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## **SCREENING HEARINGS**

*November 14, 2023*

**2023 Judicial Merit Selection Commission**

REPORTER: Kathryn Bostrom

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JUDICIAL MERIT SELECTION COMMISSION  
TRANSCRIPT OF PUBLIC HEARINGS

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BEFORE: SENATOR LUKE A. RANKIN, CHAIRMAN  
REPRESENTATIVE "MICAH" CASKEY, IV, VICE CHAIRMAN  
SENATOR SCOTT TALLEY  
REPRESENTATIVE WALLACE H. "JAY" JORDAN, JR.  
SENATOR RONNIE SABB  
REPRESENTATIVE J. TODD RUTHERFORD  
HOPE BLACKLEY  
LUCY GREY MCIVER  
ANDREW N. SAFRAN  
J.P. PETE STROM  
ERIN B. CRAWFORD, CHIEF COUNSEL

\* \* \* \* \*

DATE: November 14, 2023  
TIME: 9:30 a.m.  
LOCATION: Gressette Building, Room 105  
1101 Pendleton Street  
Columbia, South Carolina 29201  
REPORTED BY: Kathryn B. Bostrom, Court Reporter

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Court Reporter's Legend:

dashes [--] Intentional or purposeful]

interruption

[ph] Denotes phonetically written

[sic] Written as said

1 P-R-O-C-E-E-D-I-N-G-S

2 CHAIRMAN CASKEY: All right. Good morning, everyone.

3 We'll go ahead and call today's session of the  
4 Judicial Merit Selection Commission to order and  
5 we will resume with our screenings. Before us, we  
6 have Judge Vinson, who is a candidate for Seat 8  
7 on the Court of Appeals. Do I have that right,  
8 sir?

9 JUDGE VINSON: That's correct.

10 CHAIRMAN CASKEY: All right. If you would, sir,  
11 please raise your right hand.

12 WHEREUPON:

13 JERRY DEESE VINSON, being duly sworn and cautioned to  
14 speak the truth, the whole truth and nothing but the  
15 truth, testifies as follows:

16 CHAIRMAN CASKEY: Thank you. If you would, there's  
17 some document in front of you. If you would take  
18 a moment and review those, please.

19 JUDGE VINSON: These appear to be the documents, or the  
20 same documents, or copies of the documents that  
21 I've previously filed with the Commission.

22 CHAIRMAN CASKEY: Those are the Personal Data  
23 Questionnaire and the Sworn Statement?

24 JUDGE VINSON: That's correct.

25 CHAIRMAN CASKEY: All right. Are there any changes or

1 updates to make to those?

2 JUDGE VINSON: No.

3 CHAIRMAN CASKEY: Do you have any objection to our  
4 entering them on the record as a part of your  
5 sworn testimony?

6 JUDGE VINSON: Not at all. Thank you.

7 (EXHIBIT NO. 1 MARKED FOR  
8 IDENTIFICATION PURPOSES (27 pages)  
9 PDQ - Judge Vinson)

10 (EXHIBIT NO. 2 MARKED FOR  
11 IDENTIFICATION PURPOSES (4 pages)  
12 Sworn Statement - Judge Vinson)

13 CHAIRMAN CASKEY: If we could have a second to do  
14 that. The Judicial Merit Selection Commission  
15 has thoroughly investigated your qualifications  
16 for the bench. Our inquiry is focused on nine  
17 evaluative criteria that is included in a ballot  
18 box survey, thorough study of your application  
19 materials, the verification of your compliance  
20 with state ethics laws, search of newspaper  
21 articles in which your name appears, study of  
22 previous screenings and a check for economic  
23 conflicts of interest. We have received no  
24 affidavits filed in opposition to your election.  
25 No witnesses are present to testify. If you



1 would like to make a brief opening statement,  
2 we'd be happy to hear from you, otherwise, we'll  
3 proceed to questions directed from staff and  
4 counsel.

5 JUDGE VINSON: Very briefly, just to thank the  
6 Commission for allowing me to appear. I was  
7 thinking back. This marks the 20th year I've  
8 been involved in this process. I appeared the  
9 first time 20 years ago when I ran for family  
10 court. And I admire the Commission. It's hard  
11 work. It's probably thankless, and I know a  
12 number of you have been on here for a number of  
13 years. And so I appreciate your service. And I  
14 appreciate the opportunity to serve the people of  
15 South Carolina. It's been a privilege and an  
16 honor and I consider it a blessing to serve as a  
17 judge in this state.

18 CHAIRMAN CASKEY: Thank you, sir. Mr. Fiffick.

19 MR. FIFFICK: Thank you, Mr. Chairman. For the record,  
20 Judge Vinson meets all qualification as required  
21 by the constitution of the State of South  
22 Carolina to serve on the court of appeals.

23 EXAMINATION

24 BY MR. FIFFICK:

25 Q. And Judge Vinson, why do you want to continue serving

1           **on the Court of appeals?**

2           JUDGE VINSON: Well, as I said, it's a privilege and  
3           it's an honor, and I have thoroughly enjoyed my  
4           opportunity to serve. I served, obviously, for  
5           18 years on the family court bench and I  
6           thoroughly enjoyed that opportunity to serve and  
7           make a difference in people's lives. This is  
8           lives, on the court of appeals, to do that. It  
9           allows me to expand what I was doing and look at  
10          a lot of different areas that I've never had an  
11          opportunity to look at before, some I haven't  
12          seen since law school, some I've never seen, and  
13          it's been an exciting opportunity to do that and  
14          to learn, but to use that opportunity to make a  
15          difference in people's lives and have an impact  
16          through my service.

17       **Q. Thank you, Judge Vinson. The Commission received 750**  
18       **ballot box surveys regarding you with 63 additional**  
19       **comments, 57 of those being positive, including the**  
20       **following: A pleasure to appear before, Exceptional**  
21       **judge, A perfect marriage of temperament and**  
22       **intellect, An excellent addition to the Court of**  
23       **appeals. Six of the written comments expressed**  
24       **concerns, some of which raised concerns about your**  
25       **temperament and a tendency to reach conclusions before**

1 hearing all available information. What would you say  
2 about these concerns?

3 A. Well, it's always difficult to address those concerns  
4 without understanding exactly the -- what was before  
5 me or the nature of the complaint. I will say that  
6 I've always tried to treat people in my courtroom the  
7 same way that I would wanted to be treated if I were  
8 in front of a judge; and that is to be respected, for  
9 the judge to have patience, and for the judge to  
10 listen carefully to what was presented. I don't know  
11 the specific instances that they're talking about and  
12 so it's difficult for me to address that. I can just  
13 say that my conduct was -- I always pattern to try to  
14 do that. I won't say that I was successful a hundred  
15 percent of the time. It's impossible, I think, to do  
16 that, but I made every effort to try to be that way a  
17 hundred percent of the time when litigants were in  
18 front of me.

19 Q. Thank you, sir. I would note that the Pee Dee  
20 Citizens Committee reported Judge Vinson to be well  
21 qualified as the evaluative criteria of ethical  
22 fitness, professional academic ability, character,  
23 reputation, experience and judicial temperament.  
24 Judge Vinson is also qualified in the evaluative  
25 criteria of constitutional qualifications, physical

1 health and mental stability. I now have some  
2 housekeeping issues to do with you. Since submitting  
3 your Letter of Intent to run for this seat, have you  
4 contacted any members of the Commission about your  
5 candidacy?

6 A. No, I haven't.

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

10 A. Yes, I am and I have not.

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

15 A. I have not.

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

20 A. I am not, and I have not.

21 MR. FIFFICK: Thank you, sir. I would just note for  
22 the record that any concerns raised during the  
23 investigation regarding the candidate were  
24 incorporated in the questioning of the candidate  
25 today. Mr. Chairman, I have no further

1 questions.

2 CHAIRMAN CASKEY: Thank you, sir. Do members of the  
3 Commission have questions or comments of Judge  
4 Vinson? Mr. Safran?

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

6 EXAMINATION

7 BY MR. SAFRAN:

8 Q. Judge Vinson, good to see you again.

9 A. Nice to see you.

10 Q. I'm kind of mystified why somebody's saying there's a  
11 problem with temperament since you've been on the  
12 Court of Appeals. You know, you sit with two other  
13 people all the time, don't you?

14 A. I do, indeed.

15 Q. And I'm assuming that you if you really got out of  
16 hand, you'd probably have your colleagues saying  
17 something to you.

18 A. I can assure you that they would. Not, obviously, in  
19 front of other people. But as soon as we walked back  
20 in conference, they'd say, You were a little rough out  
21 there. I haven't seen that happen. You know, there  
22 have been times, I will say, in my brief time on the  
23 court of appeals, where there is a very small amount  
24 of emotion involved in the arguments and it's  
25 generally -- you know, I've never seen that from the

1 other judges on the panel, because lawyers and --  
2 often become involved in how they feel about the case  
3 and so they may express some very small amount of  
4 emotion. Rarely do we see that. And I have never  
5 seen judges on the panels that I've been with be  
6 anything but patient and respectful of the litigants  
7 and the -- and more important, the lawyers in the  
8 courtroom.

9 Q. Yeah, I mean, I wouldn't have any concern about the  
10 lawyers expressing some level of emotion. Obviously,  
11 you're not making a jury argument.

12 A. Right.

13 Q. And you know, this is not a pointing of slings and  
14 arrows at the other guy.

15 A. Certainly.

16 Q. But, you know, in my experience with the court of  
17 appeals, Supreme Court, over the course of a long time  
18 and, you know, they can get a little rough with you  
19 sometimes with the questioning, but I don't know that  
20 that necessarily reflects a temperament issue.

21 A. I agree with you. And nobody likes to be questioned  
22 hard. As I come before this Commission today, I'm  
23 thinking about, What am I going to be asked, you know.  
24 Are they going to be tough on me? Are they going to  
25 have a lot of really difficult questions? That

1 doesn't upset me, though. I mean, y'all are -- you  
2 have a job just like any panel does, whether it's this  
3 panel or a panel on the Court to ask the hard  
4 questions sometimes if there's something that needs to  
5 be addressed and clarified.

6 **Q. Which isn't that really an integral part of the**  
7 **process?**

8 A. Has to be.

9 **Q. What, if anything, -- well, I know there's got to be**  
10 **something. What, from the time you've been over there**  
11 **in -- let's say, in the previous five to ten years for**  
12 **compared to what you might have anticipated versus**  
13 **what the reality is?**

14 A. I'll share a very brief story. Judge Lockemy teaches  
15 a course in the law school called You Want to go to  
16 Court in South Carolina. And it gives the -- all the  
17 students in that class an opportunity to hear from a  
18 lot of different judges, a lot of different lawyers.  
19 They love it. They -- I wish we'd had a course like  
20 that when I was in law school. And he's kindly asked  
21 me to speak the last three or four years on family  
22 court. And so the last time I spoke before I went on  
23 to the court of appeals, after my election, the last  
24 question I got that day was, basically, Judge Vinson,  
25 congratulations on your election to the court of

1 appeals. This doesn't have anything to do with family  
2 court, but what do you think is going to be the  
3 hardest thing about going over to the court of  
4 appeals? Judge Lockemy's looking at me and I kind of  
5 looked over at him, I said, I'm trying to figure out  
6 what I'm going to do with all my free time. And I  
7 have paid the price for that comment. It's a much  
8 more time consuming job than I would've thought. It's  
9 so much different than being on the trial bench. The  
10 trial bench, your schedule is regulated and you now  
11 when you're going to start and you know when you're  
12 going to finish. The weekends belong to you. You go  
13 on vacation and you don't worry about anything until  
14 you get back, and this is very different. I remember  
15 judges saying, you know, You never really shut down.  
16 You're always thinking about that case, always  
17 thinking about, Have I thought about all of it, you  
18 know, and kind of working through that case even in  
19 your spare time. You know, if you're riding down the  
20 road, you know, thinking about -- a lot of times, I'm  
21 thinking about a case that I'm working on and thinking  
22 about where that's going. And so it's -- I find  
23 myself working a lot more weekends than I did as a  
24 trial court judge. I find myself working a lot in the  
25 evenings much later than I did as a trial court judge.



1 I'm not complaining. I thoroughly enjoy it. But  
2 that's the biggest change, the biggest difference I've  
3 seen in the time that I've been on the court.

4 **Q. And I guess you're doing it because you recognize that**  
5 **it does require the time.**

6 A. It requires the time and it makes a difference.

7 **Q. And I guess, being on the bench in the family court,**  
8 **once you made a ruling, you made a ruling.**

9 A. That's right.

10 **Q. That's it, you move on to the next one. There's**  
11 **really no going back. But I think what I'm recalling**  
12 **that the process in the appellate court is, it's an**  
13 **evolving process within the case.**

14 A. It's evolving as we prepare for arguments. And I talk  
15 with my clerks and sometimes we kind of work through  
16 it. And as we're working through it and we think  
17 we've got a conclusion, we continue to work through it  
18 and it changes. And then when you hear the arguments,  
19 there -- it may not change our minds, but there may be  
20 nuances that we haven't thought about as we've been  
21 preparing and thinking about this case, that those  
22 attorneys bring to our attention through those oral  
23 arguments. And that makes a difference, too,  
24 sometimes in how we want to talk about that case and  
25 the opinion. If it doesn't change our mind about what

1 we think about the case, it certainly may change how  
2 we want to address that in the opinion that's issued  
3 from the court.

4 MR. SAFRAN: Thank you for your comments.

5 JUDGE VINSON: Thank you.

6 CHAIRMAN CASKEY: Mr. Jordan?

7 REPRESENTATIVE JORDAN: Thank you, Mr. Chairman.

8 EXAMINATION

9 BY REPRESENTATIVE JORDAN:

10 Q. Good morning, Judge. How are you?

11 A. I'm doing well; I hope you are.

12 Q. Doing well, thank you. So first off, I practice law  
13 in Florence and with you many times in the family  
14 court. And I can say, from my experience, I've never  
15 had any concerns whatsoever about temperament issues.  
16 You're always courteous to everyone I saw in the  
17 courtroom and move cases efficiently, and that's a  
18 delicate balance at times to be courteous and  
19 efficient at the same time. But I want to change  
20 gears a little bit. I remember when you ran. One of  
21 the things that, as I look back at the court of  
22 appeals -- how many court of appeals judges do we have  
23 now? Eight?

24 A. We have eight.

25 Q. Eight judges. I think you're the only one with that

1           **very sense of family court background; is that right?**

2   A.   Well, actually -- well, I was on the family court for  
3       a lot longer than anyone else. Judge Konduros has a  
4       family court background. Of course, Judge Williams  
5       has -- Chief Judge Williams has a family court  
6       background. They were not on family court for as long  
7       a period of time as I was. And Judge Verdin, who's --  
8       we always think about as being a circuit court judge,  
9       but she had the honor and privilege of starting as a  
10      family court judge before she went to circuit court.

11   **Q.   So I guess my question is two-fold. Number one, has**  
12      **your family court background proved to be an asset for**  
13      **you? And number two, have you had any issues, since**  
14      **you were in family court for an extended period of**  
15      **time dealing with the non family court issues?**

16   A.   Certainly, the family court experience comes in handy.  
17       And I probably get maybe two or three family court  
18       cases that I might work on during a term and I -- I  
19       call them semesters, because we do the spring and then  
20       we do the fall, so I probably have one or two each  
21       semester. But there might be another one on the  
22       panel, and there are other panels. So a lot of times,  
23       I find myself on occasion talking to a judge on  
24       another panel who maybe didn't have a lot of family  
25       court experience and we're just kind of talking

1 through that particular case. And that's part of the  
2 -- I think one of the assets of being on the court of  
3 appeals is your opportunity to talk with other judges  
4 and bounce ideas off of them as you think through  
5 things, maybe it's things that you don't have as much  
6 experience in doing. And to address that portion of  
7 your questions, for instance, I never appeared before  
8 the administrative law court. And so that's been a  
9 real eye opening experience. I didn't realize that so  
10 much work came from the administrative law court for  
11 the Court of appeals. And so I have an administrative  
12 law court judge right down the hall from me, Judge  
13 Geathers. And if I have a question, I don't hesitate  
14 to talk with him about that. And so that is a  
15 wonderful asset to have. And then the circuit court  
16 judges bring their knowledge and background,  
17 especially about dealing with issues related to  
18 juries, which I never had an opportunity to do that in  
19 family court, and I don't hesitate to call on them to  
20 help me with that. So in essence, I'm saying there  
21 are things -- there's no way that you could know  
22 everything you need to know and go on to the court of  
23 appeals and be prepared to cover every area. And I've  
24 talked with other judges there about that before. And  
25 we all recognize that. But we all know that we bring

1 certain strengths, certain experiences that help us be  
2 a better judge in certain areas than maybe others.  
3 And so at the court of appeals, we don't -- we do  
4 regularly call on each other and ask for insight into  
5 a particular situation, how that might come up in  
6 their court or in their experience.

7 REPRESENTATIVE JORDAN: Thank you.

8 CHAIRMAN CASKEY: Mr. Strom?

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

10 EXAMINATION

11 BY MR. STROM:

12 Q. Judge Vincent -- Vinson, I'm sorry -- I'm just looking  
13 through your comments and Mr. Safran asked you a  
14 little bit about the temperament issue. And of  
15 course, 99 percent of these things -- it looks like  
16 most of this stuff where people are fussing and maybe  
17 dealt back in your family court days. But the one  
18 that sticks out to me is this one. My sample size  
19 with Judge Vinson is unfortunately smaller than folks  
20 who routinely appear in front of him, but he's always  
21 been very kind and wonderful, and that's what I look  
22 for. Because it's easy to be nice to the experienced  
23 lawyers that you see every day, that you've got mutual  
24 respect for. But when it's somebody from out of town  
25 or somebody that's not regularly there and those folks

1 say nice things about you, that sticks out. And you  
2 know, you exude civility, in my opinion. That's  
3 something that we're hawks about now in this  
4 Commission that we're just not going to tolerate  
5 judges having bad attitudes and being rude to  
6 litigants, lawyers, anyone. And you exude that. So  
7 thank you for doing that, and help us continue to  
8 preach that.

9 A. Well, thank you. I do think the lack of civility and  
10 respect maybe in society as a whole, to some extent,  
11 but certainly, in the courtroom, erodes litigants'  
12 confidence in our courts and in that process and they  
13 don't feel that they have that justice that they're  
14 looking for in the courtroom. Justice doesn't equate  
15 to winning. And I think sometimes litigants get  
16 confused about that. But justice does equate to  
17 having an opportunity to be fully heard and respected  
18 in that courtroom. And so I've always thought that  
19 civility and kindness and respect were vitally  
20 important for judges in the job that we do and in the  
21 confidence we, hopefully, build in our system here.

22 Q. Thank you.

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

24 CHAIRMAN CASKEY: Any other members of the Commission  
25 have questions or comments for Judge Vinson?

## EXAMINATION

1  
2 BY CHAIRMAN CASKEY:

3 Q. Judge, I'll just ask you, then, from your perspective,  
4 based on your experiences -- certainly, your  
5 experiences now on the court of appeals but also in  
6 the family court as a lawyer, what you learned along  
7 the way through the training and education pipeline,  
8 what do you think makes for a good judge?

9 A. A good judge, first of all, has to exercise some  
10 degree of humility. I see sometimes -- I can remember  
11 -- you know, I started out my career clerking for John  
12 Waller, Johnny Waller. And he was on the trial bench,  
13 obviously, when I clerked for him way back in the last  
14 century. But at any rate, Judge Waller was -- he was  
15 the kind of judge that Mr. Strom just talked about;  
16 someone who's kind, respectful, patient with  
17 litigants. And so I've patterned a lot of what I do  
18 and what I think a good judge does, from what I saw  
19 with Judge Waller. Litigants, even when he -- when  
20 they were not happy with the outcome, they had no  
21 complaints about him. And so as we try to figure out  
22 how -- what makes a good judge, I think we've talked  
23 about some of the things already that are  
24 characteristics or traits of a good judge; someone  
25 who's humble, someone who is respectful, and a lot of

1 times, I see -- I should say a lot of times. I do  
2 see, on occasion, a lack of respect. It makes me a  
3 little uncomfortable when I've walked into a courtroom  
4 or hear about things where I feel like the judge was  
5 short with somebody and not respectful of them. And  
6 there are certainly circumstances where you have  
7 someone who doesn't -- I'll say doesn't understand the  
8 rules and they don't really understand that they can't  
9 just talk and say what they want to say when they want  
10 to say it. And a judge has to maintain control of the  
11 courtroom, but that doesn't mean they have to be  
12 disrespectful about it. And there are certainly  
13 circumstances where someone might feel that they're  
14 not being respected by that judge, but I think most of  
15 the time, those circumstances probably are caused in  
16 part by that person's conduct in the courtroom.  
17 Because when -- I expect, as a judge, to be respected,  
18 not because of me, but because I have on a robe, and I  
19 represent this state when I do. But I also expect  
20 that those litigants and those lawyers are going to  
21 want the same from me, a respect for their position, a  
22 respect for their person. And as long as I earn that  
23 respect, which is, I think, a very important  
24 characteristic for a judge, then I expect them to earn  
25 that respect as well. But I start out at the beginning



1 assuming that they Have every reason to be fully  
2 respected in their position and fully respected in  
3 their person, and I find that 98, 99 percent of the  
4 time, that's the case. I think if you encourage that  
5 kind of conduct in your courtroom, it's going to  
6 happen. And so the way you encourage that is to be  
7 respectful of them.

8 CHAIRMAN CASKEY: That's a great answer, sir. Any  
9 other comments or questions? Then, Judge Vinson,  
10 this will conclude this portion of our screening  
11 process. I do need to take a moment, though, to  
12 remind you that pursuant to the Commission's  
13 evaluative criteria, the Commission expects  
14 candidates to follow the spirit as well as the  
15 letter of the ethics laws, and we will view  
16 violations or the appearance of improprieties  
17 serious and potentially deserving of heavy weight  
18 and screening deliberations. On that note and,  
19 as you know, the record will remain open until  
20 the formal release of the Report of  
21 Qualifications and you may be called back at such  
22 time if that need were to arise. I want to thank  
23 you for offering for continued service. Thank  
24 you for your past service, and wish you all the  
25 best, sir. We will -- we are at the end of this

1 screening process for now. So thank you.

2 JUDGE VINSON: Oh, thank you. Thank y'all for letting  
3 me appear before you today.

4 CHAIRMAN CASKEY: We'll stand at ease for a couple of  
5 minutes while staff brings in our next candidate.

6 (Off the Record)

7 CHAIRMAN CASKEY: All right. Good morning, ladies and  
8 gentlemen. We will go back on the record to  
9 proceed with our next screening. Before us, we  
10 have Mr. Daniel Ballou who is a candidate for  
11 seat four, which is an at-large seat on the  
12 circuit court bench. Do I have that right, sir?

13 MR. BALLOU: That's correct.

14 CHAIRMAN CASKEY: All right. If you would, please,  
15 raise your right hand.

16 WHEREUPON:

17 DANIEL J. BALLOU, being duly sworn and  
18 cautioned to speak the truth, the whole truth and  
19 nothing but the truth, testifies as follows:

20 CHAIRMAN CASKEY: All right. There should be some  
21 documents there in front of you. If you would,  
22 just take a look at those.

23 MR. BALLOU: Yes, sir. I have in front of me Exhibit  
24 3, which is, I believe, my Personal Data  
25 Questionnaire, Exhibit 4, an Amendment to the PDQ

1 and Exhibit 5, the Sworn Statement.

2 CHAIRMAN CASKEY: And those are the documents you want  
3 to enter as a part of your testimony here?

4 MR. BALLOU: That's correct.

5 CHAIRMAN CASKEY: All right. Do you object to our  
6 making those documents a part of the record of  
7 your sworn testimony?

8 MR. BALLOU: No objection whatsoever.

9 (EXHIBIT NO. 3 MARKED FOR  
10 IDENTIFICATION PURPOSES (15 pages)  
11 PDQ - Daniel Ballou)

12 (EXHIBIT NO. 4 MARKED FOR  
13 IDENTIFICATION PURPOSES (1 pages)  
14 Amendment to PDQ - Daniel Ballou)

15 (EXHIBIT NO. 5 MARKED FOR  
16 IDENTIFICATION PURPOSES (7 pages)  
17 Sworn Statement - Daniel Ballou)

18 CHAIRMAN CASKEY: Thank you. We'll give staff an  
19 opportunity to do that. The Judicial Merit  
20 Selection Commission has thoroughly investigated  
21 your qualifications for the bench. Our inquiry  
22 has focused on nine evaluative criteria and has  
23 included a ballot box survey, thorough study of  
24 your application materials, verification of your  
25 compliance with state ethics laws, search of

1 newspaper articles in which your name appears,  
2 the study of previous screenings, and a check for  
3 economic conflicts of interest. We have received  
4 no affidavits filed in opposition to your  
5 election, and no witnesses are present. Before  
6 turning to any brief opening statement, you want  
7 to make, I will give you an opportunity to  
8 introduce anybody who's come with you today.

9 MR. BALLOU: Thank you, Mr. Chairman. With me today is  
10 my wife, and a fellow member of the South  
11 Carolina Bar, Joanne Ballou, and she is joining  
12 me today.

13 CHAIRMAN CASKEY: Well, Joanne, welcome. Glad you're  
14 here today. Thank you for being here. And as I  
15 said, Mr. Ballou, you are certainly welcome to  
16 give us any brief opening remarks you would like  
17 to, otherwise, we will proceed with questions  
18 from staff counsel.

19 MR. BALLOU: I'll waive an opening. Thank you.

20 CHAIRMAN CASKEY: All right. Then I'll recognize Mr.  
21 Maldonado.

22 MR. MALDONADO: Thank you Mr. Chairman. I would note,  
23 for the record, that based on the testimony  
24 contained in the candidate's PDQ, which has been  
25 included in the record with the candidate's

1 consent, Daniel J. Ballou meets the  
2 constitutional and statutory requirements for  
3 this position regarding age, residence and years  
4 of practice.

## EXAMINATION

5  
6 BY MR. MALDONADO:

7 **Q. Mr. Ballou, why do you want to serve as a circuit**  
8 **court judge?**

9 A. That's a great question and something I've been  
10 thinking about since before I filed the application.  
11 And public service has been something to value that's  
12 been instilled in me from an early age. I grew up in  
13 a large military family where the expectation was that  
14 you were going to work hard and then you were going to  
15 give back. And I've been blessed with a wonderful  
16 family, a wonderful career, and the circuit court  
17 bench for me is the highest form of public service --  
18 one of the highest forms an attorney really can devote  
19 themselves to. I've practiced in front of some amazing  
20 judges and I've seen what effect a great judge can  
21 have, not even just upon the litigants, but upon the  
22 system. And in particular, Judge Hayes, Judge John  
23 Hayes, up in York County comes to mind when I think  
24 about who I want to emulate. And for those who are  
25 attorneys who've practiced in front of Judge Hayes,

1           you know what I'm talking about. He was, for me, the  
2           gold standard. And if I'm lucky enough to be elected,  
3           he is a judge that I would emulate. He was a  
4           combination of intelligence, hard work, humor,  
5           compassion, decisiveness, all the things that, as  
6           attorneys, we want to see on the bench. And I think  
7           that that's something that I can bring to the bench.  
8           And I also recognize that the practice of law has  
9           changed since I started practicing law, and that there  
10          are more lawyers in South Carolina than there have  
11          been ever before. The practice has changed  
12          dramatically since I was first sworn in and I think  
13          that a judge -- a good judge can have a positive  
14          impact on young lawyers, on moving the system forward,  
15          on increasing the delivery of justice to all  
16          concerned. And those are the kinds of things that I  
17          want to focus on if I'm lucky enough to be elected.

18       **Q. Thank you. Mr. Ballou, how do you feel your legal and**  
19       **professional experience thus far renders you qualified**  
20       **and will assist you to be an effective circuit court**  
21       **judge?**

22       A. So in three areas, I think my background lends itself  
23       to my qualifications. The first is just my legal  
24       experience. I've been practicing law for now over 32  
25       years. If you have reviewed my PDQ, I'm sure you

1 have, it showed a varied practice. There are a lot of  
2 different areas of the law that I've practiced in.  
3 Mostly civil, not exclusively, but mostly civil cases.  
4 And I've tried cases in state court and federal court,  
5 argued dozens of literally maybe hundreds of motions,  
6 done the preliminary work of depositions and  
7 mediations. And I think from that standpoint, I  
8 present legal qualifications that I think would be  
9 appropriate for a judge. My professional experience,  
10 I've practiced in big firms and small firms. I  
11 started my practice actually in Texas. I started --  
12 when I was in law school, I knew that I wanted to be a  
13 lawyer who was in court. That's the kind of lawyer I  
14 knew I wanted to be. And I had an opportunity to take  
15 a job with a firm in Texas, in Dallas, that got me  
16 into court, got me into trials and hearings very  
17 quickly and learned a lot in the two years or so that  
18 I practiced there. More importantly, I met my wife,  
19 who was also in law school at that time, and convinced  
20 her -- probably the greatest legal argument I ever  
21 made was convincing her to leave her Texas roots and  
22 join me in South Carolina, and that's where we have  
23 raised our family, that's where we have built our  
24 lives, and that's our home. So -- and I came to South  
25 Carolina -- I've been working for a big firm in

1 Charlotte, from the head of the Rock Hill office. And  
2 again, it was an opportunity for me to get into the  
3 courtroom and to try cases, handle hearings. And one  
4 of the -- one of my responsibilities when I was with  
5 Kennedy Covington was I was the designated South  
6 Carolina litigator who would handle criminal  
7 appointments. And for those of you who practiced back  
8 then, you knew that sometimes when you had a big firm,  
9 there was somebody whose job it was to handle those  
10 appointments and a lot of times, that came down to me.  
11 So in my first ten years or so, I was probably in  
12 general sessions as much as I was in common pleas.  
13 But that wasn't the focus of my practice and I grew my  
14 practice in a variety of areas, including insurance  
15 defense, including probate litigation, including other  
16 kinds of litigation and got some great experience  
17 there. In 2004, we spun off the South Carolina  
18 practice to form a small firm, Hamilton, Martens &  
19 Ballou, and I was the managing partner of that firm.  
20 So I gained some administrative and managerial  
21 experience through that. And I've seen the practice  
22 of law from a small firm perspective. And it's  
23 obviously very different than a big firm. Different  
24 challenges, but a lot of the same skill set that I've  
25 gained over the years. And I've been practicing now



1 with Morton & Gettys for about eight years. I started  
2 their litigation practice. I've trained some young  
3 lawyers there. And that for me has been a real  
4 calling, because I have seen how the practice of law  
5 has changed. And young lawyers don't communicate the  
6 same way that -- that I do and that maybe some of us  
7 do. They don't -- they're just a different breed  
8 sometimes and so there's a training component and a  
9 mentoring component that I've really enjoyed in trying  
10 to build up that next generation of lawyers. So I  
11 think from a professional standpoint, I've seen many  
12 different sides of the law and lots of different  
13 cases. I've represented plaintiffs and defendants.  
14 I've represented government entities and private  
15 citizens against government entitles. I've  
16 represented corporations and individuals. And I think  
17 that the breadth of my experience really lends itself  
18 to the challenges that come before a circuit court,  
19 because it really is everything, and all of those  
20 cases that I've handled over the years are cases that  
21 would come before a circuit court judge. And my life  
22 experience, 32 years of practice. I'm 58 years old.  
23 I'll be 59 in April. I feel like that brings a  
24 seasoning and a perspective life experience to the  
25 bench that I think is helpful. And I have practiced

1 in front of some great young judges. But I do find  
2 that when I'm in front of a judge that has a life  
3 experience that they can apply to their decision-  
4 making process, that you get good decisions that way,  
5 and that's another aspect of what I believe of my  
6 qualification. So like I said, I was brought up in a  
7 family where public service was valued, it was a  
8 priority. And I feel like this is an opportunity for  
9 me to express that value and live up to that value  
10 and, hopefully, contribute to justice in our state.

11 Q. Thank you. Mr. Ballou, the Commission received 296  
12 ballot box surveys regarding you with 32 additional  
13 comments. The ballot box surveys, for example,  
14 contained the following positive comments: Mr. Ballou  
15 is an outstanding attorney and a well qualified  
16 candidate for judicial office. He possesses  
17 unquestioned ethics, tremendous wisdom, and has a  
18 temperament to be an excellent judge. Also, Mr.  
19 Ballou's intellect, temperament and experience would  
20 make him a great circuit court judge. Six of the  
21 written comments expressed concerns. The main concern  
22 expressed was your lack of criminal experience. You  
23 touched on this, but how would you respond to this  
24 concern?

25 A. It's a fair comment. I have not practiced in general

1 sessions in some time. And I -- but I think I do  
2 bring a context to the bench that will make it easier  
3 for me to achieve any kind of learning curve that  
4 might exist. Since I have filed I have attended  
5 probably 30 guilty pleas. I have consulted with a  
6 number of the judges, sat through several jury trials.  
7 It's familiar territory to me. And there may be some  
8 criticism that I've not been a solicitor, I've not  
9 been a public defender. I guess my response to that  
10 would be that means -- and for me, it's true -- I  
11 don't come to the bench with some preconceived notions  
12 or any biases to what the outcome might be. I come as  
13 a clean slate, but as somebody with the willingness to  
14 learn, with the ability to learn, with the desire to  
15 really be the best judge I can be. I've sat through  
16 numerous CLEs, at this point. I am -- all I can tell  
17 you is if I am lucky enough to be elected judge, I'll  
18 be ready on day one.

19 **Q. I would note that the Piedmont Citizens Committee**  
20 **reported Mr. Ballou to be qualified in the criterias**  
21 **of constitutional qualifications, physical health and**  
22 **mental stability, and well qualified in the evaluative**  
23 **criteria of ethical fitness, professional and academic**  
24 **ability, character, reputation, experience and**  
25 **judicial temperament. The Committee noted, quote --**

1 the Committee was impressed by Mr. Ballou's academic  
2 record, depth and breadth of professional experience  
3 and substantial service to the BAR and community.  
4 Though Mr. Ballou does not have significant experience  
5 practicing criminal law, he is already working to  
6 deepen his experience in that area and has a detailed  
7 plan to continue those efforts. I'll finish up with  
8 some housekeeping questions. Mr. Ballou, are you aware  
9 that, as a judicial candidate, you are bound by the  
10 Code of Judicial Conduct found in Rule 501 of the  
11 South Carolina Appellate Court Rules?

12 A. I am.

13 Q. Since submitting your Letter of Intent, have you  
14 contacted any members of the Commission about your  
15 candidacy?

16 A. I have not.

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

21 A. No, I have not.

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

25 A. Yes, I am.

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

5 A. I have not and am not.

6 Q. Have you reviewed and do you understand the  
7 Commission's Guidelines on Pledging In Section 2-19-  
8 70(E)?

9 A. I do.

10 MR. MALDONADO: Mr. Chairman, I would note for the  
11 record that any concerns raised during the  
12 investigation by staff regarding the candidate  
13 were incorporated into the questioning of the  
14 candidate today. Mr. Chairman, I have no further  
15 questions.

16 CHAIRMAN CASKEY: All right. Thank you, Mr.  
17 Maldonado. Any members of the Commission have  
18 questions? Ms. McIver or Mr. Safran? Ms.  
19 McIver, you're recognized.

20 MS. McIVER: Thank you, Mr. Chairman.

21 EXAMINATION

22 BY MS. McIVER:

23 Q. Mr. Ballou, thank you for being here today. I've  
24 never had the pleasure of meeting you or your wife,  
25 but I have had the opportunity to review all of the

1 materials that you've submitted here in your packet.

2 A. Thank you.

3 Q. And I want to thank you for your willingness to run  
4 for the seat. Your letters of reference are  
5 absolutely outstanding. The comments that we have  
6 show not only what a fine lawyer you are, but all that  
7 you've given back to the community to serve -- I'm  
8 saying this for the purposes of having this on the  
9 record -- not only as an excellent litigator, as an  
10 attorney, but also with various substance abuse boards  
11 programs and homeless shelter, Rock Hill Economic  
12 Development, the United Way, and your involvement with  
13 the community is impressive and something that  
14 certainly we look fondly on, is to see the involvement  
15 that you have. One of the comments that I wanted to  
16 point out in the ballot box, this is obviously an  
17 opportunity where people can say whatever they want to  
18 about you --

19 A. Right.

20 Q. -- without fear or repercussions. But your ballot box  
21 comments are overwhelmingly positive. And one that I  
22 wanted to point out, This is the kind of lawyer the  
23 legislature was hoping to attract when they raised  
24 judicial salaries. Top notch in every way.  
25 Brilliant, diligent, mature, fair and honest. The

1 perfect candidate. And certainly, as I've reviewed  
2 the materials, it seems to me that you are a perfect  
3 candidate. You have the experience. You have the  
4 maturity. You have the temperament and the humility  
5 and the intellect. Obviously, didn't mention that you  
6 went to Princeton, but obviously, that is something  
7 very impressive to all of us. So I just wanted to  
8 point that out for the record and thank you for your  
9 willingness to come forward.

10 A. Thank you. Thank you for those comments. This has  
11 been an exercise in humility in many ways for me and  
12 hearing some of the comments in forums like this has  
13 been very heartening to me. I put a lot of effort  
14 into my service to the Bar and to the community, and I  
15 just appreciate that.

16 Q. Thank you.

17 CHAIRMAN CASKEY: Mr. Safran?

18 EXAMINATION

19 BY MR. SAFRAN:

20 Q. Mr. Ballou, I don't think we've -- I've had the  
21 pleasure before, but I echo, basically, what Ms.  
22 McIver said in that the ballot boxes are basically  
23 invitation for open season. And you know,  
24 effectively, if you don't like somebody, whether there  
25 is any basis or not, you can have at it.

1 A. Right.

2 Q. And the fact that that hasn't occurred with you, even  
3 though you have been, over a lengthy period of time,  
4 involved in litigation that I'm sure got pretty  
5 stressful at times --

6 A. Absolutely.

7 Q. -- it's really an outstanding comment on you. Okay.  
8 Did you grow up in Columbia?

9 A. I did.

10 Q. Okay. Because, I mean, I -- I seem to remember. I  
11 did too.

12 A. Yeah.

13 Q. I think, were you -- did you go to Cardinal Newman?

14 A. Well, I have siblings that went to Cardinal Newman. I  
15 ended up going to Northeast.

16 Q. Okay.

17 A. And grew up in the Rockbridge area, so.

18 Q. And so, basically, you ultimately flew up to York  
19 County, I guess.

20 A. Well, by way of Texas. So when I was in Dallas and I  
21 got a job offer with the firm in Charlotte -- they had  
22 a Rock Hill office -- that's where -- that's where  
23 they're located. I had actually never been to Rock  
24 Hill before my interview and I'm amazed that I missed  
25 it, because it is a wonderful place to live and to



1 raise family, so.

2 Q. Well, you know, one thing you were talking, as I came  
3 back in, was the idea of just the experience of  
4 appearing in front of different judges and, I guess,  
5 one thing you probably -- because of the length of  
6 time you've been practice more so than most, you've  
7 been in front of your share that maybe forgot where  
8 they came from.

9 A. Sure.

10 Q. And more or less lost the idea that I was a lawyer at  
11 one time. I've been on the other side of this bench.

12 A. Yeah.

13 Q. And I think you recognize that is not a very  
14 comfortable situation when those things occur, is it?

15 A. Well, that's true. And some would call it robe-itis,  
16 some would call it other things, but having judges who  
17 have practiced substantially and remember what it was  
18 like to practice is always to me a more efficient and  
19 pleasant way to deal with sometimes unpleasant issues,  
20 right. I mean, litigation, trial work is contentious  
21 by nature. And having a judge that understands the  
22 efficiencies of moving a case forward sometimes, it's  
23 a little bit indulgent sometimes for a judge to just  
24 be dogmatic about certain things and I've certainly  
25 seen that, so.

1 Q. Well, and that leads me to something we ask a lot.  
2 And that is to ensure whoever's coming through here  
3 recognizes that lawyers have a tough enough job as it  
4 is, that they shouldn't be deprived of the opportunity  
5 where important things that deal their private lives  
6 that happen to pop up that they're just lost in the  
7 shuffle; that there are times where people have  
8 experiences that they have never had an opportunity to  
9 enjoy again, and that despite the fact that lawyers  
10 recognize it's a lot of work involved -- sure, you  
11 know, everybody that I'm thinking about in this room  
12 has said, I've probably missed some great of those  
13 opportunities because of my obligation to do my job --

14 A. Right.

15 Q. It's happened. And you regret them. And I guess the  
16 point I want to make sure is, is that despite the fact  
17 we've got to kind of keep the train running, there  
18 still has to be at least some recognition of the need  
19 to have some level of consideration when those things  
20 come up in your job.

21 A. Well, Mr. Safran, I'm sure you recall the days when  
22 you used to have roster meetings.

23 Q. Oh, yeah.

24 A. And you would go to the courthouse and you would see,  
25 basically, the trial court Bar and there would be

1 opportunity for communication and opportunity to  
2 discuss cases and opportunities to interact, in a way,  
3 and we don't do that anymore. And that combined with  
4 kind of a failure to communicate, generally, among  
5 lawyers these days sometimes, I think, leads to  
6 situations where you have conflict. And if you are  
7 communicating in a more meaningful way, especially  
8 with the Court, and the Court can be a part of that.  
9 A judge can certainly be a part of those -- of those  
10 communications as to managing a case moving forward.  
11 I think you have more opportunities to avoid the  
12 conflicts that you've talking about, because those  
13 things can come up. If you're talking about  
14 scheduling a hearing or scheduling a trial, obviously,  
15 that is a big commitment, not just for the lawyers,  
16 but the witnesses and the jurors and the court  
17 personnel and everybody else. So there is a role, I  
18 believe, as a circuit court judge, to proactively  
19 manage these matters. And I think we need to pay more  
20 attention to it because we are an environment that  
21 fails to communicate sometimes.

22 **Q. Well, I think you hit it on the head. I mean, I look**  
23 **at it sometimes in the mirror -- and I guess the gray**  
24 **hair means something. And you've been around a while**  
25 **like I have. And the one thing I have found to be**

1           probably as bad if not the worse phenomena that we see  
2           in the practice of law today is the lack of  
3           communication --

4   A.    Uh-huh.

5   Q.    -- that people just refuse to get on the telephone  
6           with you, that, you know, they want to reduce things  
7           to emails when they feel like giving you one.

8   A.    Right.

9   Q.    And that, I guess, you suggest something to me that I  
10           -- it prompts me to ask. Given the environment, does  
11           it, at some point, become incumbent upon the Court to  
12           make people communicate as part of the process?  
13           Because the court has a vested interest in seeing that  
14           that happens.

15   A.    No doubt.

16   Q.    And you know, and you hate to say that, you know, the  
17           Court has to effectively be the principal here --

18   A.    Right.

19   Q.    -- but by the same token, I don't think it gets better  
20           unless people recognize that it's a necessity not an  
21           option. So would that be something that you feel  
22           like, as a judge, the Court may have to intervene in?

23   A.    You know, it's interesting you say that, because in  
24           the summer, the Chief issued a Docket Management Order  
25           that, in my mind, is exactly in that vein. That it is

1 encouraging and now requiring multiple contacts with  
2 the attorneys and the Court to check in on cases, to  
3 discuss issues that are coming up, to discuss  
4 challenges that they may have to deal with on the  
5 record, that there are -- and I think that's a great  
6 example of where a Court can and should -- not always,  
7 but should at least create the opportunities for those  
8 communications to happen. And I think in the civil  
9 court, the same thing can happen. Judges will have  
10 roster meetings virtually or in person, but I think  
11 there is an opportunity to be a little more engaging  
12 with counsel on an -- at an earlier phase when a case  
13 -- soon after a case is filed, okay, what's going on  
14 here, what are the challenges, where are you going  
15 with discovery, you know, trying to head off those  
16 issues before they become pinch points.

17 **Q. Well, and to take that and go back to something you**  
18 **just said, I'd be the first to say nobody likes, as we**  
19 **used to do it, to be sitting over in a roster meeting**  
20 **for five hours. And it happens, okay, more than once.**

21 **A. Sure.**

22 **Q. But like you just also noted, it gave people an**  
23 **opportunity to see each other. It made them have to**  
24 **interact and, oftentimes, things can start working out**  
25 **to some extent, not by themselves, but just a great**

1 deal that way.

2 A. Right.

3 Q. And what I personally have a real problem with is that  
4 we have gotten to the point where the virtual stuff  
5 has become a crutch that, honestly, it debilitates us  
6 more than it helps us in the long run. That's just my  
7 view. And so again, not that you want to do it every  
8 week, but consideration of maybe restoring roster  
9 meetings for that purpose.

10 A. Yeah.

11 Q. And the only other thing I'd say is this, not in any  
12 way to diminish the skill it takes to be a criminal  
13 defense lawyer -- because it's something I tried only  
14 here and there years ago -- it's tough --

15 A. It is.

16 Q. -- really tough. But what I've kind of come to  
17 recognize, hearing -- at least, the proceedings we've  
18 sat here doing for years and also seeing some of the  
19 byproducts of this system that they talk about now,  
20 this is how the legislature has encouraged people to  
21 come with increased money -- I'm not as convinced as I  
22 used to be that a lack of active criminal experience  
23 isn't much of an impediment as it used to be  
24 believed. I look at Judge Morgan and I hear  
25 constantly that -- and I've known him for 30 years,

1 and I can tell you there was never a doubt in my mind  
2 that he was bright, capable and experienced. And he  
3 has, basically, without that formal background in  
4 criminal, everybody up there thinks he's doing a jam-  
5 up job. So I don't think that is nearly the problem  
6 as maybe I once did. I think the converse may be more  
7 so, because I think it's hard to put somebody with no  
8 civil experience and just drop them into that.

9 A. Right.

10 Q. I think it's a different animal. But I don't hold  
11 that as being any kind of real obstacle, at least, in  
12 terms of you. I mean, you're record here is just  
13 outstanding. And I think what's important is this.  
14 Obviously, there are a lot of people, and they are not  
15 just defense lawyers, making comments that talk about,  
16 you know, you can disagree but not get visceral about  
17 it. You know, you can basically have an adversarial  
18 condition, but by the same token, not just be hated  
19 enemies.

20 A. Right.

21 Q. So I appreciate that. I commend you for coming  
22 forward, and I thank you for your responses.

23 A. Well, thank you for your comments, and thank you for  
24 mentioning Judge Morgan. I've had extensive  
25 conversations with him about it and I have appeared in

1 front of him. He's a great judge. And he is the kind  
2 of judge where you know he enjoys being a judge, he's  
3 good at it. And he's a joy to practice in front of.  
4 You know when you've got him on a roster that, A,  
5 you've got to be ready, but you know you're going to  
6 have a spirited discussion and whether -- win or lose,  
7 you're going to feel good about that experience.

8 CHAIRMAN CASKEY: Thank you. Mr. Strom?

9 EXAMINATION

10 BY MR. STROM:

11 Q. Mr. Ballou, I want to follow up with you a little bit  
12 on the criminal stuff.

13 A. Yes, sir.

14 Q. I agree with Mr. Safran, it's not as hard to learn  
15 criminal as it is civil. But the criminal side,  
16 you're dealing with somebody's life and your  
17 solicitor, who is a good friend of mine, is probably  
18 the toughest solicitor in the state. People get more  
19 time in York County than they do anywhere else. And  
20 what I'm looking for is whether there's a heart here.  
21 Because you're going to have young people standing in  
22 front of you, lot of them first offenders, probably a  
23 lot of most would be minorities represented by the  
24 public defender, and there'll be cases where you can  
25 give them probation or you can put them in jail for 15



1 years; it's completely on you. And I see that you've  
2 worked for -- you've been on the board of substance  
3 abuse, which is so important, where we've talked about  
4 this. All of us have those issues in our families,  
5 and it's just such a tough thing. And the commission  
6 on children and you -- I also see that, you know,  
7 Chamber of Commerce, so you do the business side. So  
8 you've got -- I mean, you've shown your leadership in  
9 York County for a number of years. And the only thing  
10 I'm asking you is, when you sit up there, keep your  
11 heart about you, in those criminal cases. It's not  
12 what you've trained to do this -- if you will, I  
13 remember Pete Strom looking at me and he said, when  
14 I'm looking at this young person down there and the  
15 solicitor wants to give him five years in jail, or  
16 whatever, say, I just don't think that's the right  
17 thing to do, if that's what you think. So stick by  
18 your principles. You've taken up for these folks by  
19 your service in the past and now you have an  
20 opportunity to get on the bench and, you know, try to  
21 find a way to craft something that's positive for  
22 them. If there's a way to do that, probation. Some  
23 people got to go to jail, some people need to be in  
24 jail the rest of their life that you're going to see  
25 all that. But take the time to use all these

1 experiences you've got on your resume to craft a way  
2 to help young people in this criminal process. I just  
3 challenge you to do that. And thank you for offering.  
4 You're exactly the kind of person we want to see  
5 become a judge and thanks again. Please tell Jimbo I  
6 said hello.

7 A. I certainly will, and I appreciate your --

8 Q. Appreciate your -- yeah.

9 A. -- appreciate your comments.

10 Q. Yeah. Yeah.

11 CHAIRMAN CASKEY: Thank you. Ms. Blackley's  
12 recognized.

13 MS. BLACKLEY: Thank you, Chairman.

14 EXAMINATION

15 BY MS. BLACKLEY:

16 Q. I just want to echo what Commissioner Strom has just  
17 stated. Keep all that in mind, but I also wanted to -  
18 - I think you will, if you are going to emulate  
19 anything by John Hayes, who is one of my top judges,  
20 who I worked for as a staffer. And when he would come  
21 to Spartanburg, he was always professional, polite,  
22 and fair --

23 A. Yeah.

24 Q. -- to everyone. And so that is very important. His  
25 temperament was always the same and I don't think he -

1           - he's one of few that is consistently the same --

2   A.   We miss him terribly.

3   Q.   Yeah.  But also, I did -- I have to say this.  I  
4       thought Lucy would touch on this but she didn't, but I  
5       thought, for the time that I've been on this  
6       commission, I don't think I've ever read a comment  
7       from the spouse, and I just -- my heart smiled when I  
8       read the comment from your lovely wife about you, and  
9       I think that speaks volumes, because we always --  
10      usually, at the end or somewhere we'll say, Well, do  
11      you want to get up here and testify and she found a  
12      way to make sure that we knew what she thought about  
13      you, and I wanted to put that on the record that you  
14      would be committed, that your wife, who is a member of  
15      the Bar, thinks -- thought that highly of you to make  
16      a wonderful comment.  So I wanted you to know that is  
17      appreciated.

18   A.   That's why I love her so much.

19       MS. BLACKLEY:  Yeah.

20       CHAIRMAN CASKEY:  Thank you.  Anybody else have a  
21                      question?

22                                      EXAMINATION

23   BY CHAIRMAN CASKEY:

24   Q.   All right.  So Mr. Ballou, we don't know each other  
25       well.  I don't know if you recall several years ago, I

1 would say co-counsel, that's probably giving myself  
2 way too much credit. But you assisted one of my  
3 family members over in York County with a matter and -  
4 -

5 A. I do recall.

6 Q. -- I had a chance to --

7 A. I do recall.

8 Q. -- meet them. It was to be before Judge Hayes, but he  
9 conflicted himself out of that and it finally got  
10 resolved, so I'm glad you're here. I ditto everything  
11 that's been said and, to the point that was made  
12 earlier, you're exactly the type candidate we hoped  
13 would seek judicial office when we made some changes  
14 in legislation several years ago. So with that, Mr.  
15 Ballou, that concludes this portion of our screening  
16 process. There are a few things I just need to go  
17 over with you on the record.

18 A. Yes, sir.

19 Q. I want to take this opportunity to remind you that  
20 pursuant to the Commission's evaluative criteria, the  
21 Commission expects candidates to follow the spirit, as  
22 well as the letter of the ethics law, and we will view  
23 violations or the appearance of impropriety as serious  
24 and potentially deserving of heavy weight in screening  
25 deliberations. On that note, and as you know, the

1 record will remain open until the formal release of  
2 the Report of Qualifications and you may be called  
3 back at such time if the need arises. You understand  
4 that?

5 A. I do.

6 CHAIRMAN CASKEY: Okay. Thank you for offering. We  
7 appreciate your service to the State of South  
8 Carolina and wish you all the best.

9 MR. BALLOU: Thank you all for your time. Appreciate  
10 the opportunity to appear.

11 CHAIRMAN CASKEY: The Commission will stand at east  
12 momentarily as we await our next --

13 (Off the Record)

14 CHAIRMAN CASKEY: Please come forward. Good morning.

15 MR. MCMASTER: Good morning.

16 CHAIRMAN CASKEY: How you doing?

17 MR. MCMASTER: Doing fine, thank you.

18 CHAIRMAN CASKEY: You are here being screened for a  
19 circuit court at large seat four, correct?

20 MR. MCMASTER: Correct.

21 CHAIRMAN CASKEY: All right. Mr. McMaster, if you  
22 will, please raise your right hand.

23 WHEREUPON:

24 WILLIAM MCMASTER, being duly sworn and  
25 cautioned to speak the truth, the whole truth and

1 nothing but the truth, testifies as follows:

2 CHAIRMAN CASKEY: All right. Before you, should be  
3 your Personal Data Questionnaire and Sworn  
4 Statement that you have submitted to the  
5 Commission. If you'll take minute and look at  
6 those. Do those appear to be correct?

7 MR. MCMASTER: Yes, sir.

8 CHAIRMAN CASKEY: All right. Any changes, amendments,  
9 anything that needs to be done?

10 MR. MCMASTER: No amendments, no, sir.

11 CHAIRMAN CASKEY: Okay. Do you object to our making  
12 those documents and any amendments a part of the  
13 record to your sworn testimony?

14 MR. MCMASTER: I do not.

15 (EXHIBIT NO. 6 MARKED FOR  
16 IDENTIFICATION PURPOSES (17 pages)  
17 PDQ - William McMaster)  
18 (EXHIBIT NO. 7 MARKED FOR  
19 IDENTIFICATION PURPOSES (7 pages)  
20 Sworn Statement - William  
21 McMaster)

22 CHAIRMAN CASKEY: All right. Those will be done at  
23 this point. Mr. McMaster, the Judicial Merit  
24 Selection Commission has thoroughly investigating  
25 your qualifications for the bench. Our inquiry

1 is focused on nine evaluative criteria and has  
2 included a ballot box survey, a thorough study of  
3 your application materials, verification of your  
4 compliance with state ethics laws, a search of  
5 newspaper articles in which your name appears, a  
6 study of previous screenings, if applicable, and  
7 a check for economic conflicts of interest. We  
8 have received no affidavits filed in opposition  
9 to your election. No witnesses are present to  
10 testify. At this time, sir, you're welcome to  
11 make a brief opening statement if you wish. If  
12 not, we'll turn it over to Counsel for some  
13 questions.

14 MR. MCMASTER: Thank you. I'll waive opening  
15 statement.

16 CHAIRMAN CASKEY: All right. Thank you, Mr. McMaster.  
17 Ms. Faulk?

18 MS. FAULK: Thank you, Mr. Chairman.

19 EXAMINATION

20 BY MS. FAULK:

21 Q. Good morning, sir. It's nice to see you again.

22 A. Good morning.

23 Q. I note, for the record, that based on the testimony  
24 contained in the candidate's PDQ, which has been  
25 included in the record with the candidate's consent,

1 William McMaster, III, meets the constitutional and  
2 statutory requirements for this position regarding  
3 age, residence and years of practice. Mr. McMaster,  
4 how do you feel your legal and professional experience  
5 thus far renders you qualified and will assist you to  
6 be an effective circuit court judge?

7 A. I believe, I've had a long career in a lot of  
8 different areas of the law. I started as a prosecutor  
9 back in '96, and I did that for four years, and then  
10 moving into private practice. From the prosecution, I  
11 learned about how to handle a large docket and meeting  
12 lawyers, and so forth. And moving into private  
13 practice for 12 years, I practice with my wife  
14 handling indigent defense, contract attorney, and also  
15 public defender contract, so I did a lot of criminal  
16 defense at that point. Then moved into the bankruptcy  
17 realm with her and practice with her until 2013 when I  
18 returned to the solicitor's office as an on-the-line  
19 prosecutor for several years, and then I was named  
20 deputy in 2018, where I again took on a managerial  
21 role in the office, and still prosecuted cases, but  
22 did more of a managerial role at that time. So I  
23 believe all of those things together help me -- have  
24 made me qualified to seek a position on the bench, and  
25 I hope I can take those experiences and apply them to



1 the bench.

2 Q. The Commission received 313 ballot box surveys  
3 regarding you with 63 additional comments. The ballot  
4 box survey, for example, contain the following  
5 positive comments: first, Most qualified applicant.  
6 He has civil and criminal experience and will have a  
7 really good temperament on the bench. Next, Excellent  
8 candidate. Even mannered with all and very  
9 thoughtful. Well versed and knowledgeable of the law  
10 and court management. Finally, William McMaster is a  
11 born judge. He has a calm and reassuring demeanor  
12 that is very judicial. In addition, his many years of  
13 practice as a prosecutor will serve him very well if  
14 he is appointed to the bench. Eleven of the written  
15 comments expressed some concerns. Five comments  
16 expressed concern that your temperament may not be  
17 suited to the bench. What response would you offer to  
18 these concerns?

19 A. I would certainly want everyone to understand that I  
20 understand that -- that I think that demeanor and  
21 temperament are very important for a judge to have a  
22 good demeanor and temperament. I think everyone  
23 should feel welcome in the courtroom. That's not only  
24 the litigants that are there, but also the staff  
25 members. And I'm sorry that someone felt that and I

1 certainly would like to address that with them if --  
2 but obviously, these are anonymous and I don't know  
3 who made those complaints, but I certainly would like  
4 to bring a good demeanor and temperament to the  
5 courtroom at all times, and I think it is important.

6 **Q. Two comments expressed concerns that your experience**  
7 **is not sufficient for the bench. How would you**  
8 **address those folks?**

9 A. They're probably referencing civil experience. I have  
10 -- I've had civil experience in the bankruptcy realm  
11 and I have also had civil experience with the asset  
12 forfeitures in our office. I did those for Pickens.  
13 I also have worked in the last nine months with our  
14 general counsel in our office on asset forfeitures in  
15 there and have tried some of those cases and -- to  
16 completion. So I feel like I'm learning in that  
17 realm. That is an issue. I have also been -- as my  
18 other duties allow, I have been observing court and  
19 Judge Morgan and Judge Gravely as they conduct civil  
20 non-jury and some civil trials as well. And I'm also  
21 completing CLEs as well to help further my education  
22 in the civil realm.

23 **Q. Thank you, sir. Five comments referenced your time in**  
24 **the solicitor's office and stated that you may be**  
25 **unable to be suitably impartial to be a judge. How**

1           **would you address these concerns?**

2   A.   I think, obviously, a judge should always be  
3       impartial.  I'm -- those comments are a little  
4       confusing, because of -- I was a criminal defense  
5       attorney for 12 years, so I don't know where those  
6       actually come from.  I was actually the president of  
7       the Greenville Association of Criminal Defense Lawyers  
8       and was a charter member there, so I'm not sure where  
9       that comes from.  That could be from younger attorneys  
10      that don't -- we have a lot of younger attorneys in  
11      the -- in the courthouse and they may only know me as  
12      assistant solicitor or, possibly, some of them,  
13      possibly only as deputy solicitor, so I'm -- I'm sorry  
14      they feel that way, but I certainly think I can be  
15      impartial, and I know that is very important.

16   Q.   I would note that the Upstate Citizens Committee  
17       reported that Mr. McMaster is well qualified as to the  
18       evaluative criteria of ethical fitness, professional  
19       and academic ability, character, experience and  
20       judicial temperament.  They further found you to be  
21       qualified in a criterion of constitutional  
22       qualifications, physical health and mental stability.  
23       Now I'll just move on to a couple of housekeeping  
24       questions and I'll turn you back over to our chairman.  
25       Mr. McMaster, are you aware that as a judicial

1 candidate, you are bound by the Code of Judicial  
2 Conduct as found in Rule 501 of the South Carolina  
3 Appellate Court Rules?

4 A. I am.

5 Q. Since submitting your Letter of Intent, have you  
6 contacted any members of the Commission about your  
7 candidacy?

8 A. I have not.

9 Q. Since submitting your Letter of Intent, have you  
10 sought or received a pledge of any legislator either  
11 prior to this date or pending the outcome of your  
12 screening?

13 A. I have not.

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

17 A. I am.

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

22 A. I am not.

23 Q. Have you reviewed and do you understand the  
24 Commission's guidelines on pledging in South Carolina  
25 Code 2-19-70(E)?

1 A. I am aware of those.

2 MS. FAULK: Mr. Chairman, I would note, for the  
3 record, that any concerns raised during the  
4 investigation by staff regarding the candidate  
5 were incorporated in the questioning of the  
6 candidate today. I have no further questions.  
7 Thank you, sir.

8 MR. MCMASTER: Thank you.

9 CHAIRMAN CASKEY: Thank you, Ms. Faulk. Any members  
10 of the Commission have questions or comments for  
11 Mr. McMaster? Mr. McMaster, I've -- starting --  
12 I was reading back through the ballot box as  
13 Counsel was going through that for you.  
14 Obviously, you and I have been in the courtroom a  
15 couple of times and I've never seen anything but  
16 someone who respects the process, who is  
17 efficient in trying to move the docket. As set  
18 forth in several of these comments, you have the  
19 respect of members of the judiciary that you have  
20 appeared in front of and I think you also have  
21 the respect of other members of the Bar who work  
22 alongside you, and those of us that are on the  
23 defense side still today. So thank you for that,  
24 and I appreciate you offering for this position.

25 MR. MCMASTER: Thank you.

1 CHAIRMAN CASKEY: With that, Mr. Jordan, do you have a  
2 question?

3 REPRESENTATIVE JORDAN: I was just going to issue  
4 these, so don't take anything negative away from  
5 the lack of questions. Sometimes, you know,  
6 resume, letters and everything else and good  
7 information and that there's not the need to  
8 delve too deep.

9 MR. MCMASTER: Thank you.

10 CHAIRMAN CASKEY: All right. With that, Mr. McMaster,  
11 that concludes this portion of our screening  
12 process. I do need to remind you of a few things  
13 on the record. I want to take this opportunity to  
14 remind you that pursuant to the Commission's  
15 evaluative criteria, the Commission expects  
16 candidates to follow the spirit as well as the  
17 letter of the ethics laws, and we will view  
18 violations or the appearance of impropriety as  
19 serious and potentially deserving of heavy weight  
20 in screening deliberations. On that note and, as  
21 you know, the record will remain open until the  
22 formal release of the report of qualifications  
23 and you may be called back at such time if the  
24 need arises. Do you understand that?

25 MR. MCMASTER: I do understand that.

1 CHAIRMAN CASKEY: All right. Again, thank you very  
2 much for applying for the position and being with  
3 us today, and we appreciate your service to the  
4 State of South Carolina.

5 MR. MCMASTER: Thank you very much.

6 CHAIRMAN CASKEY: We will stand at ease.

7 (Off the record)

8 SENATOR RANKIN: Mr. Cox.

9 MR. COX: Good morning.

10 SENATOR RANKIN: Come on up, if you will. Sorry to  
11 have you sit there for a moment. We are -- I  
12 think they just reviewed the tape and the call is  
13 correct. The roughing the passer call stands.

14 MR. COX: Well, that's good to have the red flag.

15 SENATOR RANKIN: Exactly. Exactly. You have before  
16 you a Personal Data Questionnaire and a Sworn  
17 Statement that you have prepared. Do those need  
18 to be edited in any way before they are put into  
19 the record?

20 MR. COX: To be honest, I was just handed them.  
21 haven't reviewed them. But if this is what I  
22 submitted as a redacted or revised version, then  
23 they are accurate, sir.

24 SENATOR RANKIN: I trust -- you can trust Lindi the  
25 good hands Putnam.

1 (EXHIBIT NO. 8 MARKED FOR  
2 IDENTIFICATION PURPOSES (10 pages)  
3 PDQ - William Cox)

4 (EXHIBIT NO. 9 MARKED FOR  
5 IDENTIFICATION PURPOSES (4 pages)  
6 Sworn Statement - William Cox)

7 MR. COX: She has -- she has led me straight here  
8 without any questions.

9 SENATOR RANKIN: Very good. If you'll hand those over  
10 and we'll put them in the record. Judge,  
11 pursuant to our evaluative criteria, you know  
12 that we look at a number of things. Again, those  
13 nine that everyone knows well, but let me just  
14 distill them down into the ballot box survey, a  
15 study of your application materials, verification  
16 of your compliance with state ethics laws, search  
17 of newspaper articles in which your name appears,  
18 study of previous screenings and a check for  
19 economic conflicts of interest. No affidavits  
20 have been filed in opposition to your campaign.  
21 No witnesses are here to testify against you  
22 unless your wife or your significant other, who  
23 you have brought with you would like to say a  
24 word or two.

25 MR. COX: I had sworn her to secrecy.



1 SENATOR RANKIN: Okay. But you have that opportunity  
2 now to make a brief opening statement. And I  
3 have sworn him, have I not?

4 MR. COX: No, sir.

5 SENATOR RANKIN: I'm going to ask you to raise your  
6 right hand.

7 WHEREUPON:

8 WILLIAM B. COX, being duly sworn and  
9 cautioned to speak the truth, the whole truth and  
10 nothing but the truth, testifies as follows:

11 SENATOR RANKIN: Please introduce, for the record,  
12 your guest with us today.

13 MR. COX: I will. Thank you for having me today and  
14 thank you for the time. My guest today is my  
15 wife, Mary Foster Cox, Dr. Mary Foster Cox, with  
16 the USC School of Nursing, and I'm glad she's  
17 here.

18 SENATOR RANKIN: Mrs. Cox, stand up so we can  
19 recognize you appropriately. Thank you. And I  
20 will have a record -- or a question after we  
21 finish with your husband about the new watch-out  
22 medical condition, but we're not going to do that  
23 on the record. All right. You have, if you'd  
24 like, Mr. Cox, any other statements that you'd  
25 like to make; otherwise, we'll turn it over to

1           staff attorney for questions candidacy and then  
2           any questions that the Commission members may  
3           have.

4 MR. COX: I just want to thank the Commission for  
5           allowing me to be here today. I think that me  
6           making this decision this late in my career --  
7           well, in my career at this point, is one that  
8           I've been looking forward to for several years.  
9           I had told Judge Tzerman that when he decided  
10          that it was time for him, I hope he would let me  
11          know ahead of time and keep it in mind that I was  
12          interested. So this has been in my mind for the  
13          last five or six years. It is something that I  
14          really wanted to do.

15 SENATOR RANKIN: And I may have jumped the gun, or  
16          jumped the broom by calling you Judge earlier,  
17          but you didn't flinch, so maybe that's going to  
18          be a good name.

19 MR. COX: It sounded good. But I'll try to get used  
20          to it if we get this --

21 SENATOR RANKIN: All right.

22 MR. COX: -- go this far.

23 SENATOR RANKIN: Thank you. Answer any questions we  
24          may have.

25 MR. COX: Thank you.

1 MS. ROSS: Thank you, Mr. Chairman. I note, for the  
2 record, that based on the testimony contained in  
3 the candidate's PDQ, which has been included in  
4 the record with candidate's consent, William B.  
5 Cox, Jr., meets the statutory requirements for  
6 this position regarding age, residence and years  
7 of practice.

## EXAMINATION

8  
9 BY MS. ROSS:

10 **Q. Mr. Cox, how do you feel your legal and professional**  
11 **experience thus far renders you qualified and will**  
12 **assist you to be an effective master in equity?**

13 A. Thank you. I've spent the 30 years of my career as a  
14 transactional attorney in real estate, in estate  
15 planning, in estate work. So my one-on-one ability to  
16 interact with clients and break down transactions and  
17 be able to manage contract negotiations and things  
18 like that, I believe, has really put me in a position  
19 to be able to handle the types of hearings and issues  
20 that come before the master to be resolved.

21 **Q. Mr. Cox, the Commission received 137 ballot box**  
22 **surveys regarding you, with six additional comments.**  
23 **The ballot box survey, for example, contain the**  
24 **following positive comments: Mr. Cox is the perfect**  
25 **fit for this position. He will make a fine addition**

1 to the judiciary. Candidate is well thought of in the  
2 local community and highly capable, effective and  
3 respected by all. None of the written comments  
4 expressed concerns. I would note that the Midlands  
5 Citizens Committee found Mr. Cox is qualified in the  
6 evaluative criteria of constitutional qualifications,  
7 physical health and mental stability. The Committee  
8 found him well qualified in the evaluative criteria of  
9 ethical fitness, professional and academic ability,  
10 character, reputation, experience and judicial  
11 temperament. The Committee stated, in summary, that  
12 Mr. Cox has vast experience before a master. Do you  
13 have any response to the previous statements?

14 A. I think I'm honored to have been the recipient of such  
15 kind words by my peers.

16 Q. I just have a few last housekeeping issues. Mr. Cox,  
17 are you aware that as a judicial candidate, you're  
18 bound by the Code of Judicial Conduct as found in Rule  
19 501 of the South Carolina Appellate Court Rules?

20 A. I am.

21 Q. Mr. Cox, since submitting your Letter of Intent, have  
22 you contacted any members of the Commission about your  
23 candidacy?

24 A. I have not.

25 Q. Are you familiar with Section 2-19-70, including the

1 limitations on contacting members of the General  
2 Assembly regarding your screening?

3 A. I am.

4 Q. Since submitting your Letter of Intent, have you  
5 sought or received a pledge of any legislator either  
6 prior to this date or preceding the outcome of your  
7 screening?

8 A. I have not.

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

13 A. I have not, and I am not.

14 Q. Have you reviewed and do you understand that  
15 Commission's guidelines on pledging in SC Code 2-19-  
16 70(E)?

17 A. I am.

18 MS. ROSS: Mr. Chairman, note for the record, that any  
19 concerns raised during the investigation  
20 regarding the candidate were incorporated in the  
21 questioning of the candidate today. And I have  
22 no further questions.

23 SENATOR RANKIN: Okay. Questions by any member of the  
24 Commission?

25 EXAMINATION

1 BY SENATOR RANKIN:

2 Q. Mr. Cox, I note a number of your Letters of Reference.  
3 Some of these folks we know -- that I know, perhaps,  
4 best would be Vince Shaheen. I want to know have you  
5 ever been out to dinner with him or lunch where he  
6 offered to pay for the meal?

7 A. You know, Representative, when you started that  
8 question, I knew exactly where it was going. And I'm  
9 the one -- I keep a firm credit card in my wallet, so,  
10 the answer's no.

11 Q. And at the end of the year when you're settling up,  
12 does he deny that he was ever at that lunch or dinner  
13 with you when you're trying to assign that cost to  
14 him? You don't have to answer that.

15 A. He's always been a wonderful partner and a perfect  
16 gentleman.

17 Q. Well, very good. And I'm not so sure about your  
18 judgment that you've got Tom Mullikin actually writing  
19 on your behalf, but he's a fine, fine human being and  
20 the smartest man I think he's ever met, or I've ever  
21 met. Anyway, truly, a very good guy, so --

22 SENATOR RANKIN: Unless there are any other questions,  
23 Mr. Cox, this will wrap this portion up. You'll  
24 have the opportunity, if you'd like, to make a  
25 closing statement, but you don't have to.

1 MR. COX: Again, I just express my appreciation to  
2 everyone involved, from staff that contacted me  
3 at the very beginning of this. They responded to  
4 my contacts at the very beginning have led me  
5 right down the perfect path. Thank you very  
6 much.

7 SENATOR RANKIN: Great. All right. So at this point,  
8 we will conclude this portion of the screening  
9 process. You know that we are very mindful of  
10 both the spirit and the letter of ethics laws and  
11 any violation or appearance of impropriety that  
12 would warrant serious consideration on our part  
13 and have you come back to us. Do you understand  
14 the final record is not closed until the release  
15 of the formal -- formal release of the Report of  
16 Qualifications. In the unlikely event there  
17 would be a brush with the law or the appearance  
18 of that, ethics laws, you understand, do you not,  
19 certainly we will call you back?

20 MR. COX: I do. And I would be required to update the  
21 record as well.

22 SENATOR RANKIN: Very good. We thank you for being  
23 here and thank you -- both you and your wife for  
24 joining us today. With that, that will conclude  
25 this portion of this hearing and we will move on

1 to the next candidate.

2 MR. COX: Thank you, Chairman.

3 SENATOR RANKIN: Off the record, now.

4 (Off the Record)

5 SENATOR RANKIN: Judge Marvin Dukes in the house.

6 JUDGE DUKES: Yes, sir.

7 SENATOR RANKIN: If you will, raise your right hand.

8 WHEREUPON:

9 MARVIN DUKES, being duly sworn and cautioned  
10 to speak the truth, the whole truth and nothing  
11 but the truth, testifies as follows:

12 SENATOR RANKIN: You have before you the PDQ and the  
13 Sworn Statement. Are those ready to go in the  
14 record without addition, amendment or other?

15 JUDGE DUKES: Let's see, did the amendment make it to  
16 the -- Okay. All right. There was one just  
17 amendment on question 36 about how much I'd  
18 spent. I'd sent some cards out to everyone but  
19 the group in here. Thank you.

20 SENATOR RANKIN: Other than that, it's ready to go?

21 JUDGE DUKES: Other than that's it ready to go, yes,  
22 sir.

23 (EXHIBIT NO. 10 MARKED FOR  
24 IDENTIFICATION PURPOSES (10 pages)  
25 PDQ - Marvin Dukes)



1 (EXHIBIT NO. 11 MARKED FOR  
2 IDENTIFICATION PURPOSES (1 pages)  
3 Amendment to PDQ - Marvin Dukes)

4 (EXHIBIT NO. 12 MARKED FOR  
5 IDENTIFICATION PURPOSES (6 pages)  
6 Sworn Statement - Marvin Dukes)

7 SENATOR RANKIN: Okay. As you know, Judge, we have  
8 seen you a number of times in this process now as  
9 you have moved towards the circuit court. And  
10 Lord willing, the -- not the creek, but if the  
11 Commission don't rise, you will be on your way.  
12 But for the record, you know our investigation  
13 focuses on the nine evaluative criteria. We look  
14 at ballot box survey, study your application  
15 materials, verification of your compliance with  
16 state ethics laws, search for newspaper articles  
17 in which your name appears, previous screenings,  
18 and a check for economic conflicts of interest.  
19 No affidavits have been filed in opposition to  
20 your candidacy. No one is here to testify for  
21 you or against you. And you have the opportunity  
22 to make a brief opening statement if you'd like,  
23 otherwise, at this very early hour, for the  
24 record, 36 minutes ahead of time, we can defer --  
25 you can defer questions and then comments at the

1 end.

2 JUDGE DUKES: I'll waive the opening statement. In  
3 light of the fact that you're already ahead and I  
4 don't want to put you behind.

5 SENATOR RANKIN: Very good. All right. Ms. Foster.

6 MS. FOSTER: I note, for the record, based on the  
7 testimony contained in the candidate's PDQ, which  
8 has been included in the record with the  
9 candidate's consent, The Honorable Marvin H.  
10 Dukes, III, meets the constitutional and  
11 statutory requirements for this position  
12 regarding age, residence and years of practice.

13 EXAMINATION

14 BY MS. FOSTER:

15 **Q. Judge Dukes, how do you feel your legal and**  
16 **professional experience thus far renders you qualified**  
17 **and will assist you to be an effective circuit court**  
18 **judge?**

19 A. Well, as you know from the records and my previous  
20 time her before this Committee, I've been master in  
21 equity in Beaufort for 16 years. Before that, I  
22 practiced law for 20 years. And as master in equity,  
23 I was special circuit court judge. All of the larger  
24 circuits, there's generally an order from the Supreme  
25 Court allowing us to be special circuit court judges.

1 So I performed in that function and that capacity for  
2 16 years. I've done basically everything but the jury  
3 trials, which is, of course, the primary difference  
4 between a master in equity and a circuit court judge.  
5 So based on that experience, based on my previous  
6 legal experience, I believe that I'm qualified.

7 **Q. Judge Dukes, the Commission received 615 ballot box**  
8 **surveys regarding you, with 68 additional comments.**  
9 **The ballot box survey, for example, contain the**  
10 **following positive comments: Nobody deserves this seat**  
11 **more than Judge Dukes. He has been a special circuit**  
12 **court judge for years. He has handled complex cases**  
13 **very well both as master in equity and special circuit**  
14 **judge. He is well respected and well liked. He will**  
15 **do a great job if selected. Three of the written**  
16 **comments expressed concern with your ability and**  
17 **temperament. What response do you offer to this**  
18 **concern?**

19 **A.** I would say that I think my temperament is very good.  
20 I think I'm known for being patient, sometimes too  
21 patient with pro se litigants, I'm told. But I would  
22 respectfully disagree with the comments on temperament  
23 and say I think I do a pretty good job. Obviously, if  
24 I've convinced a couple of people that I don't,  
25 there's always a better job to do. I'm not perfect

1 and I'll try harder. But I think my general  
2 temperament is good.

3 Q. Judge Dukes, your SLED report indicated that since  
4 your last screening, there have been two lawsuits  
5 filed against you in your official capacity. The  
6 first, Grant v Peter Wolf & Associates, et al, was  
7 filed in 2022 in federal court. You stated that this  
8 matter entered a pro se foreclosure defendant who  
9 filed a federal action against approximately 50  
10 defendants, including you in your official capacity as  
11 master. You were quickly dismissed as a party within  
12 a few months. Is there anything else you'd like to  
13 add?

14 A. No that sums it up well. Thank you.

15 Q. The second, Seegers v Dukes, et al is a federal court  
16 action that was filed in August of this year. You  
17 stated that you were not aware of and had no  
18 recollection of this matter, and you were not aware of  
19 ever being served with it. Is there anything else  
20 you'd like to add for the Commission?

21 A. I've not been served with it. But after you told me  
22 about it, I looked it up, and it's a pro se action in  
23 -- it's against me and a circuit judge, and it doesn't  
24 really seek any relief from myself and the other  
25 judge. It seeks to void a bunch of judgments going

1 back many years, but I haven't been served with it,  
2 so.

3 Q. Thank you, Judge Dukes. I would note that the Low  
4 Country Citizens Committee reported that Judge Dukes  
5 is well qualified and the evaluative criteria of  
6 ethical fitness, character, professional and academic  
7 ability, experience, reputation, and judicial  
8 temperament, and found him qualified as to the  
9 remaining criteria of constitutional qualifications,  
10 physical health and mental stability. The Committee  
11 commented, Tremendous civil experience with some  
12 criminal experience. Excellent judicial disposition,  
13 personable, very well suited to be a circuit judge.  
14 Some housekeeping issues, Judge Dukes, are you aware  
15 that, as a judicial candidate, you are bound by the  
16 Code of Judicial Conduct found in Rule 501 of the  
17 South Carolina Appellate Court Rules?

18 A. I am.

19 Q. Judge Dukes, since submitting your Letter of Intent,  
20 have you contacted any members of the Commission about  
21 your candidacy?

22 A. I have not.

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

1 screening?

2 A. I have not.

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

6 A. I am.

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

11 A. I have not, and am unaware of anyone on my behalf  
12 intervening.

13 Q. Have you reviewed and do you understand the  
14 Commission's Guidelines on Pledging In Section 2-19-  
15 70(E)?

16 A. I do.

17 MS. FOSTER: Mr. Chairman, I would note for the record  
18 that any concerns raised during the investigation  
19 by staff regarding the candidate were  
20 incorporated into the questioning of the  
21 candidate today. Mr. Chairman, I have no further  
22 questions.

23 SENATOR RANKIN: All right. Any questions by members  
24 of the Committee? Mr. Strom?

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

## EXAMINATION

1  
2 BY MR. STROM:

3 Q. Good to have you back.

4 A. Thank you, sir. Good to be back.

5 Q. I don't know about that. But I just wanted to --  
6 because I don't know anything about this. There's  
7 some notes in here that you've been reversed 13 times  
8 either totally or in part, patterns of concern summary  
9 judgment and real properties. Can you tell us about  
10 that?

11 A. Thirteen times in 16 years. I don't know how that  
12 stacks up with other judges.

13 Q. In how many thousands of cases?

14 A. Many, many, many cases.

15 Q. Yeah.

16 A. Each one, I try to learn from. Some of them -- I  
17 remember one of the first times I got reversed, I  
18 wasn't reversed because I was wrong. I was reversed  
19 because the Supreme Court was making law on something  
20 called the Bunkhouse Rule in workers' compensation.  
21 So some of those are that kind of thing. Most of  
22 them, frankly, I guess I just didn't get it right.  
23 There might've been a scintilla of material fact, if  
24 it's summary judgment you're looking at.

25 Q. Maybe they didn't get it right.

1 A. Or maybe they didn't get it right. I don't know if  
2 I'm permitted to say that, but that's always a  
3 possibility. But I think if you -- I don't know how  
4 many affirmations I've had, but I'm pretty confident  
5 it exceeds that number by a large number. But all I  
6 can say is it's impossible to get it right every time.  
7 I try to get it right every time. And I am happy for  
8 the litigants if I have gotten it wrong and it is  
9 corrected. But each one -- each time I read the  
10 advance sheets on Wednesdays like a lot of us do, I  
11 try to learn something and I especially try to learn  
12 something if I've made a mistaken.

13 **Q. I don't know how to put this in a question. But you**  
14 **know, obviously, the 14th Circuit has been the subject**  
15 **of a lot of controversy in the last few years. You're**  
16 **the guy with the gray hair that's coming in to take**  
17 **over the circuit. Have you given any thought to that?**  
18 **Is there anything that you're going to do different**  
19 **than what's been done? There is a reputation issue?**

20 A. Well, let me defend my circuit for a second.

21 **Q. Do that.**

22 A. The -- and I'm not sure how much of this I can really  
23 go into in a public forum -- not that I have any  
24 private information, but -- but I think some of the  
25 bad press that the 14th Circuit has gotten is



1           undeserved. But a whole lot of it, of course, the  
2           world has seen is. All I can say is I will be  
3           diligent in following the rules. I'll be diligent in  
4           trying to be open and transparent. And I will be  
5           diligent to the extent that if the public has any  
6           concerns about the 14th Circuit, I'll be diligent in  
7           trying to alleviate those concerns. And beyond that,  
8           specifics, I would probably shy away from.

9       **Q. Have you got any sense of what the docket -- what kind**  
10       **of shape the docket is in in the 14th Circuit on the**  
11       **civil side?**

12      A. I think on the civil -- I can't give you exact  
13       numbers. I think it is not as terrible -- the numbers  
14       aren't -- I think it's worse on the general session  
15       side, which I think is a statewide problem, but I  
16       can't give you exact numbers on how far back it is.

17      **Q. Thanks. And thanks for sticking with this process.**  
18       **You've been up here a number of times and we're**  
19       **delighted to see you. I know you'll do a good job.**

20      A. Thank you so much. I appreciate it.

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

22       SENATOR RANKIN: Mr. Safran?

23   EXAMINATION

24       BY MR. SAFRAN:

25      **Q. Thank you, Mr. Chairman. I know that the Bar has been**

1 long anticipating this happening for you. I believe  
2 that everything I hear is uniformly complimentary and  
3 I guess the thing that I look at and kind of focus on  
4 the most is that there's some qualities that  
5 occasionally are lost in the courts: listening, good  
6 temperament, strong demeanor. It appears to me that  
7 those are constants for you. Is that a fair  
8 statement?

9 A. Well, I don't want to blow my horn too much, but I  
10 guess this is the time, so, yes, sir, I would agree  
11 with you.

12 Q. And I guess -- let me ask this. I practiced down  
13 there many, many years ago and I never thought we had  
14 any particularly bad judges. We had different ones.  
15 I remember Judge Howell down there and that he was  
16 generally kind, but no nonsense. I remember Judge  
17 Brown, who's a little bit different than that. And  
18 then, you know, we've had a lot since. Judge Smoak  
19 was wonderful. So, I mean, you know, I think, again,  
20 you're right that I think there may be some undue  
21 criticism, because a lot of the judges down there have  
22 been some of the best I've ever experienced with, and  
23 I anticipate you're going to follow suit. I guess the  
24 thing is is that we always like to ask the question.  
25 Do you understand that being a lawyer, particularly in

1 this time, is not an easy thing. And there are times  
2 that things come up where people need to kind of have  
3 the opportunity to try to enjoy moments in their  
4 personal lives that may never come back again. And I  
5 remember it was a little more laid back in Beaufort  
6 than some of the other places, but is that something  
7 that you also recognize and to some extent,  
8 prioritize, you know, as a judge?

9 A. Oh, absolutely, and I think that's -- I think I'm sort  
10 of known for that. I try to work with people. I try  
11 to use the Golden Rule. I try to treat lawyers and  
12 litigants and the public and everybody the way I would  
13 want to be treated, and that includes, you know,  
14 lawyers having -- I'm not going to tell somebody they  
15 absolutely have to be in court Monday morning if we've  
16 -- you know, if they've got some scheduled thing  
17 they've done, a vacation or something, if that's what  
18 you're talking about.

19 Q. Yeah. I mean, and I understand that we've all  
20 experienced situations where that can be abused.

21 A. Oh, sure, yeah.

22 Q. There are some people that are habitual offenders.

23 A. Yeah.

24 Q. But keeping that in mind, I guess what I want to make  
25 sure is that, you know, there is this recognition

1 that, you know what? Somebody may have some dance  
2 recital that their kids got, and then it may never  
3 come back again. And keeping in mind, again, that,  
4 you know, the docket's pretty full and, basically,  
5 there's always another case that pops up.

6 A. Right.

7 Q. But, effectively, you know, those are things that are  
8 going to be at least recognized, not necessarily  
9 always prioritized, in terms of how you're going to  
10 manage a docket.

11 A. You know, I think I've been sensitive to that as  
12 master, and I would continue to be sensitive to that.

13 Q. Okay. Thank you.

14 A. Thank you.

15 SENATOR RANKIN: Representative Jordan.

16 REPRESENTATIVE JORDAN: Thank you, Mr. Chairman.

17 EXAMINATION

18 BY REPRESENTATIVE JORDAN:

19 Q. Judge, how are you today?

20 A. Fine, thank you.

21 Q. So I want to talk you a little bit. I think you said  
22 earlier you've been master in Beaufort County for 16  
23 years; is that right?

24 A. Since '07.

25 Q. So I would imagine, based on my recollection, back in

1           redistricting, Beaufort County has changed  
2           tremendously in those 16 years. Is that a fair  
3           statement?

4   A.    It definitely has.

5   Q.    How have you had to adapt in your role as the master  
6           down there?

7   A.    It's basically a caseload thing, which has caused an  
8           increase in my staff and that sort of thing. But  
9           we've managed. But more people, more problems, more  
10          litigation, more cases. But it's just -- it's been a  
11          little bit of a more staff, better scheduling, that  
12          sort of thing.

13   Q.    Well, I was thinking about it in terms of Mr. Strom's  
14          question, you know. We have the master in equity  
15          court. And this is absolutely not to be taken as an  
16          offense to other masters, but it's a little bit  
17          different. My master does a great job over in  
18          Florence, but Florence is a little bit different than  
19          Beaufort. Is that a fair -- based on the workload,  
20          staff, all the things you just described?

21   A.    Yeah. And one of the things that I have done -- I'm  
22          trying to remember if I've done this the whole time --  
23          I've done it for so many years -- is I generally  
24          handle the circuit court motions, as many as I  
25          possibly can. I do one day -- on average, one day a

1 week of circuit court motions trying to alleviate that  
2 docket, plus the other things that I do. During the  
3 foreclosure crisis, of course, I couldn't do that. It  
4 was foreclosures, you know, dawn to dark all week kind  
5 of thing. But before that and when that ended, I've  
6 done what I can to help out with the load, the circuit  
7 court load, again, from the master side.

8 **Q. And have you ever, in that role as a special circuit**  
9 **judge, done -- I know you can't do jury cases, but I**  
10 **remember when I worked with the Charleston master in**  
11 **equity a hundred years ago, I clerked there, and Judge**  
12 **Scarborough would occasionally do probation cases. Have**  
13 **you ever dealt with any of those?**

14 **A.** I've done a few of those. I've done pleas. The  
15 administrative order allows for that kind of thing.  
16 It allows me to try non-jury criminal cases. And I  
17 did one of those before the pandemic and we had great  
18 plans to start doing that to alleviate the docket and  
19 then it never really got put back together. And the  
20 problem was the court reporter, in the scheduling in  
21 term of court -- I mean, there were some problems,  
22 logistical problems, that made that difficult. But  
23 yes I've done pleas and probation and revocations and  
24 things like that. It's been a while.

25 **Q. Thank you.**

1 SENATOR RANKIN: Any other questions?

2 EXAMINATION

3 BY SENATOR RANKIN:

4 Q. Judge, I want to just -- I'd love to limit myself to  
5 one word an these folks would really love me to limit  
6 myself to one word. But one best describes your  
7 presence here today and that from the ballot box  
8 surveys, and it's a very -- one of countless  
9 positives. One word is "finally." And to you, sir,  
10 you can offer two or three or twenty words that you  
11 finally are here with an open seat without opposition,  
12 which I just have to believe, at your core, is a  
13 nodding to you or tipping of the hat to you by the  
14 peers who you have heard and decided cases for general  
15 pleas, civil motions, obviously, and then on the  
16 master's bench. Would you agree with that or has that  
17 long struck you with one of the positives here?

18 A. Well, let me just say I hope I can live up to their  
19 expectations, if that's their belief. So I hope so.

20 Q. I know you well, obviously past screening records, the  
21 1.4 people who might care to read those will know that  
22 you and I were in law school together. And fast  
23 forward, our daughters have been to school together at  
24 the Governor's School in Greenville. And literally, I  
25 will tell you my daughter asked about you last night

1 when I talked to her, because your daughter has moved  
2 to her part of the world now in Los Angeles, correct?

3 A. Correct.

4 Q. And so I said I think I'm going to see Judge Dukes  
5 tomorrow. Is there anything you'd like for me to say  
6 to him or ask him? She said, Oh, no, not one thing.  
7 But I just -- the circles of life and --

8 A. Uh-huh.

9 Q. -- I'm just proud that you're here, proud of your  
10 persistence, proud of your patience. Whether it's pro  
11 se litigants or this process, patience has been a  
12 virtue of yours and I can't help but believe folks  
13 that saw you coming and said, Make way, here comes the  
14 judge, are going to be proud of you at the end of your  
15 term. So I'm just proud of you for being here today.

16 SENATOR RANKIN: All right. Any questions? Otherwise,  
17 Judge Dukes this will conclude our portion. You  
18 have the opportunity, if you'd like, to make any  
19 closing remarks?

20 JUDGE DUKES: I think I'm standing between you and  
21 lunch.

22 SENATOR RANKIN: Very good. All right. So as you  
23 know, we are both sticklers for the law and the  
24 spirit of the ethics laws. Any violation or  
25 appearance of impropriety by you could result in



1 your being called back for questions on our part.  
2 We take that very seriously, and you're aware,  
3 are you not, sir, that the record is not closed  
4 until the final formal release of the Report of  
5 Qualifications, correct?

6 JUDGE DUKES: Yes, I'm aware.

7 SENATOR RANKIN: All right. Judge, happy trails back.  
8 Text Campbell, tell her you done good.

9 JUDGE DUKES: Okay.

10 SENATOR RANKIN: Tell her to text Hollings, too.

11 JUDGE DUKES: I'll text them. All right. Thank you  
12 all so much.

13 (Off the record)

14 Executive Session was held from 1:23 - 3:30 pm

15 (Off the Record)

16 CHAIRMAN CASKEY: All right. Good afternoon, ladies  
17 and gentlemen. We are back on the record. We've  
18 come out of executive session. I'll note for the  
19 record that while we're in executive session  
20 receiving a legal briefing, no decisions were  
21 made and no votes were taken. We will now resume  
22 with our screenings today. I'll just note  
23 because we've got a substantially larger audience  
24 now -- that our hearings now are not, of course,  
25 live streamed, but they are recorded and when the

1           final report of the Commission is released, the  
2           video of these proceedings will be released as  
3           well. So with that being said --

4 Redacted --

5           CHAIRMAN CASKEY: Thank you. Ladies and gentlemen,  
6           with no further business on our agenda this  
7           evening, we will stand adjourned until tomorrow  
8           morning at 9:00 a.m. Thank you for being here.  
9           (There being no further questions, the hearings  
10           concluded at 7:22 p.m.)

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CERTIFICATE OF REPORTER

I, KATHRYN BOSTROM, COURT REPORTER AND NOTARY PUBLIC  
IN AND FOR THE STATE OF SOUTH CAROLINA AT LARGE, HEREBY  
CERTIFY THAT I REPORTED THE HEARINGS ON WEDNESDAY, THE 14TH  
DAY OF NOVEMBER 2023, THAT THE WITNESS WAS FIRST DULY SWORN  
BY ME AND THAT THE FOREGOING 88 PAGES CONSTITUTE A TRUE AND  
CORRECT TRANSCRIPTION OF MY STENOMASK REPORT OF SAID  
DEPOSITION.

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.

I FURTHER CERTIFY THAT THE ORIGINAL OF SAID TRANSCRIPT  
WAS THEREAFTER SEALED BY ME AND DELIVERED TO ERIN CRAWFORD,  
GRESSETTE BUILDING, 1101 PENDLETON STREET, COLUMBIA, SOUTH  
CAROLINA, WHO WILL RETAIN THIS SEALED ORIGINAL TRANSCRIPT  
AND SHALL BE RESPONSIBLE FOR FILING SAME WITH THE COURT  
PRIOR TO TRIAL OR ANY HEARING WHICH MIGHT RESULT IN A FINAL  
ORDER ON ANY ISSUE.

IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL THIS  
21ST DAY OF NOVEMBER 2023.

*Kathryn Bostrom*

\_\_\_\_\_  
KATHRYN B. BOSTROM, COURT REPORTER

MY COMMISSION EXPIRES AUGUST 23, 2032

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