
17 his child.

18 Q. **Right.**

19 A. His grief is so hard about it or where he failed
20 his child, and there are these -- and so I just try
21 to help and say, look, it'll be okay. You get --
22 you know. So just a small, just a little help.
23 It's a kindness. I had a really nice mother,
24 y'all. And she's been gone a long time, but she's
25 still the voice in my head about being nice and

1 backing up. She would make you look behind you and
2 see if somebody behind you was older than you in
3 which case you passed that parking space because
4 you could walk and they might not could. And so I
5 still hear Christine in my head.

6 **Q. Well, thank you for the difference that you're**
7 **making on the bench as well as off the bench.**

8 MS. GRAY: Thank you, Mr. Chairman. Ms. Blackley.

9 MS. BLACKLEY: Good afternoon. Good to see you.

10 JUDGE KONDUROS: You, too.

11 MS. BLACKLEY: I don't know if you remember me or not --

12 JUDGE KONDUROS: I do. I rode by the new courthouse
13 yesterday in Spartanburg, and it is palatial.

14 MS. BLACKLEY: It's wonderful.

15 JUDGE KONDUROS: I know. The Scott Talley Courthouse.

16 It's going to be great.

17 MS. BLACKLEY: I just want to -- I don't have any
18 questions. I have just a couple of comments. I
19 have watched you from afar from Family Court all
20 the way up until now, and having been a former
21 clerk of court, I can tell you what it means when
22 staff feels like they are seen and heard by a
23 sitting judge. Whether you were a Family Court or
24 a Circuit Court judge, I can just tell you you've
25 been invaluable with your support, your knowledge

1 and how you carry yourself on the bench. And I
2 want to be one of the people to tell you I have
3 appreciated how you carried yourself and what you
4 do. And I just heard of you substituting, which is
5 amazing to me. I have an institute that's called
6 the Institute for Youth Justice in Spartanburg
7 County that educates youth in our school systems
8 about the justice system. And I can't begin to
9 tell you how great it is for you to hear from
10 sitting judges, let alone someone on the Supreme
11 Court or possibly going to the Supreme Court. So I
12 want to thank you for that. Because what you just
13 described and what they don't know is troubling to
14 me, and I just think that it's great that the
15 courts are looking to use their resources to
16 educate our youth. Because they are our future and
17 this is what's to come. So I appreciate you doing
18 it. It means a lot, especially for somebody who
19 loves children. So thank you, and I wish you all
20 the best of luck. So I wanted to tell you job well
21 done thus far.

22 JUDGE KONDUROS: Thank you so much.

23 CHAIRMAN RANKIN: All right. I want to introduce you to,
24 but not for the record -- Catherine Hart. You may
25 know her, to your right. If you don't, you're

1 going to know her, because she is involved with
2 Girls State. And so she is one of our young
3 attorneys who will be screening a retired judge
4 later this week. But she may have a high school
5 that she may want you to go to to speak to at some
6 point in the future. All right. Unless there are
7 any other questions, Judge Konduros, thank you for
8 being with us. You said this is the ninth time?

9 JUDGE KONDUROS: This is my ninth screening.

10 CHAIRMAN RANKIN: So you know all about this and how
11 those nine evaluative criteria that we focus on
12 that embody, we hope, both the letter and the
13 spirit of the ethics law, too, and that any
14 violation or appearance of impropriety in that
15 regard would be deemed very serious and potentially
16 deserving of heavy weight on our screening
17 deliberations. You know that, right?

18 JUDGE KONDUROS: Yes, sir.

19 CHAIRMAN RANKIN: And such that if there was any
20 appearance of that you could be called back to
21 answer those, correct?

22 JUDGE KONDUROS: Yes, sir.

23 CHAIRMAN RANKIN: As this record will not be closed until
24 a formal release of qualifications. And so I don't
25 expect that will happen, but just for the record,

1 you've acknowledged that you're aware of that rule,
2 correct?

3 JUDGE KONDUROS: Yes, sir, completely aware.

4 CHAIRMAN RANKIN: Very good. And the classes that you've
5 had to, if at all, substitute beyond the war of
6 1812, what classes -- what generally would they be?

7 JUDGE KONDUROS: It was mostly what they call independent
8 study, which was a little frightening, because I
9 don't really understand a first period study hall.
10 I don't. I mean, it's time to get it -- but they
11 were, and I think -- and I've spoken to the
12 principal, and I've spoken to Dr. Royster in
13 Greenville and obviously to Ms. Spearman. But, you
14 know, the first thing out of their mouth should not
15 be, is this on the test, is this on the test, which
16 is all you hear. And it's the same even a little
17 bit -- I hate to tell y'all this. When we
18 interview law clerks and staff attorneys, and I've
19 explained the job and the pay and whatever and, you
20 know -- do you have any questions for me. And the
21 questions are, can I be off that Friday. And can I
22 not come in that Monday, because my bro -- and
23 this, and is there a chance that we -- and I was
24 like, you will not have any leave until after the
25 first of the year. It just almost sounds like

1 you're too busy to work here, you know. Whereas, I
2 grew up, and you showed up, and they said when can
3 you start. And you said I'm here, I'll work the
4 week out for free and see if you like me. It's
5 just such a difference in how you look at it. And
6 they -- you know, maybe they're smarter than we
7 are. Maybe they don't want to work the 100 hours a
8 week I know most of y'all do. But, you know, with
9 your first interview at your first job sitting
10 there with three judges, is that really the first
11 question out of your mouth, how much leave am I
12 going to get and can I be off the day after I
13 start. It's just interesting. So we're going to
14 have to back up. I hope to stay involved with it a
15 little bit with education, but without coming
16 across like a curmudgeon. But we -- I pulled up
17 something on the thing, and we talked about moons.
18 You know, I said, maybe you're talking about
19 Jupiter, but they weren't. And so we'll have to
20 work on things like that.

21 CHAIRMAN RANKIN: Very good. Unless we task Ms. Hart to
22 find those students to talk about your teaching
23 temperament --

24 JUDGE KONDUROS: Girls State girls know how many moons
25 there are.

1 CHAIRMAN RANKIN: -- we will close it, and I appreciate
2 your, yet again, touching on that and your service
3 and your willingness to continue serving with your
4 candidacy.

5 JUDGE KONDUROS: Thank you, Mr. Chairman, and the members
6 of the Commission for having me today, and I hope
7 you have a good rest of the week.

8 CHAIRMAN RANKIN: Very good. Thank you so much.

9 (Off the Record)

10 CHAIRMAN RANKIN: Welcome Judge.

11 JUDGE MCDONALD: Thanks for having me.

12 CHAIRMAN RANKIN: All right we are on the record. And
13 Judge McDonald, you have before you some
14 information, a PDQ, a sworn statement; is that
15 right?

16 JUDGE MCDONALD: Yes.

17 THE HONORABLE STEPHANIE PENDARVIS MCDONALD, being
18 duly sworn, testifies as follows:

19 CHAIRMAN RANKIN: To the PDQ, Personal Data Questionnaire
20 and statement, are those ready to be admitted into
21 the record, or do you need to make any changes?

22 JUDGE MCDONALD: Ten is ready with the exception of the
23 amendment, 11, that's here as well, and then no
24 changes to the other, to the sworn statement.

25 CHAIRMAN RANKIN: And you have no objection to those

1 being included in the record, do you?

2 JUDGE MCDONALD: I do not. This one doesn't have my
3 signature part on it. Should I -- that's okay?

4 CHAIRMAN RANKIN: Yeah, you can submit that signature
5 afterwards today if you will, or you can sign it
6 right now if you like.

7 (Exhibit Number 10 was marked for identification purposes
8 - (24 pages) Personal Data Questionnaire for The
9 Honorable Stephanie Pendarvis McDonald.)

10 (Exhibit Number 11 was marked for identification purposes
11 - (3 pages) Amendment to Personal Data Questionnaire for
12 The Honorable Stephanie Pendarvis McDonald.)

13 (Exhibit Number 12 was marked for identification purposes
14 - (8 pages) Sworn Statement of The Honorable Stephanie
15 Pendarvis McDonald.)

16 JUDGE MCDONALD: Well, I think there's a signed one
17 somewhere, but I'm happy to resign.

18 CHAIRMAN RANKIN: If we don't find the signed one, we're
19 going to come back to you.

20 JUDGE MCDONALD: Okay, thanks. Sorry about that.

21 CHAIRMAN RANKIN: Yeah. All right, Judge, you are
22 familiar with this process. How many times now
23 have you been sworn, more than once at least?

24 JUDGE MCDONALD: This is maybe my fourth or fifth time.

25 CHAIRMAN RANKIN: You are aware of this process, our

1 Commission's investigation of your candidacy and
2 what we focus on, the nine evaluative criteria,
3 correct?

4 JUDGE MCDONALD: Yes.

5 CHAIRMAN RANKIN: That includes a ballot box survey, a
6 thorough study of your application materials,
7 verification of your compliance with the state
8 ethics laws, a search of newspaper articles in
9 which your name appears, a study of those previous
10 screenings and then a check for economic conflicts
11 of interest. There was one affidavit filed in
12 opposition to your election, but pursuant to Rule
13 13 that complaint and/or affidavit was dismissed
14 for failure to state an allegation relating to your
15 character, competency or ethics as required by the
16 Rule. Therefore, there are no affidavits in this
17 record in opposition to your election. And then
18 finally, no witnesses are here to testify. And
19 therefore, you now have the opportunity to make an
20 ever so brief opening statement if you like. Or if
21 you choose not to, answer questions by Mr. Dennis
22 before we turn it over to the other Commission
23 members.

24 JUDGE MCDONALD: I know y'all have a really long week,
25 and I think this is the first day. So I think, if

1 the Commission pleases, I'll just waive the opening
2 statement and answer any questions y'all might
3 have.

4 CHAIRMAN RANKIN: In the words of a former senator,
5 brevity is clarity, and so take it away, Mr.
6 Dennis. Thank you.

7 MR. DENNIS: Thank you, Mr. Chairman. I'd like to note
8 for the record that based on the testimony
9 contained in the candidate's PDQ, which has been
10 included in the record with the candidate's
11 consent, Judge McDonald meets the constitutional
12 and statutory requirements for this position
13 regarding age, residence and years of practice.

14 JUDGE MCDONALD - EXAMINATION BY MR. DENNIS:

15 **Q. Judge McDonald, would you mind explaining to the**
16 **Commission why you would like to serve as a judge**
17 **of the Supreme Court?**

18 A. Sure. I loved being a Circuit Court judge. That
19 was my dream of what I wanted to be after being a
20 trial lawyer for 17 years. And also a good portion
21 of my practice was appellate. But it soon became
22 clear, a couple of years after I had gotten on the
23 circuit bench, that the Charleston County Bar and
24 some folks in our leadership wanted me to run for
25 the Court of Appeals. So I did that. It was a

1 little bit scary at the time to do. But I'm very
2 thankful to be there now. And I've loved that,
3 and, you know, I've grown to love the Court of
4 Appeals as well. I enjoy the scholarly deep dive
5 that we get to do when writing opinions. I enjoy
6 interacting with folks in the Bar. But I really
7 think I can best serve the state perhaps as a
8 conduit of information between trial courts and
9 lawyers and the Supreme Court. One thing I noticed
10 during the pandemic was just a communication gap.
11 The court had so many crises, the Supreme Court
12 did, that it had to deal with just to keep courts
13 running on a daily basis. And I think sometimes
14 lawyers felt a little bit at sea. And I don't know
15 how far back y'all went in my social media and my
16 Facebook posts, but I would share the orders from
17 the Supreme Court as they came down. And certainly
18 the Bar shared those as well, and they were
19 available on S.C. Courts.org., but lawyers seemed
20 really appreciative of that. And through posting
21 that in three different places on Facebook and
22 trying to make sure lawyers and the trial judges
23 were kept abreast, it really became clear that
24 maybe people didn't feel comfortable always
25 communicating the needs that the trial court judges

1 and clerks of court and the Bar have with court
2 administration and the Supreme Court. And I
3 hopefully could help improve that a little bit.
4 Other than that, it's really not that different of
5 a court than what we do now. I think Chief Judge
6 Williams has let y'all know about 97 percent of the
7 appellate work goes through the Court of Appeals.
8 I'm lucky to get to work on it there. You know, I
9 had the honor of y'all allowing me to continue to
10 do that in 2020. But I would like to take this
11 opportunity now to try to help improve
12 communication with the trial bench, clerks of court
13 and the Bar is truly the reason.

14 **Q. Thank you, Judge. Would you mind explaining your**
15 **general judicial philosophy, please?**

16 A. Sure. It's pretty basic. Judges hear cases and
17 controversies that come to their court for
18 disposition. We do not set policy. We are not a
19 super legislature or even a mini legislature, but
20 we do hear our cases and controversies. You know,
21 I took an oath to uphold the integrity and fairness
22 of the judicial process. That's certainly
23 something I always strive to do and also just try
24 to not ever forget what it is to have been a
25 practicing trial lawyer in private practice, a

1 trial court judge and now an appellate judge who
2 tries to write opinions that address not only the
3 issue before us but that are helpful to the bench
4 and Bar in the jurisprudence going forward. And
5 that's basically my philosophy.

6 **Q. Would you mind discussing your vision for the**
7 **future of the judicial system and what changes you**
8 **might advocate to the system and why?**

9 A. Right now we're all, I think, still in crisis
10 management mode. We're still coming off of the
11 pandemic shutdowns. Every county is coping with
12 that a little bit differently. I know all trial
13 court judges and clerks of court are coping with
14 that a little bit differently. We've made some
15 technological advances to help with that. One
16 example, being able to do oral arguments by Webex
17 has been amazing. We were able to keep our work
18 going. And now I certainly don't think that's a
19 substitute for being in person court, either at the
20 trial level or the appellate level, but it is a
21 good supplement to have to allocate our resources.
22 We've got to do something about the court reporter
23 situation. I know trial judges are struggling with
24 that still now. We have not yet seen the trickle
25 up affect of how that will effect our records on

1 appeal and transcripts, but I'm rather concerned
2 about that. And when we talk about technology, we
3 really need to not forget the counties. When I was
4 a circuit court judge, it was interesting and
5 concerning sometimes the resources I had in
6 Charleston, in Berkeley we didn't have them at that
7 time. And in other counties it was still an issue.
8 And I think we need to be going out in person
9 looking at that and seeing what these counties
10 need. You know, without internet connectivity
11 properly and access to the case management system
12 as it is, it's really hard sometimes for the work
13 of the courts to go forward. So working on
14 technology, but according to the needs of the
15 particular counties, which are not all the same
16 would be a goal I think we could work on. I'm not
17 sure if that answered the question, but hopefully
18 it did.

19 **Q. Judge, to what extent do you believe that as a**
20 **judge on the Supreme Court potentially you should**
21 **or not defer to the actions of the General**
22 **Assembly?**

23 **A.** Well, the power of the legislature is plenary. We
24 know that. Unless it's limited by the Constitution
25 or some type of rule of the particular body, the

1 House rule or the Senate rule, we're not looking to
2 trump the legislature in any way, at least
3 appropriately in my regard. As I said before, we
4 address cases and controversies, but if something
5 is unconstitutional or otherwise violative of the
6 rule of some body, that needs to be addressed.

7 **Q. Judge McDonald, the Commission received a fairly**
8 **high volume of ballot box surveys regarding you.**
9 **And of those, 96 included additional specific**
10 **written comments. The ballot box survey, for**
11 **example, contained some of these following positive**
12 **comments. "Excellent judge, outstanding. She is**
13 **the perfect example of what a judge's temperament**
14 **should be." Seventeen of those 96 comments,**
15 **however, expressed some measure of concern,**
16 **primarily centered on your temperament from the**
17 **bench. How would you respond to that concern?**

18 **A.** Well, I certainly take it very seriously. Because
19 I have prided myself throughout my career on
20 hopefully being known for having a good temperament
21 on the bench. But it does worry me when some
22 attorneys feel like it might not have been up to
23 par in their particular oral arguments. I really
24 strive to be kind but fair. But also I do ask hard
25 questions sometimes. And I think that's part of

1 the oath that we all take as judges to uphold the
2 fairness and integrity of the judicial process.
3 Unfortunately -- and I hate to say that we're
4 seeing it more and more. I don't know if it's a
5 general anxiety issue that some folks have, but we
6 do have people that come into court, even at the
7 appellate level, and don't perhaps obey the duty of
8 candor to the tribunal. That has always been
9 important to me as a lawyer. You know, we swore
10 our oath, and that's definitely one of them. It
11 becomes a due process problem for the other side if
12 one side is misrepresenting the record or
13 misrepresenting the case law. And that does
14 happen. I try to walk the fine line between being
15 kind but fair but appropriately firm when that
16 needs to be addressed. Generally, the way I
17 approach it, is to say help me understand and give
18 the person the opportunity to correct me if I'm
19 wrong about something. It could very well be
20 something I misread in the record, and once they
21 correct me, I think we check that off and move on.
22 But I find it interesting that even after one of us
23 sometimes expresses that, some lawyers double down.
24 And they continue to press with a point that
25 perhaps the record says the opposite or perhaps the

1 case law says the opposite. And at that point I
2 will ask again, and there are some attorneys that
3 do not appreciate being challenged. They want you
4 to take their response. And if they don't want to
5 answer your question, they just won't answer your
6 question and move on. I struggle with the
7 appropriate response to that but I think it's my
8 duty to address it. And I apologize if anybody
9 thinks I'm overly aggressive about it or overly
10 stern. That certainly is not my intent. Some days
11 I think I get it better than others, but I'm always
12 working to do better.

13 **Q. Thank you, Judge. And one additional concern that**
14 **was raised during the investigation was concerning**
15 **the timeliness of the issuance of your opinions.**
16 **Would you mind responding to that as well?**

17 **A.** Sure, absolutely. Every opinion is different and
18 some do take longer. For example, in my packet,
19 there is a writing sample of a workers' comp case
20 that took too long. It did not start off as my
21 opinion. I wrote a dissent. And it took me a
22 while to write that dissent. And then I was
23 pleased that the other two judges flipped to my
24 side and we ended up ruling the opposite way.
25 There are times when I might be waiting for the

1 Supreme Court to decide cert on something before we
2 issue the opinion. Because then I can save people
3 time on the cert list if I can get it right instead
4 of always being fast. But then there are other
5 opinions, like the medical malpractice published
6 case I issued last month, we had oral argument on
7 that in October. The opinion's already out,
8 already been in the advance sheets. So I am always
9 working to be better, faster, but to also be
10 scholarly in my opinions. I think one of the
11 things I'm really proud of is, my colleagues know
12 that I've got a grasp of the record. And some of
13 them rely on me to help with that. And I'm honored
14 to be able to do it.

15 **Q. Thank you, Judge.**

16 MR. DENNIS: Mr. Chairman, I'd like to note that the
17 Lowcountry Citizens Committee reported that Judge
18 McDonald is qualified as to the constitutional
19 qualifications, mental stability and physical
20 health and well qualified as to all other
21 evaluative criteria. The Citizens Committee also
22 reported that she is "a suburb judge, hard worker,
23 conscientious, personable, knowledgeable, straight
24 shooter and would be a very, very good Supreme
25 Court justice."

1 Q. And Judge, I have just a couple of housekeeping
2 matters to wrap up with you before I'm finished.
3 Since submitting your letter of intent to run for
4 this seat, have you contacted any members of this
5 Commission about your candidacy?

6 A. I have not.

7 Q. Are you familiar with Section 2-19-70, including
8 the limitations on contacting members of the
9 General Assembly regarding your screening?

10 A. Yes, I am.

11 Q. Since submitting your letter of intent, have you
12 sought or received the pledge of any legislator,
13 either prior to this date or pending the outcome of
14 this screening?

15 A. I have not.

16 Q. Have you asked any third parties to contact members
17 of the General Assembly on your behalf, or are you
18 aware of anyone attempting to intervene in this
19 process on your behalf?

20 A. I have not asked anyone to contact members of the
21 General Assembly. Several people have called and
22 said, we're excited to see your name, how can we
23 help. And I always direct them to the statute and
24 tell them thank you for the help but I'm not
25 allowed to ask them to do anything.

1 Q. Thank you, Judge.

2 MR. DENNIS: I would note for the record that any
3 concerns raised during the investigation regarding
4 this candidate were incorporated into this
5 questioning today. And, Mr. Chairman, I don't have
6 anything else for Judge McDonald.

7 CHAIRMAN RANKIN: Thank you. Questions of the members?
8 Let me just start it off.

9 JUDGE MCDONALD - EXAMINATION BY CHAIRMAN RANKIN:

10 Q. In the last -- not the last, but a few ago, the
11 comment about timeliness of your opinions, and
12 perhaps for the losing side or the winning side
13 that that delay may be particularly frustrating,
14 but I'm curious as to your brothers and sisters on
15 the Court of Appeals. Is there a metric that you
16 keep up with to show whether one has three opinions
17 due? How do we measure that? How do y'all measure
18 that? Help me.

19 A. Sure. Chief Judge Williams has done an awful lot
20 to help us move the opinions more quickly. For
21 example, during Covid, I think our staff attorney's
22 office was 40 percent more productive during the
23 hybrid work from home work in the courthouse
24 period. Always we're trying to get the opinions
25 out in the most timely matter possible, but every

1 judge is different and every panel is different.

2 And that's really how that comes into play.

3 **Q. In terms of the actual case number, general parity**
4 **between all of y'all, or some get more of this**
5 **particular type case? How does that work?**

6 A. You mean, how the cases are distributed or --

7 **Q. Yeah. And case numbers, actually the -- one's got**
8 **20, the other's got 30, 40, or are they all --**
9 **again, what numbers are split between --**

10 A. Of outstanding opinions or --

11 **Q. From the get go, assigned from the get go.**

12 A. Oh. Well, assigned from the get go, we get similar
13 opinions. The difficulty of the staff attorney
14 motions that come to various judges can vary. They
15 can take those motions to whatever judge is
16 available. And I always let them know I'm
17 available whenever they need something. If I don't
18 have a conflict in it, I'll do it when I'm there in
19 person. I'll do it from the road. I'll do it in
20 Charleston. Complexity wise, they're distributed,
21 I guess, equally. We get our boxes from the
22 clerk's office. I am one that tends to over
23 recuse, if that makes sense. I believe that I am
24 bound by the judicial canons that require a judge
25 to hear any matter in which there is not a

1 disqualification. But the degree to which some of
2 our colleagues rely on us definitely differs, if
3 that answers the question.

4 Q. Well, too -- and help me with the -- again, it is a
5 small refrain, perhaps maybe a few, but in terms of
6 my sense of -- I don't know that it is fair, but
7 that it is difficult for you to pull the trigger.
8 Is that a fair statement?

9 A. Sure.

10 Q. And is that -- again, you've talked about writing
11 the dissenting opinion that ultimately brought two
12 with you to be the, maybe, unanimous decision, but
13 --

14 A. It was.

15 Q. -- that is a good example?

16 A. Yes.

17 Q. The cases that perhaps the orders have not been
18 issued that are assigned to you, are those
19 particularly complex cases that may involve cert
20 being granted or not? Help me figure --

21 A. Sure. Sometimes they are particularly complex
22 cases in an area of the law that is rapidly
23 changing. For example, the sex offender
24 jurisprudence and bolstering of witnesses and
25 different evidentiary issues, Rule 404, where Perry

1 was overruled. That has changed over time, and so
2 I'm very careful with those opinions. Honestly it
3 depends panel by panel. If I'm on a panel on a
4 judge who was undergoing a health issue or
5 otherwise having some problems and that judge needs
6 help, I will put my work aside and help that judge.
7 And Judge Williams and I have talked about this.
8 He's aware of it. But that's really more of the
9 reason than anything being particularly complex.

10 **Q. And I don't assign any negative to that.**

11 A. Sure.

12 **Q. Because again, you want to get it right. It is**
13 **your name, your legacy, your ultimate score sheet**
14 **that others at the Supreme would judge you by. So**
15 **I'm not assigning any negative to that.**

16 A. I do, though. I want to be timely and correct.
17 And I know lawyers rely on us to keep their cases
18 moving. But it's important to me to be very
19 familiar with the record and to be very familiar
20 with the case law as it's coming down and to try to
21 save people from time on the cert list, if I can.
22 Or to correct something that I think is incorrect,
23 as happened in the Timothy Causey writing sample
24 that I included.

25 **Q. And again, lest I cast a negative light here, that**

1 is not the refrain. You have got so many
2 compliments about your excellent writing, your
3 insight, your thoughtfulness, your thoroughness.
4 But that exchange begged the question for me --

5 A. Sure.

6 Q. -- to pursue. Why in the world do you want to move
7 up to the Supreme Court?

8 A. I ask myself that question daily, more lately than
9 before. As I said earlier, I do think there is a
10 disconnect, through no fault of the court, between
11 what the Supreme Court declares trial judges and
12 lawyers and clerks of court need and what the folks
13 on the ground would actually say they need. And I
14 think we need to do a better job of going to those
15 places and those stakeholders and helping as we
16 move forward coming out of the pandemic. During
17 the pandemic, during the shutdowns, I guess, would
18 be the best way to call it, our courthouse was very
19 safe. I could get from our parking garage in
20 Charleston to my court area, my chambers, or to the
21 clerk's office to meet with Julie Armstrong,
22 without really having to interact with anybody. I
23 could get my temperature taken by the deputies, be
24 masked, and we met probably two to three times a
25 week trying to answer questions as lawyers and

1 other clerks and trial judges all struggled with
2 it. And that was a little bit where I noticed the
3 disconnect. And I really just want to try to help
4 with that. I will also say there is occasional
5 pressure from our Bar about the fact that the
6 Lowcountry and Charleston and Beaufort doesn't have
7 anyone on the court and hasn't in about 50 years.
8 And, as you know, Justice Hearn is our only coastal
9 person. And that is a concern to our bench and Bar
10 in my part of the world. And so while I otherwise
11 might prefer to be ensconced in my office or with
12 my computer, I am venturing out to do this because
13 I thought there was a need that needed to be
14 fulfilled for the state.

15 **Q. Now if you lived in the Midlands or Upstate, you**
16 **certainly wouldn't be making that point, would you?**

17 A. I would still be making the communication point if
18 that were the case. I'm not sure if I would have
19 had the conversations with the clerk of court that
20 I had with Julie Armstrong. I'll give you an
21 example. One of the judges that I was able to help
22 during Covid --

23 **Q. No, no, no. And I'm going to come to that --**

24 A. Oh, okay.

25 **Q. -- I'm talking about your residency as a coastal**

1 member. That alone doesn't distinguish or
2 disqualify --

3 A. Oh, no, not at all, but it's a reason for me to
4 leave a place of safety where I'm happy and want to
5 try to do this.

6 Q. Julie Armstrong, you've referenced, the Clerk of
7 Court in Charleston, correct?

8 A. Yes.

9 Q. And again, I won't take Ms. Blackley's -- Hope -- I
10 call her Hope -- Blackley's thunder. Perhaps she's
11 not going to speak, but as a former clerk, it is
12 important to have the kudos of, I think, and
13 unqualified support of. And she references Ms.
14 Armstrong in her letter, your work during Covid and
15 your nimbleness to get some things moved very
16 quickly. So she is a big supporter of yours in
17 this effort.

18 CHAIRMAN RANKIN: All right. I have no other questions
19 at this point. I'm going to turn it over to anyone
20 else that may. And, Mr. Safran, please.

21 MR. SAFRAN: Thank you, Mr. Chairman.

22 JUDGE MCDONALD - EXAMINATION BY MR. SAFRAN:

23 Q. Let me say this. I think I've appeared in front of
24 you probably twice, once as actually the arguing
25 attorney, once sitting at the table. And I have

1 never found in that experience anything other than
2 a fully response that you would have given. And in
3 response to what you said earlier, I think it
4 absolutely is your obligation to call people out
5 when they're doing what they're doing in terms of
6 misrepresenting the record or misrepresenting the
7 law. And I'm confident that what's going on is, it
8 is being tactfully addressed, at least the first
9 time. And if, as you say, they're doubling down,
10 then, yes, there is no reason to apologize about
11 saying, "you've got to stop." And, you know, when
12 people are called liars, they don't like it. And
13 unfortunately, if they're doing it, they need to
14 have that stated to them.

15 A. Well, and I appreciate you saying that, but I still
16 don't want ever to make anybody uncomfortable or
17 for them to have a bad experience at oral argument.

18 Q. Well, and, you know, I don't think any of the
19 judges truly that I've appeared before in oral
20 arguments over 35 years, basically, have ever gone
21 out of their way to do that. However, there is a
22 line that can't be crossed. And I don't think it's
23 incumbent upon any of the judges to ever have to
24 put up with that kind of stuff, because it pollutes
25 the whole process. And so, I get it. I know that

1 you don't want people to have a bad experience.
2 But candidly, they're bringing that bad experience
3 on themselves by doing what they're doing. And so
4 I don't think there's any apologies necessary for
5 that. And if in fact, those are what is the basis
6 or are the basis for making those comments, then
7 that's their problem. That's not yours. Let me
8 also ask you this. You know, in terms of affording
9 people time. I know we heard this earlier from
10 Judge Hill. I know personally, and I may be
11 completely, you know, I guess, unrealistic in this
12 belief, but number one, I think that by the time a
13 lot of us get to an appellate case in the court,
14 we've got years invested in it. And so everybody
15 wants to be heard. Everybody wants an oral
16 argument. And candidly, you know, in the past what
17 I would do oftentimes is file a specific request
18 for one. Because I figure if it's taken me this
19 long to get here, I want to be heard. I know
20 there's a balancing that has to occur. How does
21 that happen in terms of, you know, your philosophy
22 as far as allowing argument versus not?
23 A. Generally, if we have an oral argument request, as
24 far as I know we grant it. I love oral argument
25 and enjoy arguing the cases, and they are, quite

1 frankly a chance for attorneys to correct something
2 or help us understand better that I maybe have
3 misread or didn't quite follow. But we just don't
4 have the capability at the Court of Appeals to
5 argue everything that needs to be argued. And
6 sometimes there are probably some things that
7 probably needed to be argued that didn't get
8 argued. Other times -- and this is more rare
9 though, because our screening process that our
10 staff attorney's office does is, I think, really
11 good. Every now and then there's a case that
12 afterwards I tell my colleagues, "wow, I should
13 have submitted that one. Sorry we had to have
14 argument on that." But to me it's much harder to
15 not have argument when you need it than to have it
16 if -- you know, that's our job. And if it doesn't
17 help move the ball forward, that's fine. We heard
18 the parties, and we can act accordingly.

19 **Q. Well, and I guess the next point in terms of time**
20 **in general, I know that oftentimes people get**
21 **criticized on the court in terms of what is**
22 **perceived as a delay in getting opinions out. You**
23 **know, it never bothers me because I say, you know**
24 **what, it's taken me this long to get here. I'd**
25 **rather them get it right than get it done quickly.**

1 And so, again, I'm not really buying into that as
2 being a major issue. And I guess from your
3 standpoint I would assume you would agree.
4 Because, you know, I haven't written opinions, but
5 I've written plenty of briefs. It's not an easy
6 process if you want to do it right. You think
7 about every sentence. You don't want to basically
8 -- and particularly if you're publishing an
9 opinion, you want everything to basically fall the
10 way it should. You want it to be something that's
11 logical, and again, that is expressive in the way
12 you want it. It doesn't happen overnight, does it?

13 A. No. And I think what is important to me, as I said
14 earlier, is I'm not trying to just address the case
15 in controversy in that particular matter in front
16 of us, which may be or obviously is very important
17 to the people involved, but I need to not mess up
18 the jurisprudence going forward in the case law
19 that lawyers and trial judges rely on as part of
20 our body of law. And I take that very seriously.

21 Q. Well, and on top of all of that in terms of the
22 time also, you alluded to the fact y'all have a
23 motion practice that also has to be addressed. And
24 in addition to it -- I mean, again, it's not like
25 you're doing one opinion. You may have 20 that

1 you're still having not just deal with writing at
2 the end of the game, but you're dealing with it on
3 the front end, getting prepared for arguments,
4 making contributions to whatever the bench folks
5 are going to say. So again, you know, I personally
6 wonder about all the cat calls about that, because
7 it's not like y'all are doing nothing. And so, you
8 know, what is your perception, I guess, as far as
9 how fair maybe those contentions are?

10 A. I always think it's fair for people to tell us we
11 need to do better. And I know that we have, from
12 the Bar and attorneys that go through this process,
13 mixed reviews about the anonymous ballot box
14 process. Which as y'all know, and you've seen it
15 in the past, can be at times played with. And not
16 in this situation, but in years past. I think it's
17 a valuable tool, because I think lawyers need to be
18 able to express their concerns, whatever they are,
19 in a place of safety without having to put their
20 name on it unless they want to. They need to be
21 able to say that. And I think that when we offer
22 for public service, and y'all know this probably
23 much better than I do, we're open to be critiqued.
24 I mean, I can always do better. Every day I try to
25 do better than I did the day before. But I'm

1 really proud of my work ethic and of the work that
2 comes out of our chambers. And so, does the Court
3 of Appeals need to move faster, absolutely, and I
4 talked with this at the Citizens Committee and the
5 Bar Committee. Both expressed -- they were
6 impressed at the number of things in the advance
7 sheets coming out of Court of Appeals compared to
8 perhaps some other courts. But one thing I think
9 that y'all are going to have to look at eventually
10 and may be is the Court of Appeals is in the
11 middle. And there are two pipes that come into us,
12 the Supreme Court sends us all the PCRs now. One
13 year I think that was 353 in two truckloads. And
14 more judges get added at the trial level to address
15 population needs in places where we need judges.
16 So we're getting more family court judges and
17 circuit court judges and perhaps other judges as
18 well, but those are the ones I'm familiar with.
19 And at some point that center is going to have a
20 hard time holding. I'm not sure if that answered
21 the question, but that was my effort.

22 **Q. Well, and just one last thing. I think**
23 **Representative Rutherford asked this question**
24 **earlier. Is it really a matter of having to add**
25 **more judges or just necessarily having to be more**

1 **patient in terms of being able to recognize there's**
2 **a load that has to be dealt with?**

3 A. I mean, I do think we're all having to be more
4 patient now because Covid certainly didn't make
5 things move any more quickly than they were before.
6 So I think we're all having to be a little bit more
7 patient. But I do think that if those pipes that
8 feed into the intermediate court continue to get
9 bigger and bigger, we may eventually need to add
10 more judges.

11 **Q. Well, I appreciate your responses, and thank you**
12 **for being here.**

13 A. Thank you.

14 CHAIRMAN RANKIN: Mr. STROM.

15 MR. STROM: Thank you, Mr. Chairman.

16 JUDGE MCDONALD - EXAMINATION BY MR. STROM:

17 **Q. Judge McDonald, I was looking back through your**
18 **PDQ. And I remember when you first ran for the**
19 **Court of Appeals in 2014. And I was looking at**
20 **your resume, and I think it's worth this Commission**
21 **making a note of that, Phi Beta Kappa, Algernon**
22 **Sydney Sullivan, Mortar Board, doing honors college**
23 **while doing all that. And you were president of**
24 **your sorority and moved back to Charleston, back**
25 **home and were president of the junior league,**

1 president of your women's church group. So you're
2 obviously really smart and really involved. And I
3 say all that to kind of move into this question.
4 Then Representative Rutherford was talking about
5 this earlier. Everybody is concerned -- or the
6 lawyers are concerned about the docket. We
7 obviously want things to move. You know, we don't
8 get paid until our cases are resolved. But one of
9 the things that's happening as an unintended
10 consequence of this is we're getting called all
11 over the place. I mean, there's an order that
12 magistrate court cases have to be moved within a
13 year. And, you know, they're backlogged. So
14 lawyers have no time off. I mean, Friday afternoon
15 you're in magistrate's court. And you've got to be
16 in federal court. You know, it's just -- and
17 there's no mechanism for us to find protection and
18 any comfort. I mean, we're called -- we've got
19 trial scheduled in four places on Monday and two on
20 Tuesday. And, you know, as you know, practicing
21 law is hard, and if you're from a small firm, and
22 you're trying to figure out where you're supposed
23 to be, get your client there and all this in the
24 name of moving things faster. We get that, but
25 we've got to have some kind of relief for the

1 **lawyers, too.**

2 A. I agree with that, and I have some thoughts on
3 that. I can't remember if we talked about them
4 last time or not. When I was a practicing trial
5 lawyer, the most stressful part for me was not the
6 work or the arguments or the court part. It was
7 going to a roster meeting on Monday morning and
8 trying to explain to a circuit court judge why I
9 couldn't be in three counties at one time. And I
10 think we are a little better than we were then, but
11 not much. And since I was an attorney, since I was
12 on the circuit bench and eight years ago when Mike
13 Ethridge was working on it for the wellness
14 committee, we've been trying to get a uniform
15 lawyer protection process passed. And I know that
16 one answer now is, oh, the technology, we're
17 working on it. But seven or eight years ago when
18 Mike Ethridge came to speak with the appellate
19 court conference, which was the Supreme Court and
20 the Court of Appeals about that, the members of the
21 court at that time just really didn't seem to see
22 that as a legitimate problem. I think the comment
23 was -- and I've heard this also in another context
24 -- oh, our judges are reasonable. Our judges are
25 reasonable. They would never do that. Well, our

1 judges are reasonable. I think y'all do a great
2 job. But I do think that everybody's under
3 pressure under the benchmarks that have come down,
4 and sometimes in the day-to-day work maybe we
5 aren't all as reasonable as we would strive to be.
6 For example, there's some great judges that will
7 not sign protection at all. And that -- I don't
8 understand that on any level. And two weeks ago my
9 clerk of court forwarded me a memo that had come
10 down from court administration about a pilot
11 uniform protection program. I just don't find that
12 to be rocket science. And I think it's something
13 that lawyers have been asking for for a really long
14 time and that it needs to be made a priority. And
15 if somebody wants to take their vacation -- their
16 family on vacation, they shouldn't have to write 27
17 letters to 16 magistrates, three family court
18 judges and how ever many circuit court judges are
19 left. And I'm not sure why that hasn't been fixed
20 yet, and that will be and has been one of my
21 squeaky wheels. I'll give y'all one more, and this
22 is why, Chairman Rankin, the coastal thing is
23 important. Many years ago and the way I started
24 sharing information on Facebook with lawyers about
25 what was going on at the courthouse, there was a

1 hurricane on the way. I can't remember which one
2 it was, but it was the one that took days to get
3 here. And it was a big one, and people were
4 evacuating, and the governor had issued evacuation
5 orders. And no order had come down from the
6 appellate courts about how we were going to
7 calculate time. And I was getting phone calls and
8 texts, and Julie Armstrong was telling me she was
9 getting phone calls and texts from people that were
10 worried when was the Supreme Court going to issue a
11 time computation order. So I started calling
12 friends on the Supreme Court and see if I could
13 help with that, one or two. And then that wasn't
14 getting anywhere, so I called the chief justice's
15 right hand person and talked with her. And then I
16 called Dan Shearouse and talked with him. And
17 eventually I got an instant message from Justice
18 Few who was trying to work on that as well that
19 said, "I have been told not to ask again."
20 Translation, you stop asking. And, y'all, I wasn't
21 asking because I needed to know how time was being
22 calculated during that four or five day period. I
23 didn't have a brief due in the Supreme Court or
24 anywhere, but lawyers did. And the order did come.
25 It did, but only after I had kind of been fussed at

1 a little bit about bugging people about it. And so
2 these are the kind of lawyer wellness issues I
3 think we need to focus on and quality of life as
4 opposed to adding two hours of extra CLE
5 requirements. I'm not sure if that answered the
6 question, and I apologize for getting on my soap
7 box.

8 **Q. It did.**

9 MR. STROM: Thank you, Mr. Chairman. Representative
10 Caskey.

11 VICE CHAIRMAN CASKEY: Thank you, Mr. Chairman.

12 JUDGE MCDONALD - EXAMINATION BY VICE CHAIRMAN CASKEY:

13 **Q. I'll try and be brief. Judge, I appreciate you**
14 **being here. Your colloquy with Mr. Strom made me**
15 **think, though about another part of it, because I**
16 **think you're absolutely right. I think the**
17 **discussion we've had about demands on lawyers is**
18 **very real, but there's another element. And I**
19 **guess I'll just make a comment and ask for your**
20 **response to it. Which is, the public's confidence**
21 **in our judiciary is a very real issue that I'm**
22 **perceiving. It's an issue that requires a**
23 **multifaceted response from different participants**
24 **and different elements within society writ large.**
25 **But one area where I perceive an opportunity for**

1 improvement is engagement with the Bar. There are
2 obviously very real limitations because of the
3 judicial canons and our general notions of fairness
4 and the rule of law. But by and large the public
5 doesn't see our judges very often. And I thought
6 your ballot box comments were fantastic. Like Mr.
7 Safran, I think that to the extent that anybody has
8 to complain about something, you know, that's just
9 law large numbers. But what does come across in
10 this is that you have dedicated an incredible
11 amount of time and effort to make yourself
12 approachable and available. And perhaps I'm doing
13 a disservice to Judge Konduros by not recognizing
14 her many contributions that we just talked about a
15 minute ago. And I say all of that to say or ask,
16 where do you perceive opportunities -- again, while
17 maintaining our commitment to moving cases more
18 quickly? Seeing our judges do more so that the
19 public can have a greater level of confidence and
20 faith in them?

21 A. You know, it's a fine line to walk between speaking
22 at conferences all the time and not being in the
23 office enough to work that I think we all work on.
24 I try to go to any conference I'm invited to. If
25 somebody wants me to be on a panel or speak, I do

1 it. I try to interact with lawyers. One of the
2 things I got asked when I ran for the Court of
3 Appeals is, aren't you going to miss everybody.
4 Aren't you going to feel isolated, you know, in the
5 appellate tower, and I don't think it has to be
6 that way. I try to make an effort to go out and
7 attend events and be present, and I think that's
8 really important. A big part of this job to me,
9 and I know it sounds hokey, but we're basically
10 customer service representatives for the judiciary.
11 And we need to be aware of public concern and
12 certainly the appearance of the judiciary without
13 being overly affected by it to the extent that it
14 makes us afraid to issue our decisions or to issue
15 decisions that are sometimes more difficult. But I
16 do think it's important. And I've been going out
17 and speaking at CLEs and going to different lawyer
18 events whether I'm running for something or not.
19 And I'm not sure if that answered the question, but
20 that's my effort.

21 **Q. Thank you, Judge, for that. I mostly wanted to**
22 **hear myself talk first. So I just welcomed the**
23 **opportunity to share that with you. And then on a**
24 **more serious note, to ask for your reaction to it,**
25 **so thank you for that.**

1 CHAIRMAN RANKIN: Other questions.

2

3 JUDGE MCDONALD - RE-EXAMINATION BY CHAIRMAN RANKIN:

4 Q. Judge, I want to come back to the ballot box --

5 A. Sure.

6 Q. -- and touch ever so briefly. You made the
7 statement that effectively -- my word, not yours --
8 it could be gamed. That was not what you said, but
9 does that word capture kind of what you were --

10 A. I don't think it can be gamed. I think that --

11 Q. In this instance you said it -- what was your word,
12 not gamed?

13 A. I think I did say gamed or manipulated. I think in
14 the past we all know stories about when people have
15 tried to. It didn't work, but they tried.

16 Q. Well, I don't know those stories. And I don't
17 serve on your side, so forgive me, or maybe
18 ignorance is bliss for me. I don't know. But your
19 responses, those who take the time to write about
20 you, would you be surprised to know that they have
21 only improved over time, and that you own and have
22 earned an incredibly high reputation --

23 A. I would -- sorry, I didn't mean to interrupt.

24 Q. -- well, in the attributes at least that we look at
25 in the evaluative criteria, you're only getting

1 **better. Surely, no one's manipulating that.**

2 A. I don't know what they're doing, but it would
3 surprise me that they're getting better, because I
4 do feel like -- and Justice Kittredge has said this
5 before -- the longer you do this, the more you have
6 opportunity to interact with folks in the adversary
7 system that our law is set up to foster and the
8 zealous advocates --

9 Q. **Perhaps a better foundation for my question, they**
10 **were high.**

11 A. Okay.

12 Q. **You have enjoyed a very high reputation.**

13 A. Thank you.

14 Q. **With little dissenting view of unqualified. That**
15 **has only gotten better, and such that as one of the**
16 **four candidates here, you enjoy an incredibly high**
17 **regard of the people who have taken the time,**
18 **either at your behest or someone -- the Lord,**
19 **saying, let's help Judge McDonald. So my point --**
20 **my question to you is, is that a surprise that you**
21 **are enjoying the regard, the high regard, of so**
22 **many people who appear before you, combatants**
23 **though they are?**

24 A. It's sometimes hard for me to acknowledge positive
25 remarks. I guess I'm not the best at taking a

1 compliment, but thank you. I work really hard to
2 be a better judge today than I was yesterday and
3 hopefully will be a better one tomorrow. And if
4 that come out in the ballot box, I am thrilled to
5 see that. It doesn't surprise me, but I'm
6 gratified by it.

7 Q. Well, and that is, again, anonymous though it may
8 be and gamed perhaps or manipulated though it may
9 be for others, it is reassuring to me to see
10 someone who is on the upward trajectory starting at
11 a very high place. And I've only gone back to '14
12 or '16. There was another in between, but I can
13 only imagine you're in the high 80s then too. My
14 point here, not for a question, that is helpful to
15 this person to see that you are held or that the
16 candidate is held in higher and higher and higher
17 regard.

18 A. Thank you.

19 CHAIRMAN RANKIN: Okay. Any other questions by anybody
20 else. And now I want to, unless you have any other
21 statements you'd like to make, remind you that,
22 again, part of our evaluative criteria we also take
23 very serious the spirit and letter of the ethics
24 law. Any violation or appearance of impropriety
25 would be deemed very serious by us and potentially

1 warranting your being called back, correct?

2 JUDGE MCDONALD: Yes.

3 CHAIRMAN RANKIN: All right. And you know this. So as
4 you further note, this record will remain open
5 until the formal release of the report of
6 qualifications. And in the unlikely event that
7 that violation or appearance of impropriety were to
8 occur, you know that we could call you back,
9 correct?

10 JUDGE MCDONALD: Oh, certainly, yes.

11 CHAIRMAN RANKIN: Judge, you are most bright. As Mr.
12 Strom has alluded to, your CV is chocked full of
13 engagement of academic success -- I mean, community
14 engagement, and so that you are serving and willing
15 to continue to serve and offer for candidacy in a
16 very difficult, perhaps, court is most appreciated
17 by us. Thank you very much.

18 JUDGE MCDONALD: Thank y'all for having me and for giving
19 your time away from your law practices and work to
20 come and do this. I know it's not easy.

21 CHAIRMAN RANKIN: Very good. Thank you for being early,
22 too.

23 JUDGE MCDONALD: Thank you for having me. Good to see
24 y'all.

25 CHAIRMAN RANKIN: We are now going to go off, take a

1 break. And we are at motion from Mr. Strom,
2 seconded by Mr. Safran. We are going to go into
3 Executive Session at this time.

4 EXECUTIVE SESSION

5 CHAIRMAN RANKIN: We're back on the record. And thank
6 you, ladies and gentlemen. We are back on the
7 record, and during Executive Session and lunch,
8 thank y'all. No decisions were made, no votes were
9 taken. We will now proceed to our next candidate.
10 Welcome.

11 MS. HARRISON: Thank you.

12 WHITNEY B. HARRISON, being duly sworn, testifies as
13 follows:

14 CHAIRMAN RANKIN: Very well. You have with you, Ms.
15 Harrison, a Personal Data Questionnaire and a sworn
16 affidavit; is that correct?

17 MS. HARRISON: Yes, sir.

18 CHAIRMAN RANKIN: And are those ready as is, or are there
19 amendments that need to be made?

20 MS. HARRISON: They are ready as is.

21 CHAIRMAN RANKIN: All right. And if you will hand those
22 to the Court Reporter. I trust you have no
23 objection to those coming into the record today,
24 correct?

25 MS. HARRISON: No, sir, I don't.

1 (Exhibit Number 13 was marked for identification purposes
2 - (21 pages) Personal Data Questionnaire for Whitney B.
3 Harrison.)

4 (Exhibit Number 14 was marked for identification purposes
5 - (6 pages) Sworn Statement of Whitney B. Harrison.)

6 CHAIRMAN RANKIN: All right. You have not been before
7 this Commission before; is that correct?

8 MS. HARRISON: Yes, sir.

9 CHAIRMAN RANKIN: So a little of this will be new, but I
10 know as a student of the law you are well prepared,
11 but as you will learn and have read, the Commission
12 takes a very thoroughly its task of investigating
13 your candidacy. We focus on nine evaluative
14 criteria, which includes the ballot box survey, a
15 thorough study of your application materials,
16 verification of your compliance with the state
17 ethics laws, a search of newspaper articles in
18 which your name appears and a study of previous
19 screenings, again of which you've not had and then
20 a check for economic conflicts of interest. No
21 affidavits have been filed in opposition to your
22 election, and no witnesses are present to testify,
23 though I will note you have a few folks perhaps,
24 family or friend, that are with you. And if you
25 would like to introduce anyone, you are certainly

1 welcome to at this time.

2 MS. HARRISON: Thank you. Today I've got my brother and
3 our future sister, or my future sister, and his
4 future bride. They're getting married in April,
5 Trey Harrison and Helen Dennis and then also my
6 good friends, Eve Goodstein, Don Hyde and Michael
7 Anzelmo.

8 CHAIRMAN RANKIN: Welcome. All right. You have the
9 opportunity to make a very brief opening statement
10 if you would like. Otherwise, you can answer some
11 questions that Ms. Baker will have for you and
12 other members of the Commission.

13 MS. HARRISON: I'm ready to answer some questions with
14 the caveat of just saying thank you so much for
15 your time and the opportunity to be here and just
16 what a pleasure it has been to work with your
17 staff. They are outstanding.

18 CHAIRMAN RANKIN: Very good. Thank you.

19 MS. BAKER: Thank you, Mr. Chairman. I note for the
20 record that based on the testimony contained in the
21 candidate's PDQ, which has been included in the
22 record with Ms. Harrison's consent, that Whitney
23 Harrison meets the constitutional and our statutory
24 requirements for this position regarding age,
25 residence and years of practice.

1 MS. HARRISON - EXAMINATION BY MS. BAKER:

2 **Q. Ms. Harrison, why do you now want to serve as a**
3 **judge on the Court of Appeals?**

4 A. As cheesy as this is probably going to sound, I
5 love the law, especially appellate practice. For
6 me, there is nothing more fun or exciting than to
7 get into complexity and nuance. And I think that
8 when you find something that you're passionate
9 about and you're able to take your talents and
10 gifts and turn it into a form of service, that's
11 really the sweet spot of life. And so when I think
12 about what is the role I want to have my life mean
13 for the next 20, 30, 40 years, I want it to be one
14 of service. And I see the judiciary as the perfect
15 place to combine my talents and actually do
16 something that matters beyond just one case.

17 **Q. And Ms. Harrison, how do you feel your legal and**
18 **professional experience thus far will assist you to**
19 **be an effective judge on the Court of Appeals?**

20 A. I've had the privilege of clerking in both
21 appellate courts, and I did that for a little over
22 three years. In private practice, I've handled
23 more than 50 appeals in the Court of Appeals and
24 the Supreme Court, having argued close to 20 cases.
25 In addition, I've taken multiple cases to verdict,

1 usually dealing with complex business litigation
2 issues or medical malpractice, and I've also
3 handled arbitration. And additionally, I've been
4 counsel on three class actions. And with all of
5 that combined, I'm proud to say that I actually
6 have addressed every type of case that will come
7 before the Court of Appeals and the Supreme Court.

8 **Q. Ms. Harrison, how would you describe your general**
9 **judicial philosophy?**

10 A. From an academic standpoint, I would say that I'm a
11 textualist and a minimalist. And what I mean by
12 that is that I believe it's imperative that you
13 follow the cardinal rules of construction, that
14 we're always looking to the express language of the
15 General Assembly. And to the minimalist portion, I
16 believe that you only answer what you need to.
17 Oftentimes we see when courts go a little further,
18 probably adding a little extra commentary, it
19 sometimes has a backfiring effect. And so by
20 limiting and only addressing the issues that are
21 squarely before the court and the ones that
22 actually need to be addressed in that moment, it
23 ensures that binding precedent isn't created
24 accidentally or haphazardly.

25 **Q. Ms. Harrison, what is your vision for the future of**

1 **our judicial system, and what changes would you**
2 **advocate and why?**

3 A. Well, I think we have great judiciary here in South
4 Carolina. I would say looking forward I think that
5 we have a unique time in order to make sure that we
6 have the community fully invested into the
7 judiciary. I think we're seeing in the news time
8 and time again that there are questions about
9 what's going on in the judiciary, and we certainly
10 know there's a limitation of what judges can say.
11 But I think we have to look forward in the sense of
12 how are we actively engaged in our communities,
13 whether it's judges going out and having CLEs or
14 participating in mock trials. But I think it's
15 important that we get the community actually
16 invested in the system and its value as the third
17 branch of government. As far as things that I
18 think we need to address, I'm going to speak solely
19 to the Court of Appeals and say that I think that
20 the biggest issue facing that court is making sure
21 that the docket is moving smoothly. It certainly
22 has been a huge improvement with Chief Judge Bruce
23 Williams. We've seen cases moving faster than
24 we've seen it in years. But I think there's still
25 a lot of work that needs to be done in that. And

1 specifically I want to talk about what it means for
2 litigants. Oftentimes when you get to the Court of
3 Appeals you're waiting more than two years for an
4 oral argument, and after that the opinions
5 sometimes don't issue for six months or a year. As
6 an oftentimes plaintiff's lawyer in that position,
7 it's very difficult to have your clients hold onto
8 the orders and the verdicts that they've faced when
9 they're also facing real-life problems like paying
10 their bills and making sure they can take care of
11 their families. And so I think that if we can
12 start working on expediting those cases, we're
13 going to make sure that people aren't settling
14 their cases too quickly and making sure that they
15 actually have a full, fair opportunity to be heard
16 within a reasonable amount of time.

17 **Q. Ms. Harrison, to what extent do you believe that a**
18 **judge should or should not defer to the actions of**
19 **the General Assembly?**

20 **A.** I think that a judge must defer to the General
21 Assembly as far as expressed policy and expressed
22 mandates, any type of statute in deference to them
23 at all times as far as any type of legislative
24 intent.

25 **Q. Ms. Harrison, in your PDQ you disclosed campaign**

1 contributions to legislators, were those
2 contributions made before or after you announced
3 your intent to run for this seat?

4 A. I believe all of them were made prior except for
5 perhaps incoming Cody Mitchell. I think it may
6 have been a little bit close to that time period,
7 but I'm sorry I don't have to document in front of
8 me with the date.

9 Q. Ms. Harrison, the Commission received 358 ballot
10 box surveys regarding you with 73 additional
11 comments. The ballot box survey, for example,
12 included the following positive comments: "She will
13 make an excellent judge. Ms. Harrison would be
14 outstanding. Excellent judgment and writing
15 skills. Whitney was born to be an COA judge. She
16 is well qualified for this position." Three of the
17 written comments expressed concerns that you did
18 not have enough experience to be an appellate court
19 judge. What response would you offer to this
20 concern regarding your experience?

21 A. I would say, you know, at any first blush if I
22 heard of someone I didn't know very well running
23 for the Court of Appeals at 37, I would have some
24 pause as well. That being said, I don't think that
25 pause is warranted here. Chief Justice Jean Toal

1 used to say that if you argue more than 15 times
2 before our appellate courts, you represent less
3 than one percent of the South Carolina Bar who
4 handles appeals. I think that that serves as a
5 kind of practical benchmark for me to be able to
6 say that I'm in that upper echelon group of people
7 that argue routinely before our courts. But I
8 think beyond just that benchmark there's a
9 practical realization of how I get paid. The
10 reality is that lawyers across this state call and
11 hire me to help with their issues. Sometimes they
12 have an idea and they need help drafting the
13 complaint. To, they're going to trial, and they
14 need help, and they want to make sure that all of
15 their issues are preserved. Or they just have kind
16 of a weird motion that's going to take place. And
17 other times they call me at the 59E stage, and I'm
18 coming in to help draft that brief for them and
19 argue. And for me, I don't think there is a better
20 testament or compliment that lawyers turn to me for
21 help, but also that they're trusting in me to help
22 take care of their clients' best interest, but also
23 their economic interests. Oftentimes they take
24 cases on contingency. So if someone's willing to
25 let me join them in the fight and going into the

1 trench, I can't think of a better way to say that I
2 think I have the experience of lawyers who are
3 oftentimes ten to 30 plus years older than me, but
4 yet they're choosing me to trust in them. Thank
5 you.

6 MS. BAKER: I would note that the Midlands Citizens
7 Committee reported that Ms. Harrison is qualified
8 in the evaluative criteria of constitutional
9 qualifications, physical health and mental
10 stability and well qualified in the remaining
11 evaluative criteria. Additionally, the Committee
12 also commented, she is exceptionally qualified for
13 writing well reasoned opinions.

14 Q. Ms. Harrison, I have a few housekeeping issues.
15 Since submitting your letter of intent to run for
16 this seat, have you contacted any members of the
17 Commission about your candidacy?

18 A. I have not.

19 Q. Are you familiar with Section 2-19-70, including
20 the limitations on contacting members of the
21 General Assembly regarding your screening?

22 A. I am.

23 Q. Since submitting your letter of intent, have you
24 sought or received the pledge of any legislator,
25 either prior to this date or pending the outcome of

1 **your screening?**

2 A. I have not.

3 **Q. Have you asked any third parties to contact members**
4 **of the General Assembly on your behalf, or are you**
5 **aware of anyone attempting to intervene in this**
6 **process on your behalf?**

7 A. I have not, and I'm unaware of anyone doing so.

8 MS. BAKER: I would just note for the record that any
9 concerns raised during the investigation regarding
10 Ms. Harrison were incorporated into the questioning
11 of the candidate today. Mr. Chairman, I have no
12 further questions.

13 CHAIRMAN RANKIN: All right. Thank you, Maura.

14 Questions by members of the Commission? Senator
15 Talley.

16 SENATOR TALLEY: Thank you, Ms. Harrison. Good
17 afternoon. I don't think we've ever met, but I
18 just wanted to tell you, number one, I think you've
19 handled yourself very well going through this
20 process for the first time. Number two, and Ms.
21 McIver may want to chime in here, Tanya Gee was our
22 classmate in law school. So I read with great
23 interest and admiration for you -- Chris' letter
24 that's in your packet. So, thank you.

25 A. Thank you.

1 CHAIRMAN RANKIN: Representative Rutherford.

2 MS. HARRISON - EXAMINATION BY REPRESENTATIVE RUTHERFORD:

3 Q. Thank you for entering the process, as Senator
4 Talley said, and for bringing a number of good
5 people with you and Michael. But tell me, because
6 it always comes up when we see lawyers that want to
7 go straight from the street to the appellate court
8 bench without stopping at the circuit court bench
9 first. Tell me your thought process as it relates
10 to that.

11 A. Sure. I certainly think that the most traditional
12 path is to come and rise up through the lower
13 courts. But that being said, I think that we've
14 seen very successful jurists come in many different
15 ways, sometimes from the General Assembly,
16 sometimes straight from practice like I'm trying to
17 do. And what I will say is my biggest reason is
18 that I think that the skill set is so different in
19 appellate practice than in the trial courts. I
20 think that it takes an appreciation of standards of
21 review, of knowing the intricacies of preservation
22 and interlocutory appeals. I think that it has the
23 ability -- that we really are seeing a shift in the
24 way that appellate practice is working in South
25 Carolina. And it's starting to follow more of a

1 national trend, which is appellate practice has
2 become its own practice area instead of 30 years
3 ago it was very common to see people try to handle
4 their own appeals. And so when I think about what
5 my skills are and where I think I can best serve,
6 it is the Court of Appeals. I honestly would have
7 more pause if I was sitting here today telling you
8 that I think I should be a circuit judge. While I
9 certainly have tried many cases to verdict, my
10 comfort level and where I feel like I'm the
11 strongest is in the Court of Appeals or the Supreme
12 Court. And I'm certainly not trying to run for the
13 Supreme Court straight off the street.

14 **Q. And others have done so. So there's nothing wrong**
15 **with that, but you still get to the -- I'm not**
16 **challenging you so much as just trying to get your**
17 **input on this, because I firmly believe that we**
18 **have to start looking at our courts different than**
19 **the way we've always done so. And part of that is**
20 **that you shouldn't have to go to the circuit court**
21 **first before you go to the Court of Appeals or the**
22 **Supreme Court, but do you feel like by being a**
23 **candidate straight to the Court of Appeals that**
24 **you're kind of having to educate while you also**
25 **run? And that that makes it difficult because**

1 you're constantly having to say, I know I didn't do
2 this, but here's why because this is my practice.
3 And in doing so it makes it more difficult to just
4 be a candidate because you're having to educate.
5 Even if that education shouldn't have to be done.
6 It's like those people that only wanted to be a
7 public defender all their life, and then they want
8 to be a judge, and we tell them, well, you don't
9 have any civil experience. Well, I didn't want to
10 do that. What I wanted to do was practice law and
11 be a public defender. Why should I have to have
12 civil experience to be a judge when you recognize
13 that being a criminal defense lawyer is the
14 practice of law? But it somehow gets to be
15 required that they have that dual experience. Do
16 you think that that's part of our problem in that
17 we haven't begun to recognize the national trend of
18 saying that this in and of itself is the practice
19 of law and should be just this field? Or is it the
20 problem for candidates who are going to constantly
21 have to take that step of going to the circuit
22 court even if that's not what they want to do?

23 A. That's a great question. I will say, when I
24 started out, I thought I was going to have a ton of
25 education to do, and I'm so grateful that Blake

1 Hewitt has paved the way for me. I have been in
2 awe of the number of folks who absolutely know what
3 appellate practice is. It in no way mirrors what I
4 feel like the overall Bar is. But as far as the
5 people on the statehouse grounds and everyone
6 knowing what appellate practice is and what I do
7 day to day, everyone seems to be up to date. That
8 being said, to squarely answer your question, I
9 think it might be a little bit of a hybrid. I
10 think that I recognize that I'm not wearing a robe.
11 I'm the only person in my race who is not robed.
12 And I'm okay with that. If it's a little extra
13 work for me to introduce myself and tell you more
14 about me, I'm happy to take that on. But I do
15 think as the court is developing and you're looking
16 at where do we want to go in South Carolina --
17 because at the end of the day the Court of Appeals
18 is still a very young court. It was founded in the
19 '80s. And so I think that if we're looking to say,
20 how do we maximize those nine seats, I can tell you
21 from clerking as well as just my experience when I
22 get brought in in an area of law that I don't know
23 well, so much of what we do is having meaningful
24 conversations. And so I think that when you look
25 at how are you lining up those nine seats, it does

1 matter that you have the perspective of a
2 practitioner, someone who has actually come before
3 the court. Most of the judges on the Court of
4 Appeals maybe handled a few cases, but the recent,
5 I would say, three to four people y'all have put on
6 the court -- all have had appellate experience.
7 And that's just been tremendous as an advocate to
8 be able to have that level of exchange with
9 someone, but also because they get the issues with
10 extensions and what it really looks like to have to
11 do in and put all your case cites in. I know that
12 sounds like I'm really in the weeds, but I think
13 that having the perspective of both people who have
14 served on the bench in a lower court but also the
15 practitioner really makes for a wonderful blended
16 court that's going to serve everyone the best.

17 **Q. Thank you.**

18 CHAIRMAN RANKIN: All right. Mr. STROM.

19 MR. STROM: Mr. Chairman, I have to confess that I'm a
20 huge fan of Whitney Harrison. And Senator Sabb,
21 you may not know this, but when we were doing the
22 SCANA litigation, we had a huge constitutional
23 issue that the case turned on. And we're talking
24 about hundred millions of dollars. And I was lead
25 counsel in the case, and I got to pick who was

1 going to argue for us. Whitney was not on the
2 case, but I knew her. And I solicited her out of
3 all lawyers in the State to handle that appeal,
4 because I think that much of her skill. And, you
5 know, the Bar has recognized her. You were the
6 appellate lawyer of the year --

7 MS. HARRISON: I was.

8 MR. STROM: -- the youngest one ever --

9 MS. HARRISON: Youngest and first female.

10 MR. STROM: -- first female. She's on the board of PC,
11 and so Representative Rutherford's point about not
12 going through the ranks -- I remember when Blake
13 Hewitt came through, and he had clerked for Joe
14 Anderson, and he clerked for Jean Toal, I believe.
15 He worked for a good law firm. And it wasn't this
16 traditional route to get on the Court of Appeals,
17 but, you know, I remember when they founded the
18 Court of Appeals. And Judge Goolsby, who had been
19 in the attorney general's office and Alex Sanders,
20 who had been a state senator and a lawyer. Those
21 were the people who first populated that court. So
22 the real history of that court is not from being
23 elevated from another court, but really people
24 coming in when they formed it. And I can just tell
25 you that I'm proud of you for running. You're an

1 excellent lawyer, and I wish you the best.

2 MS. HARRISON: Thank you.

3 CHAIRMAN RANKIN: Mr. Safran.

4 MS. HARRISON - EXAMINATION BY MR. SAFRAN:

5 Q. MR. Thank you, Mr. Chairman. Really to kind of
6 echo that, I remember sitting in here the first
7 year that I was on this panel and basically heard
8 John Nichols say what I think was really profoundly
9 accurate. It's a different skill set, you know. I
10 don't think it should ever be a prerequisite to
11 have to have been a trial judge to get on the
12 appellate court. Because again I think while it
13 could be beneficial, it is not necessary.
14 Unfortunately because of the time demands, most of
15 the trial courts are not drafting their own orders
16 in the first place, never have. And from your
17 standpoint as an appellate lawyer, I know you
18 basically -- effectively you're doing briefs that
19 are going to ultimately be turned into opinions.
20 So it's good training. It's great training, and,
21 you know, you had Justice Hearn as one of your
22 mentors, and I'm sure, as I know, she was very
23 hands on in trying to kind of teach you that way.
24 So again, I'm very comfortable with the fact that
25 you can gain more than enough experience from doing

1 the appellate work in order to be a very capable
2 appellate judge. The bigger question is this, and
3 look, maybe it's just my old time mind set. You
4 have a 35 year career ahead of you, and that's
5 still pretty young to start and effectively be a
6 judge. I mean, that's a long, long time, and at
7 least from my personal perspective and
8 recollection, I don't know too many of them that
9 had that length of tenure, because it necessarily
10 it begs getting on in your 30s. And I'm not going
11 to tell you that you're not very accomplished at
12 what you do. I'm confident you are. The only
13 question I have is, is again, there's still a
14 certain maturation that still goes on. There's
15 still a certain amount of life experience we would
16 like to have in a situation like this. And I
17 understand you probably recognize that. And that
18 in no way diminishes your skills, your great
19 ability, your experience. I mean, I think you
20 basically have kind of gone into an area where most
21 people dare not tread. I've done my own appeals
22 for years, but I mean, it's a big deal. I mean,
23 they've very time consuming. They're something
24 that are extremely challenging, and for you to have
25 gotten to the level you are in terms of acclaim

1 right now really says something. So I just point
2 that out to you. I think in no way, shape or form
3 are you not a super capable person. You know, my
4 only reluctance would that. I mean, and if I'm
5 wrong, I'd love to hear from you.

6 A. And I definitely appreciate that perspective, and
7 I'm coming into this eyes wide open. There is
8 nothing I can do to change my age. You know, it's
9 something that I have dealt with time and time
10 again. My two points would probably be on the
11 personal. I'll go with that first is, the reason
12 I've achieved what I have is because I have done it
13 with passion and with purpose, and I've prioritized
14 that more than I've prioritized anything else. I
15 tell you, I still cannot fold a fitted sheet to
16 save my life. So there are a lot of things I can't
17 do, but this is one of the things that I think I
18 can do really well. As far as looking to a 35-year
19 career, our shared friend, Justice Hearn, is
20 someone who definitely got into the game in her
21 30s. And so there are folks who have done it, but
22 I think it actually serves the entire state.
23 Because oftentimes, as appellate lawyers and even
24 as trial lawyers, we look to the courts to give us
25 direction, and what we really need is a consistent

1 voice. So I think that there is a great service to
2 say I'm in it for the long haul. I'm not looking
3 to change jobs in ten years or 15 years. Instead
4 I'm dedicated to the rule of law in South Carolina,
5 and that starts with knowing how to write, knowing
6 how to argue and appreciating the longer game. And
7 so I think that there is a benefit. I absolutely
8 see where there could be concerns. Maybe most 37
9 year olds aren't as mature as I am. I've had an
10 unusual life experience. At 24 I was told I had
11 less than a year to live. I'm doing so well. It's
12 been five years since I've had a procedure. But
13 what I do know is that in a lot of ways I'm more
14 like an 80 year old man. I've got all the scars,
15 had all the struggles. It's hard to get out of bed
16 in the morning, but that gives me a purpose and a
17 reason to get up every morning. So I'm going to
18 slightly disagree on my general take of how it
19 applies to me, but I totally hear you and
20 understand your view of that.

21 **Q. And let me just ask one other thing, just switching**
22 **gears. I know that you have voiced something that**
23 **we heard earlier today. And coming from a**
24 **standpoint of somebody who has basically dedicated**
25 **themselves to doing appellate work, I believe you**

1 would agree that the drafting of briefs is a very
2 time intensive, a very arduous process if you want
3 to do it right.

4 A. I complete agree. That's all I did for the last
5 two and a half weeks, and it was honestly a joy to
6 come see y'all instead of taking on another brief.

7 Q. And I think comparatively doing opinions as a judge
8 is going to have that same level of intensity, of
9 the need for really -- to scrutinize again and
10 again. Because I think you would agree if you
11 worked for Justice Hearn, that there's no such
12 thing as good legal writing. It's rewriting is how
13 you do it.

14 A. Absolutely.

15 Q. And so I guess my question -- and it has nothing to
16 do with you personally, but I think sometimes the
17 appellate courts maybe get a little bit of a bad
18 rap because, you know, think about how much time
19 you're putting into one case. And look at these
20 judges on the Court of Appeals and the Supreme
21 Court, you know, who may have 30 that they're
22 supposed to be dealing with. And I get the old
23 idea of law clerks, but at the end of the day the
24 judge has got to be the one responsible. The judge
25 has got to be the one that reads it and has to be

1 satisfied. I want my name on this, and this is
2 going to have potentially profound implications
3 down the road. So it's a pretty intense and can be
4 a very lengthy process; is that fair?

5 A. I think that's absolutely fair. And I agree with
6 you. I think ownership has to come down to the
7 judge. We can't have an appellate court in either
8 of them in which law clerks are running the show.
9 It has to be the voice of that judge because of the
10 long-term impacts that those pieces have. I will
11 say from both of my clerkships, I don't want to be
12 too snarky. But if lawyers don't like the lag time
13 on their cases, maybe their briefs should be
14 better. Because I will say a lot of times people
15 have not actually addressed the issue, and they're
16 always so surprised when the court rules in a
17 certain way. And from the inside perspective, it
18 comes down to, yeah, but you never actually put the
19 issue before us that you wanted addressed. And so
20 I think there's some give and take. I think that
21 the ownership is absolutely on the judge or justice
22 when they're writing that opinion. But we have to
23 start with something, and they have to actually be
24 given good material, thoughtfulness and the work
25 that is necessary for them to do their job. And so

1 I think oftentimes when you see long delays, I
2 think it is a product of maybe the lawyers didn't
3 give the court what they needed.

4 Q. Well, and that said, I would suspect that the way
5 you were trained was is that don't rely on the
6 briefs, do your own research, you make the decision
7 the way it should have been researched regardless
8 of what the product is that's given to you.

9 A. That is exactly how I was trained. And I will tell
10 you when I take a case in, that's exactly what I
11 do. I don't want to see a single thing from my
12 trial counsel. I want to see their complaint. I
13 want to hear what they believe the issues are. And
14 if I don't agree with them at the end of that
15 analysis, I don't take that case, because I'm not
16 looking to set out and make bad law for either side
17 of the V.

18 Q. Well, and I guess just in closing, if you look at,
19 you know, I guess, what we've discussed, I think
20 kind of at the end of the day basically we can't
21 really get too judgmental like that. I guess, as
22 far as the time lag, because in most of these cases
23 aren't they effectively years in the making before
24 they ever get to the Court of Appeals or the
25 Supreme Court?

1 A. They are. I would say that I think that I'm open
2 to having time between when you argue and when the
3 opinion comes out, but I have concern that I am
4 briefed and then I have a two-year wait time before
5 I can even argue. And then especially when
6 something then goes to the Supreme Court with you
7 doing your own appeals -- and I know you know this
8 -- but you only have 20 days at the Supreme Court
9 for any amount of extension that you need. And,
10 y'all that's hard if you actually haven't argued
11 that case in five to six years. And then they're
12 like, all right, get on up here, and you can argue
13 in about 90 days. It's maybe been a minute since
14 I've actually read any of that stuff in relearning
15 the case. And so while I appreciate that they need
16 time, I think that there has to be some balancing
17 so that the proper advocacy can go into it.

18 Q. Well, and, you know, I received the same shock as
19 you did when the 20-day situation was made aware.
20 And I mean, they've got their justifications, I'm
21 sure. It isn't the way that it used to be. But,
22 you know, I think again, as you say, I've been
23 involved in one one time that the total from start
24 to finish, including the Supreme Court, was 16
25 years. They do happen sometimes. And I guess it

1 makes me -- when I look at cases like that, I used
2 to joke and say, well, you know, in my office
3 they're babies at ten years. And I've had more
4 than my share that ran that long. But I guess the
5 thing is is that if it's one that's involved, if
6 it's one that means something to you, I don't think
7 that the fact that there is some delay would
8 diminish ultimately what you're supposed to do and
9 what you ultimately receive. So, again, I'm not
10 trying to put you on the spot, but I do think again
11 I've kind of had a swing in my thought process.
12 because if we really look back, I can look at cases
13 that I did 25, 30 years ago that there were just
14 similar delays back then. And I don't know that
15 there's necessarily any explanation other than they
16 take time. And I'm assuming if you were fortunate
17 enough to ultimately accede to this, you're going
18 to take time, too.

19 A. Sure. And I think that maybe what we really need
20 is the goal of we're going to move cases as quickly
21 as we can, acknowledging there are always going to
22 be outliers. And if that's how we set out, I feel
23 really comfortable about that, because you should
24 take extra time when it's needed.

25 Q. Well, thank you very much for offering and

1 **appreciate your comments.**

2 A. Thank you.

3 CHAIRMAN RANKIN: Representative Caskey.

4 VICE CHAIRMAN CASKEY: Thank you, Mr. Chairman. Mr.
5 Chairman, as a former classmate and long time
6 admirer of Ms. Harrison, early in the questioning
7 just preceding mine, I intended to offer a comment.
8 So, Ms. Harrison, I offer something in response to
9 rehabilitate any concern she had about the
10 question, particularly -- in response to the
11 question about age. And I was going to offer, you
12 know, the example of service at the same age here
13 in the legislative branch and present company
14 excepted, I realize that the intellectual
15 requirements of service in the legislative branch
16 are far lower than they are in the judiciary. And
17 I realized that might not be as helpful, so I'll
18 thank Ms. Harrison for her service in offering and
19 withdraw that.

20 MS. HARRISON - EXAMINATION BY CHAIRMAN RANKIN:

21 **Q. It stings, but it really doesn't. And in that**
22 **vein, I cannot help but thing of Ronald Regan's**
23 **line, I will not make age, my age, an issue in this**
24 **race, but I do want to pick right up on that if I**
25 **may. And you and another friend, Blake Hewitt,**

1 seven years your senior if my math is correct.
2 Young bright stars who have decided not to put
3 personal financial gain ahead of your duty, your
4 sense of giving and willingness to serve in a far
5 less profitable, financially profitable, pursuit as
6 serving on the bench. I want to give you kudos for
7 that, but then ask it pointedly, why ever would you
8 do that aside from what you're already told us?

9 A. I'm fortunate that with Mr. Strom inviting me into
10 SCE&G and Santee Cooper cases that things worked
11 out just fine for me. And so I'm not driven by
12 money. I know that may sound a little ridiculous,
13 but I have more than I need. And what really moves
14 my spirit is serving, and I'm just a nerd at heart.
15 And the idea of getting to spend each and every day
16 working on opinions, helping this next generation
17 of lawyers through law clerks, getting to know
18 lawyers better from the bench and getting to talk
19 about the law every day and people not rolling
20 their eyes and saying, yeah, yeah, not enough. We
21 really don't need to hear this at a happy hour.
22 It's a captive audience for my nerdiness. That's
23 feels like true win for me, and I can call it
24 service. I don't think it gets better than that.

25 Q. Well, and the other, aside from nerdiness and/or

1 just passion, not inconsistent with, but I read and
2 I feel and I see a real sense of urgency about you
3 to make a difference. Your health issues, which
4 again, Chris writes about in his letter that
5 Senator Talley referenced again, perhaps gives you
6 a springboard to be urgent to make a difference.
7 And that is an infectious attribute to me. Another
8 of which is a most infectious attribute is your
9 ability to make an award winning pound cake. Tell
10 us about that if you will.

11 A. So this is probably the thing I am most proud of
12 and also what I become most competitive about. My
13 grandfather started baking and competing in the
14 state fair in the 1960s, and it is a tradition that
15 our family continues to carry out. I'm proud to
16 say I won a blue ribbon at the state fair again
17 this year, but is by far like the best thing that
18 we do in the family. It's such a community
19 gathering experience, and now I actually get to
20 bake with little girls who are related to members
21 of my clerk families. And so it's been really
22 great to pass that tradition down to them, but it
23 is definitely something special that I love to
24 share with others.

25 Q. Will you share that with the audience at the

1 **appropriate time, not today, but in a year or so?**

2 A. Absolutely. I can definitely make that happen.

3 **Q. And I can be a judge of a pound cake.**

4 MR. STROM: Ask her how many gold ribbons she's won.

5 CHAIRMAN RANKIN: Well, these are blue ribbons.

6 MR. STROM: Blue ribbons. Yeah, blue ribbons.

7 **Q. How about gold? How many --**

8 A. No gold, but I'm hoping Mr. Strom will award me one
9 later this year. I've won seven blue ribbons.

10 **Q. Well, all in the pound cake competition?**

11 A. Yes, sir. So there are five sub categories of
12 pound cake. And so I've won for vanilla, lemon and
13 what I like to call miscellaneous, which is any
14 flavor not listed, but I usually put it for the
15 pecan pound cake.

16 **Q. Is there a kitchen sink pound cake that you --**

17 A. That's a very creative idea, and oftentimes on
18 Christmas Eve our family will bring different
19 versions of pound cake, so that might be the one I
20 need to try this year.

21 CHAIRMAN RANKIN: Well, all right. On that sweet, high
22 note, unless there are other questions, I want to
23 thank your willingness to offer for this position
24 and putting yourself out there as a young person,
25 accomplished already, willing and offering to do

1 more. So per our rules, as you are more and more
2 familiar -- now will be the second time you're
3 heard me invoke these, but per our evaluative
4 criteria, we expect candidates to follow both the
5 letter and the spirit of the state ethics law. Any
6 violation of that, any appearance of impropriety
7 would be considered very serious and deserving of
8 heavy weight in our deliberations. You're familiar
9 with that, correct?

10 MS. HARRISON: Yes, sir.

11 CHAIRMAN RANKIN: The record is not closed, and it will
12 remain open until the formal release of the report
13 of qualifications. In the very unlikely event that
14 there would be any question of impropriety, you do
15 know that we would be able to call you back for
16 further testimony, correct?

17 MS. HARRISON: Yes, sir.

18 CHAIRMAN RANKIN: All right. Blue Ribbon Harrison, that
19 is it. Thank you so much, and nice meeting family
20 and close friends and GQ.

21 MS. HARRISON: Thank you so much. Y'all have a good day.

22 (Off the Record)

23 CHAIRMAN RANKIN: All right. Judge Verdin, welcome.

24 THE HONORABLE LETITIA H. VERDIN, being duly sworn,
25 testifies as follows:

1 CHAIRMAN RANKIN: You have your PDQ, Personal Data
2 Questionnaire and Sworn Statement before you. Are
3 those ready to go in the record, or do any
4 additions or edits need to be made?

5 JUDGE VERDIN: Those are ready to go. Thank you.

6 CHAIRMAN RANKIN: All right. And if you'll hand those to
7 Lindi. You have no objection to them being
8 included in the record, do you?

9 JUDGE VERDIN: No objection. Thank you.

10 (Exhibit Number 15 was marked for identification purposes
11 - (17 pages) Personal Data Questionnaire for The
12 Honorable Letitia H. Verdin.)

13 (Exhibit Number 16 was marked for identification purposes
14 - (Sworn Statement of The Honorable Letitia H. Verdin.)

15 CHAIRMAN RANKIN: Very well. All right, Judge, you have
16 been through this process before.

17 JUDGE VERDIN: Yes, sir.

18 CHAIRMAN RANKIN: You're familiar with our role, the
19 Commission members, but for the record, you know
20 that we thoroughly investigate your candidacy and
21 bid for this office. And we look at nine
22 evaluative criteria, which include the ballot box
23 survey, a study of your application materials,
24 verification of your compliance with the state
25 ethics laws, a search of newspaper articles in

1 which your name appears, a study of previous
2 screenings and a check for economic conflicts of
3 interest. There have been no affidavits filed in
4 opposition to your election. No witnesses are here
5 to testify, and you now have the opportunity to
6 make a brief opening statement if you like. If
7 not, I will turn it over to Ms. Crawford for
8 questions. So again, the floor is yours.

9 JUDGE VERDIN: Well, thank you. I know you've had a long
10 day. I just thank you for what you're doing and
11 just say that my law clerk asked if she could come
12 with me here today. She had never seen a public
13 hearing, and so my law clerk, Abigail Gowdy is here
14 with me today.

15 CHAIRMAN RANKIN: Yeah, okay. Well, you moved. I'm
16 sorry. I saw you and then you -- welcome.

17 MS. GOWDY: Sorry. Thank you.

18 CHAIRMAN RANKIN: All right. Ms. Crawford.

19 MS. CRAWFORD: Mr. Chairman, I note for the record that
20 based on the testimony contained in the candidate's
21 PDQ, which has been included in the record with the
22 candidate's consent, Judge Verdin meets the
23 constitutional requirements for this position
24 regarding age, residence and years of practice.

25 JUDGE VERDIN - EXAMINATION BY MS. CRAWFORD:

1 Q. Judge Verdin, can you tell the Commission why you
2 now want to serve as a judge on the Court of
3 Appeals?

4 A. Well, I absolutely my job as a circuit judge. I
5 have thoroughly enjoyed that. And I think, like a
6 new lawyer, a new judge wants to be in the
7 courtroom very much. And that's exciting, the
8 exciting part of it. I still enjoy being in the
9 courtroom, but I think as I've gotten older -- I've
10 been a circuit judge for 11 years, and I was a
11 family court judge for three years before that -- I
12 savor the opportunity to have the time to research.
13 If I have the opportunity to write my own orders, I
14 enjoy doing that. And that's something -- I've
15 just sort of gravitated to more of the academic
16 side of circuit court, and I've enjoyed doing that.
17 And I would like to do that on the Court of
18 Appeals. Also, although I know there were some
19 fantastic trial court judges on the Court of
20 Appeals, I would hope to bring trial court
21 experience and add to that on the Court of Appeals
22 as well.

23 Q. So you mentioned you were a family court judge and
24 then your trial court experiences there. Is there
25 anything else or any other reasons that you feel

1 **your legal and professional experience will help**
2 **you become an effective appellate judge?**

3 A. I do believe that I've been fortunate to have a
4 wide breadth of experience. I was a prosecutor. I
5 did some criminal defense work when I was in
6 private practice. I did civil defense work. I did
7 limited plaintiff's work, but when I did civil
8 defense work the good portion of it other than
9 trying cases was writing memos of law, and I very
10 much enjoyed that. I'm even one of those relics
11 that was on the circuit court bench long enough to
12 have done workers' comp appeals. I don't hold
13 myself out as any type of expert in that area, but
14 I did get to do some of those. So I do feel like I
15 have a breadth of experience, and I've been very
16 fortunate in that, to be able to get to at least be
17 exposed to a good number of areas of law.

18 **Q. Judge, how would you describe your general judicial**
19 **philosophy?**

20 A. Well, my judicial philosophy on the circuit court
21 and day to day -- my number one philosophy is I
22 want to treat people with respect. That includes
23 attorneys. That includes all of the litigants that
24 are before me. I want to treat them respectfully.
25 In terms of making my decisions, I make my

1 decisions based upon the evidence that's presented
2 to me, and I make my decisions based upon the law.
3 I don't read into that law. I don't -- my job is
4 to interpret the law and not to make the law. And
5 I try to fastidious about that, and I don't look
6 for ambiguities where there are none. And I don't
7 believe that I need to add my interpretation if no
8 interpretation is needed if the law is plain on its
9 face.

10 **Q. That touched on one of my other questions -- was**
11 **what extent do you believe that a judge should or**
12 **should not defer to the actions or beliefs of the**
13 **General Assembly.**

14 A. I would defer -- I defer to the General Assembly to
15 make the law. My job is to interpret the law and,
16 once again, if there are ambiguities in that law,
17 then that's when I turn to other things such as
18 legislative and look to the legislative intent, but
19 I'm to carry out what would effectuate the intent
20 of the legislature in enacting those laws.

21 **Q. Ideally, what is your vision for the future of our**
22 **judicial system, and what changes would you make or**
23 **would you advocate should you be elected to the**
24 **Court of Appeals?**

25 A. Well, I think our judicial system has been moving

1 towards a more efficient judicial system in the
2 past couple of years. I think Covid has
3 exacerbated that and the need for that efficiency,
4 and I know that right now at the Court of Appeals
5 they are looking at a number of measures to make
6 things more efficient and working through that. If
7 I were fortunate enough to be elected to the Court
8 of Appeals, once I got my footing there, I wouldn't
9 want to go in with a head of steam right in the
10 beginning, but I'd want to join in that. But I'd
11 want to help in making things more efficient. But
12 I don't believe that our judicial system should
13 trade efficiency for letting people feel like they
14 haven't been heard or that they haven't had their
15 day in court. But that's what my vision would be,
16 an efficient judicial system that still allows
17 people to believe, not only that they had
18 procedural due process, not only that they did have
19 due process, but let's them believe that they were
20 actually heard.

21 **Q. Thank you, Judge. Judge Verdin, the Commission**
22 **received 762 ballot box surveys regarding you with**
23 **at least 140 additional comments. And I will say a**
24 **common theme among the Upstate state attorneys,**
25 **with at least 21 comments reflecting this, state**

1 that the only negative thing about your potential
2 elevation is that you would no longer serve on the
3 circuit court bench and that the losers would be
4 the circuit court bench and the trial attorneys.

5 A. Oh, goodness.

6 Q. Of the many, many positive ballot box surveys, some
7 of the comments include the following: "Contributes
8 a lot to the profession in making South Carolina a
9 better place to practice law, very ethical,
10 friendly and intelligent, exemplifies
11 professionalism and integrity. She is patient,
12 detailed and deliberate with her decisions. She is
13 well known for her kindness and courtesy to all
14 courthouse staff, attorneys and members of the
15 public. She considers herself a public service and
16 is driven by a deep sense of justice and fairness."
17 And finally, "I believe South Carolina's judicial
18 system would be greatly improved by having more
19 judges like Judge Verdin on the bench."

20 A. Gosh, thank you.

21 Q. Judge Verdin, your SLED report indicated that you
22 were listed as a defendant in U.S. District Court,
23 District of South Carolina in two instances. It's
24 my understanding that both of those have been
25 dismissed?

1 A. That is my understanding.

2 Q. Okay. The SLED report also indicated that you were
3 listed as a defendant in Circuit Court for the
4 Thirteenth Judicial Circuit of South Carolina on
5 five instances. And I believe, correct me if I'm
6 wrong, all cases were dismissed without prejudice.

7 A. That's my understanding, yes.

8 Q. And this caused some concern. The SLED report
9 indicates that Judge Verdin was arrested for
10 criminal mischief by the Brownsville Texas Police
11 Department on June 1st, 2008.

12 A. I'm pretty sure there must be another Letitia
13 Verdin out there, because I don't think I've ever
14 been to Brownsville, Texas. And you and I looked
15 up what criminal mischief was, and I think that's
16 graffiti.

17 CHAIRMAN RANKIN: I just want to know if you have
18 mischief in your heart?

19 A. I can't answer that one under oath, but I will just
20 say if I'm going to be arrested, I hope it's for
21 something more fun than graffiti, you know.

22 Q. Thank you, Judge.

23 A. Thank you.

24 Q. Judge, the Upstate Citizens Committee found you
25 qualified in the evaluative criteria of

1 constitutional qualifications, physical health and
2 mental stability and well qualified in the
3 remaining evaluative criteria of ethical fitness,
4 professional and academic ability, character,
5 reputation, experience and judicial temperament.
6 They did not include any summary or related
7 statements. Just a few housekeeping issues on my
8 end. Since submitting your letter of intent to run
9 for this seat, have you contacted any members of
10 this Commission about your candidacy?

11 A. I have not.

12 Q. Are you familiar with Section 2-19-70, including
13 the limitations on contacting members of the
14 General Assembly regarding your screening?

15 A. I am.

16 Q. Since submitting your letter of intent, have you
17 sought or received the pledge of any legislator,
18 either prior to this date or pending the outcome of
19 your screening?

20 A. No.

21 Q. Have you asked any third parties to contact members
22 of the General Assembly on your behalf --

23 A. No.

24 Q. -- or are you aware of anyone attempting to
25 intervene in this process on your behalf?

1 A. No, I have not.

2 MS. CRAWFORD: Mr. Chairman, any concerns raised during
3 the investigation regarding this candidate were
4 incorporated into these questions today, and I have
5 no further comment or questions.

6 CHAIRMAN RANKIN: All right. Questions by Representative
7 Rutherford first.

8 JUDGE VERDIN - EXAMINATION BY REPRESENTATIVE RUTHERFORD:

9 Q. So, you know, you start reading your ballot box
10 comments, and then you just give up, because
11 they're all so sickeningly sweet and syrupy sweet
12 and just nice and long. And every single one of
13 them pretty much says the same thing about they saw
14 you walk on water and turn water to wine. I mean,
15 it really just amazing. The problem is that how do
16 we -- those of us that actually practice in circuit
17 court, how do we justify losing somebody like you
18 just because of your aspirations and desires? That
19 means that we then have to suffer, and we've talked
20 about it -- you know, Luke used to mention your
21 name -- I'm sorry -- Senator Rankin used to mention
22 your name to other candidates about how great you
23 were and they needed to be more like you and blah,
24 blah, blah, but the reality is replicating that
25 becomes very difficult. And you are now where the

1 rubber meets the road. You see a lot of people.
2 You engage with a lot of people. And yet and still
3 you touch everybody seemingly the same way. But
4 now we would potentially lose you to go to a
5 smaller field where you don't see that many people.
6 What are we supposed to do? Not our problem, huh -
7 - I mean, not your problem. Figure it out.

8 CHAIRMAN RANKIN: Put mischief out of your heart.

9 A. Well, thank you for saying that.

10 Q. I didn't. Everybody did. It's not me. It's
11 everybody.

12 A. Well, thank you. I would just say that I have
13 enjoyed it. And I'll say this, if the legislature
14 see fits for me to continue in Circuit Court, I'm
15 going to do so very happily and very proudly. If
16 the legislature sees fit to elect me to the Court
17 of Appeals, I'm going to do the very best job that
18 I possibly can. And I'm going to try to stay as
19 engaged with the Bar as I possibly could be. And I
20 going to try to stay as engaged with the judiciary
21 as I possibly can be. And I would just say that I
22 -- you know, I would just hope I would love that
23 job as much as I've loved this job, because I
24 definitely love it.

25 CHAIRMAN RANKIN: Mr. Safran.

1 MR. SAFRAN: Judge, it's great to have you again, and
2 thank you, Mr. Chairman.

3 JUDGE VERDIN: Thank you.

4 MR. SAFRAN: I've said this before, and I mean it. I
5 don't think you appreciate the level of -- feeling
6 positively the level of acclaim that you get from
7 the Bar. We look at these things every year, and
8 I'm telling you, people are quick to throw the
9 rock. They're quick to hurl the Bar. They all
10 are. It's human nature, and when we see something
11 like this where nobody has an ill word, nobody, it
12 is beyond outstanding.

13 JUDGE VERDIN: Thank you.

14 MR. SAFRAN: I mean, literally it's super human is what
15 it is.

16 JUDGE VERDIN: Thank you.

17 MR. SAFRAN: I think, you know, your humility, you know,
18 your kindness and your fairness has certainly
19 reached everybody who has appeared in front of you.
20 And it is no small feat. I mean, I run out of
21 adjectives for you, because again, I've become a
22 little jaded. I've sat here now -- this is the
23 seventh time, and, you know, I see what I see. And
24 when I see this, I just cannot get past the words,
25 exemplary, terrific, you know, outstanding. And

1 he's right. They're talking about a grave loss if
2 you were to move on, but then again we recognize,
3 you know, there's a certain evolution that occurs.
4 And you seem to think that there's another horizon
5 out there for you. But Judge, I just want to make
6 sure you understand, because it is so uncommon for
7 us to see people have an outpouring of such just
8 wonderful comments. And so, you know, again I
9 believe in the past we've said, you know, we always
10 somehow are accused of basically emphasizing the
11 negative. I want to make sure that we all
12 emphasize the positive here, because, you know,
13 yours is spotless.

14 JUDGE VERDIN: Thank you.

15 MR. SAFRAN: And wherever you go and whatever you do, I'm
16 confident it will be the same way, outstanding.

17 JUDGE VERDIN: Well, thank you very much. I really don't
18 honestly know what to say except to say I'm
19 somewhat overcome right now at this moment. But I
20 do want to point out I'd be extremely remiss if I
21 didn't tell you -- and it's not just because my law
22 clerk is in the room -- I have been so fortunate to
23 have the best staff. And their dealings -- so much
24 of what people perceive, their dealings are really
25 with my staff, so much of it is. And so I'm so

1 thankful and so grateful to them. And Abigail
2 Gowdy is just another one of those fantastic folks
3 that I've had.

4 MR. SAFRAN: Well, but you know what, they all draw it
5 from you though.

6 JUDGE VERDIN: Well, thank you.

7 MR. SAFRAN: Okay. They follow what basically their
8 shown, and they emulate what they're taught.

9 JUDGE VERDIN: Well, they've taught me a lot, but thank
10 you so much.

11 MR. SAFRAN: Well, and again, I just wanted to make sure
12 you understood --

13 JUDGE VERDIN: Thank you.

14 MR. SAFRAN: Because, you know, again we could sit here
15 all day and do nothing more than laud you, and it
16 would still come up short.

17 JUDGE VERDIN: Well, thank you so much. I really
18 appreciate it.

19 MR. SAFRAN: Thank you for appearing.

20 JUDGE VERDIN: I really do appreciate it.

21 CHAIRMAN RANKIN: Ms. Blackley.

22 MS. BLACKLEY: Good afternoon.

23 JUDGE VERDIN: Good afternoon.

24 MS. BLACKLEY: Abigail Gowdy should be so thankful to be
25 in your essence and to be given what you give off.

1 I have known you since you were a Family Court
2 judge, watched you. We don't know each other very
3 well. But in my capacity wherever I've worked I've
4 known you, and there has never been an ill word or
5 feeling, thought that has ever been expressed. And
6 that is unheard of, especially when you work among
7 staff. And I remember when I was clerk, and you
8 would come to Spartanburg, and it was just like,
9 Judge Verdin's coming, Judge Verdin's coming. I
10 mean, you don't really find that that often. And I
11 am just going to tell you it has been an honor to
12 work with you. And I just need to publicly say,
13 when all the things were going on, what I was
14 dealing with, just stellar, and standing on
15 conviction and treating -- and making sure staff
16 felt heard and needed. And obviously your staff
17 and anybody you come in contact, whether they're
18 coming in front of you or around you, working for
19 you, all feel the same. And I mean, I haven't been
20 on this Commission for a very long time like
21 others, but I've not seen any comments like this
22 since I have been here. And you are deserving.
23 You need to stand there and just take all this
24 goodness that's coming your way because you deserve
25 it. And I just have not seen anybody as stellar as

1 you in this field as long as I've been working.
2 And whatever you decided to do, it is going to be a
3 misfortune, I guess or a negative for the circuit
4 court to lose you if you make it to the next level,
5 but just know that you are appreciated in
6 everything you do. And I hope you take -- Abigail,
7 I hope you take everything that you are seeing and
8 take it with you as you travel this legal world,
9 because you've got some great role models in your
10 life, but this lady right here is at the top as
11 well.

12 MS. GOWDY: Yes, ma'am.

13 JUDGE VERDIN: And you're a role model of hers as well,
14 and I thank you for that.

15 CHAIRMAN RANKIN: Mr. Strom.

16 MR. STROM: Thank you, Mr. Chairman. I'm not going to go
17 as long as everybody else, but ditto. I mean, I
18 have never heard anybody say anything negative
19 about you. And that's just amazing when you do
20 that job. Somebody has to be unhappy, but you seem
21 to manage that and treat people with respect and
22 the process with respect. I mean, it's page after
23 page after page of how wonderful you are and what a
24 good jurist you are. And I'm sort joining Mr.
25 Rutherford and a lot of other lawyers in

1 Greenville, nobody wants to see you go to the Court
2 of Appeals. But if that's what you want to do,
3 with the kind of judge you've been so far, I think
4 you should be on the Court of Appeals.

5 JUDGE VERDIN: Thank you so much.

6 MR. STROM: Thank you, Mr. Chairman.

7 JUDGE VERDIN: Thank you.

8 CHAIRMAN RANKIN: Well, let me add a little bit here. "A
9 force of nature, a gift, a breath of fresh air, an
10 honor to serve with, fair to all and listens to all
11 even when others effectively don't deserve to be
12 heard." Maybe not being respectful in court. You,
13 again, have -- you've heard it countless times.
14 You have the acclaim and the respect of those who
15 you have come in contact. Seven hundred plus folks
16 have participated, countless comments. Again, it
17 is rare to have the acclaim that you have. And it
18 is important to us. Because this is one step along
19 the process of what does the world think about a
20 candidate and a judge. And so, young lady clerk,
21 you're with a teacher, a force of nature. Perhaps
22 you may have other comments to say later, but we're
23 not going to ask you now. But this is what you
24 want to be. We ask others, Judge Verdin, who they
25 hold up as their model judges. I daresay you're

1 going to be the one that young judges talk about in
2 the future because you're in a class of your own,
3 not alone, but really at the top. And so it is an
4 honor to see someone who is so humble about it.
5 And so, as you said, taken aback or overcome with
6 the emotion of. So you don't wear the robe
7 heavily. You are apparently grasping lightly, and
8 that is -- as your Presbyterian brethren are saying
9 about you, a pretty good walk, a pretty good path.

10 JUDGE VERDIN: Thank you. Thank you very much. I really
11 don't know what to say except to say that I've just
12 had some incredible role models. And I've just had
13 some incredible role models as judges, and I'm
14 very, very fortunate about that.

15 CHAIRMAN RANKIN: Very good. Unless we take up an
16 offering, I think we will now call the benediction.
17 Judge, you've been here, done this before, and do
18 you prefer trespassers or debtors? We know the
19 answer. You're Presbyterian. So this concludes
20 this portion of our inquiry and the screening
21 process. You know very well what I'm about to say.
22 This Commission takes very seriously candidates
23 adherence to both the letter and the spirit of the
24 law. And so that will be ethics law. Any
25 violation of the appearance of impropriety would be

1 deemed very serious, potentially weighing of heavy
2 deliberations by us. All that to say that this
3 record is not closed until the formal release of
4 the report of qualifications. You understand in
5 the very unlikely chance that we would have
6 questions about the appearance of violation of --
7 you know we could call you back for further
8 questions, correct?

9 JUDGE VERDIN: Yes, sir, certainly.

10 CHAIRMAN RANKIN: Very good. Thank you for being the
11 mark and the mentor of a young lady and a young
12 lawyer. Perhaps, Ms. Gowdy, you will be standing
13 here one day offering for a judgeship in turn, too.

14 JUDGE VERDIN: I hope so. Thank you, y'all.

15 CHAIRMAN RANKIN: All right. Peace, you guys. Take
16 care. Thank you.

17 JUDGE VERDIN: Thank you very much.

18 (Off the Record)

19 CHAIRMAN RANKIN: Welcome Judge Knie.

20 JUDGE KNIE: Good afternoon

21 CHAIRMAN RANKIN: Are you ready?

22 JUDGE KNIE: I'm ready.

23 CHAIRMAN RANKIN: All right.

24 THE HONORABLE GRACE GILCHRIST KNIE, being duly
25 sworn, testifies as follows:

1 CHAIRMAN RANKIN: You have what you will soon hand into
2 us, I trust, a Personal Data Questionnaire and a
3 sworn statement. Are those ready to go in, or do
4 you need to make any additions or corrections to
5 them?

6 JUDGE KNIE: They are correct and are admitted without
7 objection. Thank you.

8 (Exhibit Number 17 was marked for identification purposes
9 - (23 pages) Personal Data Questionnaire for The
10 Honorable Grace Gilchrist Knie.)

11 (Exhibit Number 18 was marked for identification purposes
12 - (1 page) Amendment to Personal Data Questionnaire for
13 The Honorable Grace Gilchrist Knie.)

14 (Exhibit Number 19 was marked for identification purposes
15 - (5 pages) Sworn Statement of The Honorable Grace
16 Gilchrist Knie.)

17 CHAIRMAN RANKIN: Very good. Thank you, Commission
18 Chairman Knie.

19 JUDGE KNIE: Sorry. Can you tell I've been in court this
20 morning?

21 CHAIRMAN RANKIN: And did you object to that, by the way?
22 Note without objection that came into the record.
23 You are familiar with this process. You have been
24 screened before. So forgive my stating what you
25 know to be the facts, but we, in our thorough

1 investigation of your qualifications for this
2 position, focus on nine evaluative criteria, which
3 include the ballot box survey, a study of your
4 application materials, verification of your
5 compliance with state ethics laws, a search of
6 newspaper articles in which in your name appears, a
7 study of previous screenings and a check for
8 economic conflicts of interest. No affidavits have
9 been filed in opposition to your election, and
10 other than the presence of a member of your family,
11 no one is here. And he's not going to testify, but
12 with that, you can certainly introduce your husband
13 if you would like. We know him, but --

14 JUDGE KNIE: Sure. Thank you. My spouse is with me,
15 Patrick Knie.

16 CHAIRMAN RANKIN: Very well. Note for the record, he
17 smiled brightly when you called him your spouse.
18 With that, Judge Knie, we are ready to either hear
19 a brief opening statement from you or have Mr.
20 Hinson take it away with questions. Your choice.

21 JUDGE KNIE: Okay. Very briefly, I am sincerely excited
22 to be before y'all today in contention for the
23 position of South Carolina Court of Appeals, Seat
24 2. I thank you for your consideration and welcome
25 the questions.

1 CHAIRMAN RANKIN: All right. Mr. Hinson.

2 MR. HINSON: Thank you, Mr. Chairman. Mr. Chairman, I
3 note for the record that based on the testimony
4 contained in the candidate's PDQ, which has been
5 included in the record with the candidate's
6 consent, Judge Knie meets the constitutional and
7 statutory requirements for this position regarding
8 age, residence and years of practice.

9 JUDGE KNIE - EXAMINATION BY MR. HINSON:

10 **Q. Judge Knie, why do you now want to serve as a judge**
11 **on the Court of Appeals?**

12 A. Well, I anticipated that question of course, and
13 let me point out at the outset that I love what I
14 do. And I love the people that I work with, my
15 contemporaries on the bench as well as the staff
16 that I deal with throughout the state. And my
17 daddy used to say that if you love what you do and
18 the people that you work with, you're going to be
19 successful. And I feel like I am. And humbly, I
20 think that I am doing an okay job, a good job, with
21 my position currently. But I also believe that
22 taking a position on the Appellate Court would give
23 me an opportunity to expand my horizons, to
24 challenge myself to do more academic work and
25 selfishly to bask in time to reflect on decisions

1 that right now I feel like sometimes are made in a
2 hurry. And so I welcome this opportunity as a
3 challenge of intellect.

4 **Q. Thank you, Judge. Judge Knie, how do you feel your**
5 **legal and professional experience thus far will**
6 **assist you to be an effective judge on the Court of**
7 **Appeals?**

8 A. And so, again, your question as to my experience?

9 **Q. How do you feel your legal and professional**
10 **experience thus far will assist you to be an**
11 **effective judge on the Court of Appeals?**

12 A. Okay. Thank you. I have now been a lawyer and in
13 this profession for 33 years. I graduated from law
14 school, the University of South Carolina, in 1989
15 and immediately moved to Spartanburg to clerk for a
16 circuit court judge. After that, I stayed in
17 Spartanburg and started a practice with a very
18 senior respected attorney in that area. And then
19 he had health problems, and I became a sole
20 practitioner within a year or two. And so I have -
21 - throughout the majority of my career I have been
22 a sole practitioner. I have run a business. I
23 have had employees. I have worried about payroll.
24 I have worried about retirement benefits and health
25 insurance benefits for employees. And when I tried

1 cases, I was the one trying them. I wasn't sitting
2 with a group. I wasn't working for a large firm
3 where the responsibilities were divided up. It was
4 me, and it was sink or swim. And I built a
5 practice representing women in domestic work.
6 That's what I did. I represented women in Family
7 Court. And there were only three or four female
8 lawyers in the Upstate at that time doing that type
9 of work. And slowly I built a practice that became
10 more lucrative in handling plaintiff's personal
11 injury work, workers' comp, claimant's work. I was
12 the City Prosecutor for the City of Spartanburg for
13 15 years, which meant that I handled nothing but
14 jury trials for the City. I was the only attorney
15 for the City of Spartanburg handling their
16 municipal court work. And I did criminal defense
17 work additionally that did not conflict with the
18 work that I did for the City. And then I started
19 doing Social Security disability work. And so
20 after the 27 years, I became a circuit court judge
21 and have worked as a circuit court judge as the
22 chief administrative judge for common pleas and now
23 am currently the chief administrative judge for
24 general sessions, and believe that I bring a wealth
25 of experience and knowledge to an appellate bench.

1 Right now, on the circuit bench, you know, I can
2 really feel what the attorneys are going through
3 that are in court before me. And I believe that
4 over the time that I have spent already on the
5 bench that I will bring a lot of wisdom and
6 experience to the appellate court bench if given
7 that opportunity.

8 **Q. Thank you, Judge. Judge Knie, how would you**
9 **describe your general judicial philosophy?**

10 A. Well, after having done this now for six years I
11 will tell you that every day I go into a courtroom,
12 and whether it's a jury trial or a bench trial,
13 whether it is civil or general sessions, I strive
14 not to be an impediment to the process. My ego
15 does not prohibit me from continuing to push and
16 really be patient with people at the same time. If
17 I feel like someone needs a little more time, then
18 I try to be flexible with them. I really try also
19 to be efficient, but also be a conduit for the
20 process. And that doesn't mean to rush somebody in
21 the process. But it means that if -- I started a
22 plea hearing this morning and the defendant needed
23 some time to talk to his lawyer, I said let's take
24 five minutes. Or an attorney is always running a
25 little behind and they're in Family Court or

1 Magistrate's Court, and, you know, they're on the
2 way. Well, okay, let's just step back for a
3 minute, or someone's mother wants to come in to
4 speak on their behalf. And so the way to handle
5 those problems and those issues is not to blow up,
6 and that just causes more trouble and loss of time.
7 Efficiency in the court system, you have to be
8 flexible. You have to be understanding. I've been
9 where everyone of those people have been, and so I
10 just try to be not an impediment but a conduit. I
11 also strive to be respectful to people and strive
12 to listen to them and make them feel important,
13 which having done this for 27 years, sometimes
14 people just want to tell their story. You know, if
15 it's a guilty plea -- and the domestic violence
16 guilty pleas seem to take the most time. You know,
17 I'll have people pleading to very serious crimes,
18 but, you know, we get to that DV third, and they
19 just say, well, I don't know that that's really
20 what happened. And so you have to back up and say,
21 well, did this happen or did this happen, or would
22 you agree with me that this happened. And you just
23 have to kind of listen to people and understand
24 that they're people. I've appeared in front of a
25 lot of judges throughout my career, and I've had

1 some very negative experiences. And I try to make
2 being in court as positive as it can be for the
3 people in my courtroom. And I always want people
4 to feel very comfortable, as comfortable as they
5 can and as relaxed as they can. And that in the
6 end, I believe, helps everything run a lot more
7 smoothly.

8 **Q. Judge Knie, what is your vision for the future of**
9 **our judicial system, and what changes would you**
10 **advocate for and why?**

11 A. Okay. Since I've been on the bench, I've seen a
12 lot of changes. We've been forced and nudged into
13 making a lot of changes to keep the judicial system
14 moving, and that would be because of Covid as of
15 March of 2020 things did change. And quite
16 frankly, in preparing for -- to run for this
17 office, I started looking at the rules of appellate
18 procedure and really studying them, and I noticed
19 that changes in the rules over the last 18 months -
20 - there were 13 changes, and most of them dealt
21 with remote communication technology and
22 facilitating that and making the court system more
23 efficient, not only financially efficient but time
24 efficient. And so that's what I see the future as
25 being, that there's going to be a lot more use of

1 remote communication technology. And as I know
2 y'all know, but in Social Security hearings we've
3 been doing that for almost two decades. And so I
4 think that it makes sense. Uniquely in
5 Spartanburg, I'm sure y'all may know, we're getting
6 a new courthouse. And we're very excited about it,
7 but in those growing pains security is a big issue.
8 And so right now handling bond hearings remotely is
9 a big plus for our security detail. Because the
10 sheriff's department doesn't have to have people
11 come over from the detention facility, and our
12 detention facility is several miles away. And so I
13 think the future of our judicial system is going to
14 focus on being efficient through technology while
15 promoting safety, and safety is also the new big
16 concern. Safety has taken a new -- you know, a new
17 level, keeping everyone safe. And unfortunately
18 keeping us separated from the lawyers and litigants
19 and inmates. It's a big, big, big issue. I was
20 speaking with the solicitor in our circuit this
21 morning, and, you know, population growth is
22 amazing in our area right now, which is a
23 bittersweet thing, because with population growth
24 you have crime growth and you have litigation
25 growth. But we were mainly talking about drug

1 overdoses and the fact that our coroner had
2 recently made a presentation to county council
3 because the death investigations due to drug
4 overdoses have doubled in the last four years in
5 Spartanburg. They had 162 drug overdoses resulting
6 in death in 2021 and 109 of those were related to
7 fentanyl. And so we have a lot of problems, and
8 all that I know to do is collaborate with people
9 that are smarter than I am and try to come to some
10 answer as logically as we can and as efficiently as
11 we can because we're all meeting new issues.

12 **Q. Thank you, Judge Knie. Judge Knie, to what extent**
13 **do you believe that a judge should or should not**
14 **defer to the actions of the General Assembly?**

15 A. Well, I think that the General Assembly, of course,
16 is its own branch, and I am in a separate branch.
17 And we do rely on the General Assembly, you all, to
18 make the law. My job is to apply the law. And so
19 I would defer to the General Assembly in their
20 making the law. And if I'm looking to interpret
21 the law, I would look at the language of the law
22 and then look to your intent, the legislature's
23 intent. And so -- but I don't want to infringe on
24 the power of the General Assembly. I mean, my role
25 is to apply the law as it is.

1 Q. Judge Knie, the Commission received 151 ballot box
2 surveys regarding you with 57 additional comments.
3 The overwhelming majority were positive. The
4 ballot box survey, for example, contained the
5 following positive comments: "Judge Knie is a
6 fantastic judge, fair, kind and hard working."
7 Another stated that you were a fantastic jurist.
8 Another stated that you were hard working,
9 knowledgeable and even tempered. A few of the
10 comments did express some concerns. Some of the
11 concerns addressed your experience. What response
12 would you offer regarding that concern?

13 A. First of all, I think it's very difficult to hear
14 comments about yourself. But it's also extremely
15 important if those comments are sincerely made to
16 know how you're perceived. And so I'm very
17 flattered at the positive comments, of course. And
18 the negative comments regarding my experience,
19 first of all, I guess, the initial review in those
20 questions -- if someone was reviewing me like on
21 the judicial website, they would see that I have
22 only been a judge for almost six years. But
23 digging deeper, I have been practicing now for 33
24 years, including my time on the bench, but
25 practicing 27 of those. And to reiterate what I

1 stated earlier, I sincerely believe that I am well
2 qualified for this position or I wouldn't be
3 seeking it. And I believe that my experience is
4 very well rounded. And now in this climate of
5 practicing law, the practice of law has become
6 extremely specialized, but when I was coming up or
7 at least I didn't limit -- maybe I should have, but
8 I didn't limit myself to a certain area. I mean, I
9 did everything. I did some deeds, probate work and
10 was really kind of a one-stop-shop initially. And
11 so I believe that I have a wealth of knowledge and
12 experience for the Court of Appeals.

13 **Q. Thank you, Judge. A couple of concerns spoke to**
14 **temperament and perceived bias. What response**
15 **would you offer regarding those concerns?**

16 A. With regard to bias, and I don't really -- I'm not
17 following regarding the temperament part. But
18 maybe you can elaborate on that for me, but with
19 bias, did it say as to -- was there more detail?

20 **Q. It was bias particularly towards plaintiff's**
21 **attorneys and then temperament just in general**
22 **treatment of folks coming before you in court.**

23 A. Really? I didn't recall us talking about the
24 temperament part before. But the bias towards
25 plaintiff's attorneys in civil court, I will tell

1 you that anyone that would make that comment would
2 be, I guess, someone that had not followed my
3 decisions or watched me in court regularly.
4 Because I certainly have tried to be extremely fair
5 and impartial and unbiased and tried to follow all
6 of the canons of judicial conduct. I do not
7 believe that that is true. And I think it's
8 unfortunate that somebody perceived that. And I
9 would love to talk to someone that believed that
10 about me, because I really do take it to heart. I
11 do want people to believe that I am independent and
12 unbiased and impartial, because I really strive to
13 be that way. And, you know, one of the -- I guess
14 it was one of the jury trials that I did during
15 Covid. One of the first jury trials, or only jury
16 trials maybe done in the state, was a medical
17 malpractice case. And it was a defense verdict
18 with great lawyers. And we did a lot of the work
19 virtually, and we chose the jury at the Spartanburg
20 Auditorium. And it was a wonderful experience, and
21 the trial was featured in a trial magazine about
22 how to deal with jury trials during Covid with
23 virtual witnesses, expert witnesses and whatnot.
24 And again, that was a defense verdict. Anyway, I'm
25 sorry if someone perceives me that way. I have to

1 take issue with that though. And then with regard
2 to temperament, I have never had anyone, as far as
3 I know, complain about my temperament, and I quite
4 frankly wasn't aware that that was something that
5 came out in that information. And I really am
6 shocked and surprised about that. I really try to
7 be kind and patient. You know, scheduling and
8 trying to help people move things and not losing my
9 temper with them. You know, moving things around
10 during a week. If someone even has to be in Family
11 Court because they've got something big scheduled,
12 I try to work it so they can be in my court later.
13 I really am sorry if somebody thinks that.

14 **Q. Thank you, Judge.**

15 MR. HINSON: I would note for the record that the Upstate
16 Citizens Committee reported that Judge Knie is
17 qualified as to constitutional qualifications,
18 physical health and mental stability and well
19 qualified as to ethical fitness, professional and
20 academic ability, character, reputation, experience
21 and judicial temperament.

22 **Q. And Judge, I just have a few housekeeping issues.**
23 **Since submitting your letter of intent to run for**
24 **this seat, have you contacted any members of the**
25 **Commission about your candidacy?**

1 A. No, sir.

2 Q. Are you familiar with Section 2-19-70, including
3 the limitations on contacting members of the
4 General Assembly regarding your screening?

5 A. Yes, sir.

6 Q. Since submitting your letter of intent, have you
7 sought or received the pledge of any legislator
8 either prior to this date or pending the outcome of
9 your screening?

10 A. No, sir.

11 Q. Have you asked any third parties to contact members
12 of the General Assembly on your behalf, or are you
13 aware of anyone attempting to intervene in this
14 process on your behalf?

15 A. No, sir.

16 MR. HINSON: I would just note for the record that any
17 concerns raised during the investigation regarding
18 Judge Knie were incorporated into the questioning
19 of the candidate today. And with that, Mr.
20 Chairman, I have no further questions.

21 CHAIRMAN RANKIN: All right. Thank you, Mr. Hinson.
22 Questions by the Commission members. Anybody want
23 to start? Senator Talley.

24 SENATOR TALLEY: Thank you, Mr. Chairman. Judge, good
25 evening.

1 JUDGE KNIE: Good evening.

2 SENATOR TALLEY: Thank you for being with us. As you
3 well know, we look at these ballot box comments and
4 take that and many things into consideration when
5 candidates come before us. And as you apply for
6 the Court of Appeals I thought it was worth noting
7 that several of these talk about how well reasoned
8 and well written your orders are as a member of the
9 trial court. They say you're thorough, you're
10 fair, you're well versed on the law and the facts
11 of each case, that you're an extremely
12 conscientious circuit court judge who takes time to
13 make sure she gets a decision right with a first-
14 rate legal mind and is very deliberative. And it
15 also says you review briefs and case law
16 thoroughly, always well prepared during hearings
17 and trials. And for the benefit of this
18 Commission, I just want to say that's certainly
19 been my experience in your courtroom. I, too.
20 share your surprise that someone would question
21 your temperament. If anything, at times you've
22 been maybe more patient with some than those of us
23 would like and required more of us in our orders
24 than maybe we would like. But that's certainly
25 reflective on how serious you take your job and I

1 think how well you would handle a position on the
2 Court of Appeals. So I want to thank you.

3 JUDGE KNIE: Thank you for those comments.

4 CHAIRMAN RANKIN: Ms. Blackley.

5 MS. BLACKLEY: Good afternoon. So good to see you.

6 JUDGE KNIE: Yes.

7 MS. BLACKLEY: I, too, was very surprised. I have seen
8 you in court, circuit court, in general sessions
9 court, civil court, with staff, and your
10 temperament has always been nothing but respectful
11 and kind and decent, considerate. So I was
12 completely shocked, because I spent an enormous
13 amount of time with you when I was clerk and
14 thought you have done an extraordinary job as being
15 a judge. So just completely shocked. That's not
16 the Judge Knie that I know and have worked with.
17 So I want you to be encouraged that sometimes we
18 get things that may not always be a true reflection
19 of a candidate. So I want all the rest of the
20 Commissioners here to know what I know about you
21 and your work and your dedication to our courts and
22 to also being a volunteer with my institute and
23 talking to youth. I don't want that to go without
24 anyone here knowing that you do give back, and you
25 give back in a tremendous amount of way. And I can

1 tell you when we do survey our students, you have
2 gotten a lot of high marks, and I just appreciate
3 your service. I don't think I've ever told you
4 that, but you did, and I can show you in the
5 survey. So I just appreciate what you do for the
6 community and for our court and look forward to
7 what you're going to do in the coming years.

8 JUDGE KNIE: Thank you.

9 MS. BLACKLEY: Take care.

10 CHAIRMAN RANKIN: All right. Other questions?

11 Representative Rutherford.

12 REPRESENTATIVE RUTHERFORD: Only because I know that
13 you'll go home tonight and beat yourself up over
14 that one comment. I don't think anybody here takes
15 that and says, oh, wow, she's that kind of person,
16 especially -- I've been in front of you on numerous
17 occasions, virtually and in person, and that's not
18 you. I've never seen you rush anybody. You always
19 go back and make sure that everybody has said what
20 they need to say. So I don't know who that was or
21 whether they were talking about the same judge that
22 I've been in front of and that everybody else talks
23 about. Because obviously prosecutors and defense
24 attorneys talk about judges, and everybody says the
25 same thing about you. And that is not reflective

1 of what people say. And as far as whether you've
2 made any contact, Mr. Chairman, she avoids me like
3 the plague since she's become a candidate. I
4 didn't know what it was at first, because sometimes
5 you forget you're on JMISC until you're walking
6 straight and you see her making a beeline around
7 the room, like where is she going. But I called
8 her office, she wouldn't talk to me. I talked to
9 her secretary. So she truly, truly takes these
10 things to heart, takes rules to heart, and as far
11 as everything that I've seen has become a great
12 judge. And I don't know that we expected or that a
13 lot of people expected that much out of you, but
14 you certainly have surpassed those expectations.
15 So thank you.

16 JUDGE KNIE: Thank you very much.

17 CHAIRMAN RANKIN: All right. A couple of things, again
18 to ditto that. And we ask the exceptional and the
19 more norm. And we get all sorts of comments, but
20 you have -- you enjoy very high regard of those who
21 have taken the time to weigh in here with
22 temperament being very high. And every stripe that
23 we look to here incredibly high. And your comment
24 about the pandemic -- there's one comment from
25 folks who said you put your own health at risk

1 taking seriously the role that you had to play
2 here, not trying to duck the hard task. So that is
3 exceptional. In the vein of others that we've
4 talked with in the past and today as well, folks
5 who want to get off the circuit court bench to go
6 to the Court of Appeals or the Supreme Court and
7 the void that will be created by good judges. Not
8 that you owe it to the state to remain in that
9 position if you're successful in moving up. But
10 the role though is dramatically different, and
11 you've heard it from others. Duane Shuler, the
12 best example of a person who was a wonderful
13 circuit court judge who then got into the void of
14 personality, and I won't say humanity, but the
15 closed shop of no ebb and flow, give and take with
16 people on a day in and day out role. Personality
17 wise, are you suited to be a -- I don't want to say
18 bookworm, but non-contact judge? Because that's
19 what the appellate level is, non-contact.

20 JUDGE KNIE: Thank you for that question. And I am
21 suited for that. I love reading. I have an
22 academic side, an intellectual side. And as I
23 stated earlier, would welcome time to reflect and
24 discuss with fellow judges on my panel, okay, and
25 my staff attorneys and law clerks things that

1 sometimes we don't have a lot of time to talk about
2 when you're making really fast decisions. And so,
3 yes, I have thought about that and I've prayed
4 about that. I have talked to my husband about
5 that, and I do believe that I would welcome the
6 opportunity if it presents itself.

7 CHAIRMAN RANKIN: Very good. All right. Questions by
8 otherm
9 embers.

10 MS. BLACKLEY: I think y'all need to know that she's a
11 gardener as well grows great produce. Just FYI.

12 CHAIRMAN RANKIN: Ever won a blue ribbon?

13 JUDGE KNIE: Not yet, but it's a goal.

14 CHAIRMAN RANKIN: Only because you're not competitive in
15 your gardening, I guess. One of the other
16 candidates has distinguished themselves in a non-
17 legal context with a blue ribbon award for --

18 JUDGE KNIE: Baking, I bet.

19 CHAIRMAN RANKIN: -- baking, yes. So yours is making it
20 grow in the Clemson Extension vernacular. Hers is
21 baking it grow. All right. Unless there are other
22 questions, Judge Knie, we appreciate your
23 willingness to serve, your willingness to step up
24 to offer for a different level of the judiciary.
25 And I want to remind you at this time that this
portion of the screening process will be closed,

1 but pursuant to our criteria as well as the state
2 ethics law, we expect you to adhere to both the
3 spirit and the letter of the ethics law. Any
4 violation of the appearance of impropriety would be
5 considered very serious by us and potentially
6 deserving of heavy weight in our deliberations. If
7 that were to occur, which we certainly don't
8 expect, you do know that this record is not closed
9 until the release of the record of qualifications.
10 We could call you back for questions about that; do
11 you understand that?

12 JUDGE KNIE: Yes.

13 CHAIRMAN RANKIN: Okay. All right. Judge Knie, thank
14 you and your spouse for joining us today, and this
15 will conclude this portion of the screening
16 process.

17 JUDGE KNIE: Thank y'all.

18 CHAIRMAN RANKIN: Thank you. Judge Holmes, welcome.

19 JUDGE BROMELL-HOLMES: Good evening.

20 CHAIRMAN RANKIN: How are you this early afternoon. Is
21 it 4:30 where you are?

22 JUDGE BROMELL-HOLMES: It is.

23 CHAIRMAN RANKIN: Hallelujah.

24 JUDGE BROMELL-HOLMES: If you say it is, it is.

25 CHAIRMAN RANKIN: Hallelujah. This is not Rankin time.

1 This is them suffering me with these type
2 exchanges.

3 THE HONORABLE JAN B. BROMELL HOLMES, being duly
4 sworn, testifies as follows:

5 CHAIRMAN RANKIN: All right. You've got documents there,
6 a Personal Data Questionnaire and a Sworn
7 Statement. Are those ready to be entered into the
8 record?

9 JUDGE BROMELL-HOLMES: They are.

10 CHAIRMAN RANKIN: All right. No objections to them being
11 included and no changes, correct?

12 JUDGE BROMELL-HOLMES: I did bring a supplement that
13 wasn't received that I mailed yesterday.

14 MS. PUTNAM: We'll add that to it.

15 CHAIRMAN RANKIN: All right. If you'll hand those to
16 Lindi we'll include those now in the record.
17 Judge, you have participated in these screenings
18 before, so you know how this process works. I have
19 to put on the record again what you know to be the
20 facts and the truth. But in our efforts to
21 investigate your candidacy we look at nine
22 evaluative criteria, including a ballot box survey,
23 a study of your application materials, verification
24 of your compliance with state ethics laws, a search
25 of newspaper articles in which your name appears, a

1 study of previous screenings and a check for
2 economic conflicts of interest. No affidavits have
3 been filed in opposition to your election, and no
4 witnesses are present to testify, though I think
5 you have a fellow or two with you, perhaps family
6 and/or friend.

7 (Exhibit Number 20 was marked for identification purposes
8 - (18 pages) Personal Data Questionnaire for The
9 Honorable Jan B. Bromell-Holmes.)

10 (Exhibit Number 21 was marked for identification purposes
11 - (1 page) Amendment to Personal Data Questionnaire for
12 The Honorable Jan B. Bromell-Holmes.)

13 (Exhibit Number 22 was marked for identification purposes
14 - (6 pages) Sworn Statement for The Honorable Jan B.
15 Bromell-Holmes.)

16 JUDGE BROMELL-HOLMES: Yes, I do.

17 CHAIRMAN RANKIN: You can introduce them if you would
18 like.

19 JUDGE BROMELL-HOLMES: Okay. This is my husband,
20 Cleveland Holmes --

21 CHAIRMAN RANKIN: Welcome.

22 JUDGE BROMELL-HOLMES: -- and my Bar examiner, George
23 Hearn, who is a very experienced family court
24 litigator in the Fifteenth Circuit.

25 CHAIRMAN RANKIN: And my Bar examiner, too, and many of

1 us here, so welcome both gentlemen. Thank you.
2 Now you have the opportunity to make a brief
3 opening if you would like, but recognizing that
4 it's 4:35-ish, you can dispense with that, and
5 we'll jump right to -- and my apologies for Todd
6 Rutherford dragging this so that we're an hour late
7 getting to your screening. I cannot apologize
8 enough for him. Would you like to make an opening
9 statement, or Ms. Dean with start with questions?

10 JUDGE BROMELL-HOLMES: Just briefly, I appreciate your
11 time and your commitment here today, and I am
12 elated to be here.

13 CHAIRMAN RANKIN: Thank you. All right, Ms. Dean.

14 MS. DEAN: Thank you, Mr. Chairman. I note for the
15 record that based on the testimony contained in the
16 candidate's PDQ, which has been included in the
17 record with the candidate's consent, Judge Bromell-
18 Holmes meets the constitutional and/or statutory
19 requirements for this position regarding age,
20 residency and years of practice.

21 JUDGE BROMELL-HOLMES - EXAMINATION BY MS. DEAN:

22 **Q. Judge, why do you now want to serve as a judge on**
23 **the Court of Appeals?**

24 **A.** I have been a lawyer for 27 years. The last 15 and
25 a half I have served as a family court judge. I

1 love what I do as a family court judge, but four
2 and a half years ago I was extended an opportunity
3 to sit as an acting justice on the Supreme Court.
4 I never thought that I would be interested in
5 appellate court work, but I thoroughly enjoyed it.
6 I had the opportunity to hear oral arguments for
7 the three criminal cases. Certainly I couldn't
8 judge a family court case. And I thoroughly
9 enjoyed it. I enjoyed reading the briefs, the
10 appellate -- the respondent briefs as well as the
11 transcript on the record. And I actively
12 participated and asked questions during oral
13 arguments. I thought that I did a very good job at
14 that, and I know that this is a job that I would
15 excel and do well.

16 **Q. Thank you, Judge. How do you feel your legal and**
17 **professional experience -- and you've already**
18 **touched on this some, but if you would like to**
19 **elaborate, will assist you to be an effective judge**
20 **on the Court of Appeals?**

21 **A.** As a lawyer, I handled workers' comp cases,
22 personal injury cases, Social Security disability
23 cases, real estate cases, family court cases,
24 pretty much any type of case. When you're a sole
25 practitioner in a small town, your citizens,

1 friends, family members expect you to be an expert
2 at everything. So I did a really good job at just
3 about every area of law. Wasn't too fond of
4 criminal. I did handle some of those cases. But
5 as a family court judge I've also had an
6 opportunity to handle the criminal side with
7 respect to the juvenile justice cases and obviously
8 family court dividing property. So that didn't
9 change for me as well as all of the other cases
10 that comes along with family court, divorce, child
11 custody, child support, names changes, whatever,
12 all issues dealing with the family.

13 **Q. Thank you. Judge, how would you describe your**
14 **general judicial philosophy?**

15 A. My judicial philosophy is to rule after careful and
16 deliberate consideration according to the law and
17 not to affect public policy.

18 **Q. Thank you, Judge. What is your vision for the**
19 **future of our judicial system, and what changes**
20 **would you advocate and why?**

21 A. In 2020 with Covid, I was chief administrative
22 judge for family court for my circuit. So we did
23 have an opportunity to develop the Webex, and we
24 know this just not only happened for family court,
25 it happened for the entire judiciary for the state.

1 So I believe we're headed in the right direction
2 with that. And I have continued to hold Webex
3 hearings for uncontested matters. Certainly
4 difficult to do so for contested matters or trials.

5 **Q. Thank you, Judge. To what extent do you believe**
6 **that a judge should or should not defer to the**
7 **actions of the General Assembly?**

8 A. The judge should defer to the actions of the
9 General Assembly in that the General Assembly makes
10 and creates laws. It is the judge's job to enforce
11 the law.

12 **Q. Thank you. Moving to the ballot box questions.**
13 **Judge, the Commission received approximately 156**
14 **ballot box surveys regarding you with 72 additional**
15 **comments. The ballot box survey, for example,**
16 **contained the following positive comments: "A fair,**
17 **impartial judge, experienced and excellent**
18 **temperament and strong work ethic and is a person**
19 **of exceptional character." Sixteen of the written**
20 **comments expressed some level of concern. Some of**
21 **these concerns related to your level of experience**
22 **as well as your ability to serve on the Court of**
23 **Appeals. How would you respond to such concerns?**

24 A. My level of experience and my ability to serve?

25 **Q. Yes.**

1 A. I have been a lawyer, as I stated, for 27 years, 15
2 and a half of which I have served as a family court
3 judge. I have interacted with attorneys, with
4 self-represented litigants, and I have done so very
5 efficiently and fairly. I have very little cases
6 that have been reversed. Most of my cases have
7 been affirmed, but I don't anticipate any problems
8 sitting as an appellate court judge.

9 **Q. Thank you, Judge. The second concern raised was**
10 **regarding your impartiality. What response would**
11 **you offer to any concern about that?**

12 A. I'm not sure without additional information, but
13 I'm certainly not -- I don't show partiality
14 towards one side or the other. I rule according to
15 the facts and circumstances. And whenever it
16 involves a child or children with what I believe to
17 be in the best interest of the children according
18 to the law and the facts and circumstances in front
19 of me.

20 **Q. Thank you. Judge, in your PDQ, you mention a case**
21 **due to your service on the board of directors at**
22 **Georgetown County Chamber of Commerce way back in**
23 **2000, a long time ago. You're named in the suit**
24 **along with all the other board members, but the**
25 **case was settled and dismissed without any of your**

1 **involvement; is that correct?**

2 A. That is correct.

3 **Q. Thank you.**

4 MS. DEAN: I would note that the Pee Dee Citizens
5 Committee reported that Judge Bromell-Holmes is
6 qualified in the criteria of constitutional
7 qualifications, physical health and mental
8 stability. The Citizens Committee found the judge
9 well qualified in the criteria of ethical fitness,
10 professional and academic ability, character,
11 reputation, experience and judicial temperament.

12 **Q. Moving now just to some housekeeping issues. Since**
13 **submitting your letter of intent to run for this**
14 **seat, have you contacted any members of the**
15 **Commission about your candidacy?**

16 A. I haven't.

17 **Q. Are you familiar with Section 2-19-70, including**
18 **the limitations on contacting members of the**
19 **General Assembly regarding your screening?**

20 A. I am.

21 **Q. Since submitting your letter of intent, have you**
22 **sought or received the pledge of any legislator,**
23 **either prior to this date or pending the outcome of**
24 **your screening?**

25 A. I have not.

1 Q. Have you asked any third parties to contact members
2 of the General Assembly on your behalf, or are you
3 aware of anyone attempting to intervene in this
4 process on your behalf?

5 A. I am not.

6 Q. Thank you.

7 MS. DEAN: I would just note for the record that any
8 concerns raised during the investigation regarding
9 the candidate were incorporated in today's
10 questioning. Mr. Chairman, I have no further
11 questions.

12 CHAIRMAN RANKIN: Okay. Thank you, Ms. Dean. Questions
13 by anybody on the Commission? Senator Sabb.

14 SENATOR SABB: Thank you, Mr. Chairman. I really have
15 more of a comment than I do a question. Of course,
16 I've known Judge Bromell-Holmes for a substantial
17 period of time. She's in the Georgetown area. I
18 don't practice family law, but my law partner,
19 Kimberly Barr does. And she always has raving
20 things to say when she appears before Judge Holmes.
21 And of course, I know her reputation in the
22 community and amongst the local lawyers, and it's
23 stellar to say the least. And so, I was delighted
24 when I found out that she was going to offer for
25 this position. She's obviously imminently

1 qualified. And I wish her the best of luck, but I
2 just wanted everybody to know we've had nothing but
3 positive interactions with Judge Holmes since she's
4 been our jurist.

5 A. Thank you.

6 CHAIRMAN RANKIN: Thank you. All right. Representative
7 Jordan.

8 REPRESENTATIVE JORDAN: Thank you, Mr. Chairman.

9 JUDGE BROMELL-HOLMES - EXAMINATION BY REPRESENTATIVE
10 JORDAN:

11 Q. Judge, just a couple of questions. Obviously
12 you've been on the family court now for, I think
13 you said, 15 years; is that right?

14 A. Yes.

15 Q. So let's say you're successful, and you're elevated
16 to the Court of Appeals. What would you think
17 would be the things you would need to do -- I don't
18 want to say get up to speed, but obviously you're
19 going to be going from a court that deals with
20 family court issues to a court that has to deal
21 with all different kinds of issues. So I'm
22 guessing I'm asking how would you feel like -- what
23 things would you do to prepare yourself should you
24 be successful in being elevated?

25 A. I'm an avid and quick learner. Whatever cases that

1 are assigned to me, I will certainly review the
2 case law pertaining to the particular cases. I
3 would certainly have help there in that of a law
4 clerk. That's something that family court judges -
5 - we don't have at this time. As a family court
6 judge, I'm judge and jury. So I think my workload
7 might not be as tedious in terms of having to --
8 well, certainly I still would be judge and jury
9 along with two other panelists, but I don't
10 anticipate any problems in getting up to speed.

11 **Q. Thank you.**

12 CHAIRMAN RANKIN: All right. Representative Caskey.

13 VICE CHAIRMAN CASKEY: Thank you, Mr. Chairman.

14 JUDGE BROMELL-HOLMES - EXAMINATION BY VICE CHAIRMAN CASKEY:

15 **Q. Judge, thank you for being here today. As I was**
16 **looking through the ballot box, the comments are**
17 **glowing. "The judge is one of the most experienced**
18 **fair and knowledgeable judges on the bench." To,**
19 **"Judge Holmes has the patience of a saint." All**
20 **very flattering. There was a question, though,**
21 **that was pointed out here, and I just wanted to**
22 **give you an opportunity to respond to it. With**
23 **respect to your handling of rape cases. I don't**
24 **know if that is something you recollect from the**
25 **process so far, but I was hopeful you might be able**

1 **to help me understand what that concern may have**
2 **been if you're familiar with it.**

3 A. I'm not -- I'm not sure what that concern may have
4 been. I do recall Ms. Dean mentioning that. And
5 the party apparently thought that I gave too harsh
6 of a sentence. But I've handled several criminal
7 sexual conduct, and the person certainly called it
8 rape. But we don't use that term --

9 **Q. Right.**

10 A. -- in juvenile court, because it just sounds so
11 harsh. But we are given recommendations from the
12 Department of Juvenile Justice. The solicitor
13 gives a recommendation and certainly the juvenile's
14 attorney. I take a look at the recommendations,
15 and we have guidelines that we follow. So I'm sure
16 my ruling was within the guidelines and was fair
17 and based on the facts and circumstances.

18 **Q. Great. Thank you.**

19 CHAIRMAN RANKIN: All right. Any other questions? All
20 right. Judge, I want to comment as well on the
21 regard that you have and the esteem that you enjoy
22 with other members of the Bar in terms of the
23 ballot box survey. And you've been on the family
24 court bench for, you said --

25 JUDGE BROMELL-HOLMES: Fifteen and a half, yes.

1 CHAIRMAN RANKIN: -- Fifteen and a half years. Your
2 description as being patient is well noted here.
3 Great temperament, and you never let common sense
4 leave the courtroom. Family court is not easy to
5 earn that regard. And so that is an exceptional
6 accomplishment on your behalf. As I have asked
7 others in the effort of moving from the trial bench
8 to the appellate practice, I mentioned the last
9 time Duane Shuler. You know him from the Pee Dee
10 area. And he offers a good example of someone who
11 was a people person who enjoyed being in the
12 courtroom. Didn't appreciate it as much until he
13 left it and got on the Court of Appeals where he
14 describes it to anyone who will ask, a great, vast
15 emptiness of human contact. Do you have a sense of
16 being able to transition, not to be a quick study,
17 but missing the people, the contact sport which
18 trial benches and judges have?

19 JUDGE BROMELL-HOLMES: I think because I will be going to
20 three panels and not -- technically I'm isolated
21 now when I make a decision, because I don't have a
22 jury to help me to render the decision. I'm alone
23 when I make my decision. So I would see it as a
24 welcoming endeavor by having two other panelists,
25 so I don't think I would experience any loneliness

1 at the appellate court level.

2 CHAIRMAN RANKIN: In terms of the experience in the
3 appellate realm, we've had candidates today, one
4 who has not even served on the bench. Whitney
5 Harrison came through. You're contending for the
6 same seat she is -- who does not have any trial
7 experience effectively as a judge as you would but
8 has an incredible amount of experience in the
9 appellate realm. Blake Hewitt, similarly, straight
10 from trial law to becoming an appellate lawyer. Do
11 you see yourself having to be a quick study in the
12 appellate field, or is that within your wheelhouse
13 already?

14 JUDGE BROMELL-HOLMES: It is within my wheelhouse
15 already.

16 CHAIRMAN RANKIN: All right. Any other questions?
17 Gentleman, husband, thank you so much for joining.
18 Judge Holmes, let me remind you, as you are aware,
19 this concludes this portion of the screening
20 process, but you are well aware of our criteria
21 having screened before, that we are very much
22 sticklers for a candidate abiding by both the
23 letter and the spirit of ethics law. Any violation
24 of the appearance of impropriety of that would be
25 considered very serious and deserving of heavy

1 deliberation on our part. All that to tell you, as
2 you know, this record is not closed until the
3 formal release of the report of qualifications. In
4 the unlikely event that there would be any
5 appearance of impropriety or questions, you
6 understand that we could call you back for further
7 questions; is that correct?

8 JUDGE BROMELL-HOLMES: I understand.

9 CHAIRMAN RANKIN: Thank you so much for being here. And
10 my apologies for Representative Rutherford making
11 us start so late. Welcome. Y'all have a great and
12 safe trip back home.

13 JUDGE BROMELL-HOLMES: Thank you so much for your time.

14 CHAIRMAN RANKIN: Take care. All right. Now that
15 concludes today's process. Representative
16 Rutherford moves that we go in Executive Session,
17 seconded by Representative Jordan. We will now go
18 into Executive Session.

19 EXECUTIVE SESSION

20 CHAIRMAN RANKIN: We are back on the record. For the
21 record, during Executive Session no votes were
22 cast, no decisions were made, and we are now going
23 to adjourn until tomorrow morning. Thank y'all.

24 (There being nothing further, the proceeding concluded at
25 6:05 p.m.)

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CERTIFICATE OF REPORTER

I, JENNIFER NOTTLE, COURT REPORTER AND NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA AT LARGE, HEREBY CERTIFY THAT I REPORTED THIS PROCEEDING, ON MONDAY, THE 14TH DAY OF NOVEMBER, 2022, AND THAT THE FOREGOING 221 PAGES CONSTITUTE A TRUE AND CORRECT TRANSCRIPTION OF MY STENOMASK REPORT OF SAID PROCEEDING.

I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY NOR COUNSEL FOR, NOR RELATED TO OR EMPLOYED BY ANY OF THE PARTIES CONNECTED WITH THIS ACTION, NOR AM I FINANCIALLY INTERESTED IN SAID CAUSE.

IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL THIS 2ND DAY OF DECEMBER, 2022.



JENNIFER NOTTLE, COURT REPORTER

MY COMMISSION EXPIRES JULY 11, 2023

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