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SCREENING HEARINGS

November 08, 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: REPRESENTATIVE "MICAH" CASKEY, IV, CHAIRMAN
SENATOR LUKE A. RANKIN, 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 8, 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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19
20
21
22
23
24
25

CONTENTS:
(Hearings)

PAGE

Exhibit Index	4
The Honorable S. Bryan Doby	
Examination by Mr. Cohl	10
Christopher R. DuRant	
Examination by Ms. Faulk	16
Examination by Mr. Safran	24
Examination by Representative Rutherford	29
Samuel Floyd	
Examination by Mr. Hinson	39
Examination by Chairman Caskey	43
Examination by Representative Jordan	44
James Smith	
Examination by Ms. Crawford	54
Examination by Mr. Strom	62
Examination by Representative Jordan	66
Examination by Senator Rankin	70
Examination by Representative Rutherford	74
Examination by Chairman Caskey	77
Justin Williams	
Examination by Mr. John	86
Examination by Mr. Strom	92
Examination by Representative Rutherford	97

1	Examination by Mr. Safran	99
2	Examination by Senator Rankin	109
3	Examination by Chairman Caskey	110
4	Grant Gibbons	
5	Examination by Mr. Cohl	117
6	Examination by Mr. Strom	123
7	Examination by Senator Sabb	124
8	Examination by Chairman Caskey	128
9	Martha M. Rivers Davisson	
10	Examination by Ms. Benson	135
11	Examination by Chairman Caskey	140
12	David Miller - Complaints	
13	Statement by Sarah Ford	146
14	Statement by Karl Stoller	151
15	Examination by Senator Sabb	155
16	Examination by Ms. Blackley	161
17	Examination by Senator Rankin	164
18	Examination by Mr. Safran	173
19	Examination by Mr. Strom	179
20	Re-Examination by Senator Sabb	190
21	Examination by Representative Rutherford	193
22	David Miller	
23	Examination by Senator Rankin	203
24	Examination by Senator Sabb	214
25	Examination by Mr. Strom	217

1 Re-Examination by Senator Rankin 219

2 Examination by Chairman Caskey 221

3 Examination by Mr. Safran 232

4 Examination by Ms. Blackley 241

5 Examination by Mr. Triplett 244

6 Examination by Senator Sabb 253

7 Examination by Senator Rankin 255

8 Examination by Senator Talley 265

9 Certification of Reporter 268

10 Word Index

11

12

13

14 EXHIBITS

15 Exhibit No. 1 (12 Pages) 8

16 (PDQ - The Honorable S. Bryan Doby)

17 Exhibit No. 2 (4 Pages) 8

18 (Sworn Statement - The Honorable S. Bryan Doby)

19 Exhibit No. 3 (17 Pages) 14

20 (PDQ - Christopher R. Durant)

21 Exhibit No. 4 (6 Pages) 14

22 (Sworn Statement - Christopher R. Durant)

23 Exhibit No. 5 (15 Pages) 37

24 (PDQ - Samuel Floyd)

25 Exhibit No. 6 (6 Pages) 38

1		(Sworn Statement - Samuel Floyd)	
2	Exhibit No. 7	(15 Pages)	51
3		(PDQ - James Smith)	
4	Exhibit No. 8	(1 Pages)	51
5		(Amendment to PDQ - James Smith)	
6	Exhibit No. 9	(7 Pages)	51
7		(Sworn Statement - James Smith)	
8	Exhibit No. 10	(20 Pages)	84
9		(PDQ - Justin Williams)	
10	Exhibit No. 11	(1 Pages)	84
11		(Amendment to PDQ - Justin Williams)	
12	Exhibit No. 12	(5 Pages)	84
13		(Sworn Statement - Justin Williams)	
14	Exhibit No. 13	(18 Pages)	116
15		(PDQ - Grant Gibbons)	
16	Exhibit No. 14	(7 Pages)	116
17		(Sworn Statement - Grant Gibbons)	
18	Exhibit No. 15	(16 Pages)	133
19		(PDQ - Martha M. Rivers)	
20	Exhibit No. 16	(5 Pages)	133
21		(Amendment to PDQ - Martha M. Rivers)	
22	Exhibit No. 17	(7 Pages)	133
23		(Sworn Statement - Martha M. Rivers)	
24	Exhibit No. 18	(17 Pages)	144
25		(PDQ - David W. Miller)	

1 Exhibit No. 19 (17 Pages) 144
 2 (Sworn Statement - David W. Miller)
 3 Exhibit No. 20 (3 Pages) 202
 4 (Affidavit - Sarah Ford)
 5 Exhibit No. 21 (4 Pages) 202
 6 (Affidavit - Karl Stoller)
 7 Exhibit No. 22 (4 Pages) 203
 8 (Response - David W. Miller)
 9 Exhibit No. A (404 Pages) --
 10 (Emails)
 11 Exhibit No. B (1 Pages) --
 12 (Rule)

13
 14 Court Reporter's Legend:
 15 dashes [--] Intentional or purposeful]
 16 interruption
 17 [ph] Denotes phonetically written
 18 [sic] Written as said

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

2 CHAIRMAN CASKEY: Good morning. I will call today's
3 meeting of the Judicial Merit Selection
4 Commission to order. And we will begin off the
5 top with first candidate on our agenda, Judge
6 Bryan Doby. Judge, good morning. Thank you for
7 being here.

8 JUDGE DOBY: Good morning, Mr. Chairman, and thank you
9 for allowing me to come today.

10 WHEREUPON:

11 BRYAN DOBY, being duly sworn and cautioned
12 to speak the truth, the whole truth and nothing
13 but the truth, testifies as follows:

14 CHAIRMAN CASKEY: In front of you should be some
15 documents. If you would just take a gander at
16 those.

17 JUDGE DOBY: Yes, sir, I have looked at those.

18 CHAIRMAN CASKEY: Are those the Personal Data
19 Questionnaire and the Sworn Statement that you
20 have submitted to the Commission?

21 JUDGE DOBY: Yes, sir, they appear to be so.

22 CHAIRMAN CASKEY: Are there any corrections or updates
23 that need to be made?

24 JUDGE DOBY: I am not aware of any corrections or
25 updates.

1 CHAIRMAN CASKEY: All right, thank you, sir. Do you
2 have any objection to us entering that into the
3 record --

4 JUDGE DOBY: No --

5 CHAIRMAN CASKEY: -- as part of your sworn testimony?

6 JUDGE DOBY: -- no objection.

7 (EXHIBIT NO. 1 MARKED FOR
8 IDENTIFICATION PURPOSES (12 pages)
9 PDQ - Bryan Doby)

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

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

1 testify. We will give you an opportunity to make
2 a brief opening statement if you would like to,
3 but before we do that, you've brought at least
4 one person with you. You're welcome to introduce
5 that person.

6 JUDGE DOBY: Mr. Chairman, this is my wife, Anna.
7 We've been married for 34 years and have one son,
8 who is 28 years of age.

9 CHAIRMAN CASKEY: Great. Thank you for being here,
10 Anna, in support of the Judge as we go through
11 this process. Judge, as I indicated, we will be
12 happy to have an opening statement from you.
13 Otherwise, we can go straight to questions.

14 JUDGE DOBY: Mr. Chairman, I appreciate the
15 opportunity to appear in front of this Committee.
16 I believe that my qualifications would stand on
17 their own for why I am entitled to be a judge. I
18 believe that my background and my qualifications
19 have prepared me to be a judge and would like the
20 opportunity to serve the State of South Carolina
21 in that capacity.

22 CHAIRMAN CASKEY: All right, thank you, sir. At this
23 point I would recognize Mr. Cohl for some
24 questions.

25 MR. COHL: Thank you, Mr. Chairman. I note for the

1 record that based on the testimony contained in
2 the candidate's PDQ, which has been included in
3 the record with the candidate's consent, Judge
4 Doby meets the Constitutional and statutory
5 requirements for this position regarding age,
6 residence and years of practice.

7 EXAMINATION

8 BY MR. COHL:

9 Q. Judge Doby, the Commission received 199 ballot box
10 surveys regarding you with 14 additional comments.
11 The ballot box survey, for example, contained the
12 following positive comments: "Judge Doby has a good
13 reputation in the bar and is well-respected. He has a
14 very appropriate demeanor to be a circuit judge. He
15 has the requisite experience in all avenues of the law
16 to perform the duties required. He would do an
17 excellent job on the bench." No comments indicated a
18 pattern for concern. I would note that the Pee Dee
19 Citizens Committee found Judge Doby to be qualified in
20 the evaluative criteria of Constitutional
21 qualifications, physical health and mental stability.
22 The Committee found Judge Doby well qualified in the
23 evaluative criteria of ethical fitness, professional
24 and academic ability, character, reputation,
25 experience and judicial temperament. Judge Doby, are

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

4 A. Yes, sir, 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 the pledge of any legislator,
11 either prior to this date or pending the outcome, of
12 your 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 aware of the limitations.

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 have not contacted any members of the legislature,
23 and I've not requested anybody do so either.

24 Q. Have you reviewed and do you understand the
25 Commission's guidelines on pledging in South Carolina

1 **Code Section 2-19-70(E)?**

2 A. I do.

3 **Q. Thank you, Judge Doby.**

4 MR. COHL: Mr. Chairman, I would note for the record
5 that any concerns raised during the investigation
6 by staff regarding the candidate were
7 incorporated into the questioning of the
8 candidate. I have no further questions.

9 CHAIRMAN CASKEY: Thank you, sir. Do members of the
10 Commission have any questions or comments?
11 Seeing none. Judge, we certainly appreciate your
12 time and your service to the state in offering
13 for this position. We know it's an arduous
14 process and appreciate your diligence in going
15 through and providing all the information that we
16 needed to do this. So that concludes this
17 portion of our screening process. I do want to
18 take the opportunity to remind you that pursuant
19 to the Commission's nine criteria, the Commission
20 expects candidates to follow the spirit as well
21 as the letter of the ethics laws. And we will
22 view violations of the appearance of impropriety
23 as serious and potentially deserving of heavy
24 weight in screening deliberations. On that note
25 and as you know, the record will remain open

1 until the formal release of the report of
2 qualifications, and you may be called back at
3 such time if the need arises. Again, I thank you
4 for your service to the state and for offering
5 for continued service.

6 JUDGE DOBY: Thank you, Mr. Chairman and thank you,
7 members of the Committee.

8 CHAIRMAN CASKEY: Thank you, sir.

9 (Off the record)

10 CHAIRMAN CASKEY: Good morning, Mr. Durant. Am I
11 saying it correctly?

12 MR. DURANT: That's right.

13 CHAIRMAN CASKEY: Thank you for being here. If you
14 would, please, raise your right hand.

15 WHEREUPON:

16 CHRISTOPHER DURANT, being duly sworn and
17 cautioned to speak the truth, the whole truth and
18 nothing but the truth, testifies as follows:

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

22 MR. DURANT: Yes, sir.

23 CHAIRMAN CASKEY: Are the Personal Data Questionnaire
24 and the Sworn Statement before you the documents
25 that you submitted to the Commission?

1 MR. DURANT: They are.

2 CHAIRMAN CASKEY: Are there any changes or updates
3 that need to be made?

4 MR. DURANT: No, sir.

5 CHAIRMAN CASKEY: Do you have any objection to our
6 making these documents a part of the written
7 record to your testimony here?

8 MR. DURANT: I do not.

9 (EXHIBIT NO. 3 MARKED FOR
10 IDENTIFICATION PURPOSES (17 pages)
11 PDQ - Christopher Durant)

12 (EXHIBIT NO. 4 MARKED FOR
13 IDENTIFICATION PURPOSES (6 pages)
14 Sworn Statement - Christopher
15 Durant)

16 CHAIRMAN CASKEY: Thank you. We'll let the staff do
17 that. The Judicial Merit Selection Commission
18 has thoroughly investigated your qualifications
19 for the bench. Our inquiries focused on the nine
20 evaluative criteria and has included a ballot box
21 survey, a thorough study of your application
22 materials, verification of your compliance with
23 state ethics laws, a search of newspaper articles
24 in which your name appears, a study of previous
25 screenings and a check for economic conflicts of

1 interest. We've received no affidavits filed in
2 opposition to your election, and no witnesses are
3 present to testify. Before giving you the
4 opportunity to make a brief opening statement I
5 see that you've brought somebody with you today.

6 MR. DURANT: I have.

7 CHAIRMAN CASKEY: If you would like to introduce her.

8 MR. DURANT: Yes, sir. I brought my wife. This is
9 Ansley. She's from Greenville.

10 CHAIRMAN CASKEY: Ansley, welcome to the Judicial
11 Merit Selection Commission.

12 MR. DURANT: Thank you.

13 CHAIRMAN CASKEY: It's as exciting as you probably
14 imagined. As I said, Mr. Durant, you're
15 certainly welcome to make any brief opening
16 remarks you would like to, or we can go straight
17 to the questions.

18 MR. DURANT: I'll just say that I'm glad to be here.
19 I have grown in my appreciation for this process
20 now having gone through the screening process at
21 least -- have nearly completed the process now,
22 and I've grown in my appreciation for this. It's
23 very thorough, and I appreciate your Committee.
24 And I'm happy to answer any questions you have.

25 CHAIRMAN CASKEY: Thank you, sir. At this point I

1 would recognize Ms. Faulk for some questions.

2 EXAMINATION

3 BY MS. FAULK:

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

5 A. Good morning.

6 Q. I note for the record that based on the testimony
7 contained in the candidate's PDQ, which has been
8 included in the record with the candidate's consent,
9 Mr. Durant meets the Constitutional and statutory
10 requirements for this position regarding age,
11 residence and years of practice. Mr. Durant, how do
12 you feel your legal and professional experience thus
13 far renders you qualified and will assist you to be an
14 effective circuit court judge.

15 A. Thank you. That's a question I've gotten a few times
16 throughout this process, and, you know, I think first
17 of all in my experience as a prosecutor. As a
18 prosecutor you have a lot of discretion in your job in
19 making prosecutorial decisions and how to handle
20 cases. And I think you get a good picture of what a
21 candidate might look like as a judge based on how they
22 exercise that discretion as a prosecutor. I believe
23 that my track record will show, one, that I exercise
24 that discretion or I attempt to exercise that
25 discretion in a spirit of fairness primarily. And

1 sometimes that meant as a prosecutor to swing a big
2 stick to ensure that justice was served. And other
3 times that may have meant that you used diversionary
4 programs or a reduction in charges or even dismissal
5 if that is -- would be a means to service justice and
6 to serve fairness. And so I think my track record,
7 first of all, has shown just an inherent sense of
8 fairness in the way that I exercise my discretion as a
9 prosecutor. I think that I would show a proper
10 judicial temperament in being patient and respectful
11 to lawyers and litigants alike, which is certainly a
12 quality in judges that I have seen throughout my
13 career that I have grown to appreciate most. As a
14 prosecutor, when there's a lot of pressure on you to
15 keep a judge busy, to move the docket, the judges that
16 have treated me with dignity and courtesy and respect,
17 I've grown to appreciate those qualities, and those
18 are qualities that I would deem certainly of utmost
19 importance in a judge. And then, you know, I'd say
20 that my experience not just in criminal law but in
21 civil practice as well -- you know, I've been -- I was
22 a prosecutor for about a decade, have been on the
23 other side of the aisle doing criminal defense work
24 now since 2019. And so I appreciate all of the
25 different case-specific factors that might impact just

1 resolution in a criminal case. I have significant
2 trial experience in criminal court, and I've tried the
3 most serious cases, murders, two-week long trials,
4 which -- with 30 witnesses. So I've had significant
5 criminal trial experience. I've also been doing civil
6 work now for 12 years, and all that was concurrent
7 with my service as a prosecutor. And so I've got
8 experience not only on both sides of the aisle in
9 criminal court but in civil -- in common pleas as
10 well.

11 **Q. Why do you now wish to be a circuit court judge?**

12 A. I've thought about that question also, and, you know,
13 there's a book by a guy named Bob Burg. It's called
14 The Go Giver, and I've read that book, and I've tried
15 to model my practice of law based on that kind of the
16 virtues that he speaks of in that book. And primarily
17 the premise is to be one that adds value to other
18 people, to be one that adds value to my clients, not
19 to be a taker so much as to focus my practice on
20 adding value. And so I've thought about how might I
21 add value to the criminal justice system. One, I
22 think in exercising just an inherent sense of
23 fairness, and my values and the things that I -- my
24 virtues and the things that are important to me I
25 think would lend themselves well to serving my

1 community and this state as a judge.

2 Q. Thank you very much, sir. The Commission received 98
3 ballot box surveys regarding you with 19 additional
4 comments. The ballot box survey, for example,
5 contained the following positive comments: first,
6 Chris has always been polite, competent and a pleasure
7 to work with. He would make a fantastic judge. Next,
8 I've known Chris in both friendly and adversarial
9 professional capacities. I've always found him to be
10 fair and honest. I would feel comfortable presenting
11 any type of case in front of him knowing it would be
12 met with an open mind and adherence to the law.
13 Finally, I have known Chris Durant since we began our
14 legal careers and have known him to be extremely
15 intelligent, polite to everyone he interacts with and
16 very fair. I believe Chris would be a great addition
17 to the bench. Three of the written comments expressed
18 concerns. Two comments questioned the sufficiency of
19 your civil experience. What response would you offer?

20 A. My first response would be that I have significant
21 trial experience, again, in criminal court, which I
22 think translates. The rules of evidence are the same,
23 whether they're in the court of general sessions or
24 the court of common pleas. And so I think that my
25 trial experience would translate to the court of

1 common pleas. I'm also a reader of the advance
2 sheets, and so I try to stay abreast on current
3 changes in the law or recent changes in the law in
4 civil and criminal cases alike. I do have civil
5 experience. You know, I would acknowledge that I have
6 not tried a complex civil case, but I've had many
7 civil cases throughout my career. I was looking at e-
8 filing last night. You know, I've got a couple of
9 wreck cases that I have filed suit in where I
10 represent plaintiffs. I've got a slip and fall which
11 is pending, and I have probably 12 or 15 cases that
12 I've categorized as real estate litigation, quiet
13 titles, partitions, maybe actions to certify or
14 dispute tax sales and those sorts of things. And so I
15 do have fairly significant civil experience. I would
16 suggest -- and I think when -- that my civil
17 experience in conjunction with my significant criminal
18 trial experience would make me qualified to handle
19 most any case that would come forward.

20 **Q. One comment expressed a concern about your work ethic**
21 **and its suitability to the demands of the bench. What**
22 **response would you offer to this concern?**

23 A. I've heard that, and I have tried to take that comment
24 to heart. I have no doubts that that comment was the
25 good faith perception of whoever made it, and I don't

1 mean to take a defensive posture, but I would push
2 back on that comment a little bit. I think actually
3 one of my strengths would be that I'm a hard worker.
4 I grew up in a farming family, and my father and my
5 grandfather -- their workday started at 7:00 a.m., and
6 that's when my workday starts. I'm in the office
7 between 7:00 and 7:30 every morning. When I was a
8 prosecutor, even though I had a full-time case load,
9 because I had the opportunity to, I took a second job.
10 I went into private practice, and oftentimes that
11 required me to work on the weekends. I'd come in to
12 do some of the more menial tasks in the prosecutor's
13 office like preparing indictments on a Saturday,
14 because I wanted to devote my weekdays to the private
15 practice of law. And so I think my history has shown
16 that I have actually a strong work ethic. I guess my
17 suspicion would be that that comment perhaps arose out
18 of maybe a delay in meeting a deadline, as those of us
19 that are in private practice know that it is an
20 ongoing battle to stay in touch with clients, to stay
21 -- to respond to calls and to emails and to stay on
22 top of deadlines and to produce work in a quick and
23 efficient manner. That's an ongoing battle. I don't
24 claim after 12 years of practice to have mastered that
25 skill. I am constantly thinking about how I can

1 improve in those areas. My suspicion would be that
2 that comment was somebody that I had dealt with maybe
3 in a limited manner, and they perceived some delay in
4 me responding to an inquiry or some type of other
5 request, but I actually think that my work ethic would
6 be a strength of mine.

7 Q. And just for the sake of clarity, I would note for the
8 Commission that that was a single comment that
9 expressed that concern and not a pattern of comments.
10 I would note that the Pee Dee Citizen's Committee
11 reported that Mr. Durant is well qualified as to the
12 evaluative criteria of ethical fitness, professional
13 and academic ability, character, reputation,
14 experience and judicial temperament. The Committee
15 also found Mr. Durant qualified in the criteria of
16 Constitutional qualifications, physical health and
17 mental stability. And now I have just a couple of
18 housekeeping questions, and I'll hand you back over to
19 the Chairman. Mr. Durant, are you aware that as
20 judicial candidate you are bound by the Code of
21 Judicial Conduct as found in Rule 501 of the South
22 Carolina Appellate Rules?

23 A. I am.

24 Q. Since submitting your Letter of Intent, have you
25 contacted any members of the Commission about your

1 candidacy?

2 A. I have not.

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

7 A. I have not.

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

11 A. I am.

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

16 A. I have not, and I am not so aware.

17 Q. Have you reviewed and do you understand the
18 Commission's guidelines on pledging in South Carolina
19 Code 2-19-70(e)?

20 A. I am.

21 MS. FAULK: Mr. Chairman, I would note for the record
22 that any concerns raised during the investigation
23 by staff regarding the candidate were
24 incorporated in questioning the candidate today.
25 I have no further questions. Thank you.

1 CHAIRMAN CASKEY: Thank you, ma'am. Do any members of
2 the Commission have comments or questions. Mr.
3 Safran.

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

5 EXAMINATION

6 BY MR. SAFRAN:

7 Q. Mr. Durant, just clear up something for me, because I
8 was thoroughly confused. I understand from looking at
9 the PDQ and what you said that you actually had worked
10 part time in civil practice going back to 2011
11 roughly.

12 A. That's right.

13 Q. And then there was some question about -- I heard
14 something come up about I've been doing civil work
15 since '19. You actually had some amount of civil work
16 going back to 2011, didn't you?

17 A. I've been doing criminal defense work since 2019.

18 Q. Right. That's because you had to --

19 A. Correct.

20 Q. -- you've got to keep yourself out of it while you're
21 still being a party to the solicitor.

22 A. Exactly, right.

23 Q. I mean, any question about you not having exposure to
24 civil work really isn't recognizing that you've got
25 over a decade doing that.

1 A. I would certainly agree with that position, yes, sir.

2 Q. I mean, and I guess during that time frame when you
3 were doing the part time work, generally what was the
4 focus of the practice back then, at least from what
5 you did?

6 A. Much of the same things that I'm doing now, domestic
7 litigation, a little bit of personal injury, real
8 estate litigation, much of the same work. The only
9 thing that changed in my practice since leaving the
10 solicitor's office has obviously been to use my
11 experience as prosecutor on the other side of the
12 aisle.

13 Q. Well, and I'm understanding. I mean, in a small town
14 you get what you get, and so, you know, you may not
15 have a ton of the best, you know, civil cases coming
16 in, but obviously you get what you get.

17 A. You do.

18 Q. So it's not like you're a novice when it comes to
19 doing discovery and doing, you know, motions,
20 practice, doing -- you've been on your feet in front
21 of juries multiple times.

22 A. Yes, sir.

23 Q. And I know that if you've at least had the background
24 in the civil area, there's not a big transition if
25 you've been able to go in front of them and do that in

1 **the past.**

2 A. I don't believe so.

3 **Q. Okay. And I guess it -- what was it, I guess, that**
4 **prompted you to give you, you know, doing the**
5 **solicitor's work and just kind of focus more on the**
6 **civil end of it?**

7 A. There was an opportunity back in 2019 to merge. My
8 law partner and I, William Johnson, to merge our
9 practice with a practice in Santee in Orangeburg
10 County.

11 **Q. I saw that, yeah.**

12 A. Ron Nester. It's primarily a real estate and estate
13 planning practice. We thought that we could build
14 that practice into more of a general practice in the
15 Santee and Orangeburg County area.

16 **Q. Right.**

17 A. And so when that opportunity came available when Mr.
18 Nester was close to retirement, it seemed clear to me,
19 you know, that that was my opportunity to perhaps
20 pursue the full time practice of -- well, private
21 practice law full time.

22 **Q. And in the four years that have elapsed since then,**
23 **how has that proven for you?**

24 A. That business is growing. It is stressful. William
25 Johnson and I are running two offices by ourselves,

1 and it often -- you know, the life of a litigator is -
2 - it can be hectic. There's a lot of court
3 appearances and half days in Santee, a half day in
4 Manning and so forth, but it has been very blessed,
5 and I think the Lord has blessed that practice so far.

6 MR. SAFRAN: All right. Well, thank you.

7 CHAIRMAN CASKEY: Mr. Sabb.

8 SENATOR SABB: Thank you, Mr. Chairman. I really
9 enjoyed the comments that you made. It just sort
10 of reminds me of my life, because I did exactly
11 what you did. I was a part time solicitor and
12 part time general practitioner. Judge Newman and
13 I did it for years, and you're absolutely right.
14 The stress that's associated with making sure
15 that the judge has the next case up -- in fact,
16 Judge Newman and I were just talking about it
17 this past weekend, how I had to have three cases
18 ready for trial. He had to have three cases
19 ready for trial. If his case pleads, then I've
20 got to be up next. If my case pleads, then he's
21 got to be up next. And that's the way that we,
22 you know, kept court going. And so -- you know,
23 and then talking about the wreck cases, the slip
24 and fall cases, the partition actions, I mean,
25 that's the life of a small town practitioner.

1 And of course, you know, being next door to you
2 guys I've witnessed, you know, you all in the
3 real practice of the law, and I've been extremely
4 proud of how you and your law partner and all the
5 other practitioners over in Clarendon, you know,
6 have represented the people of that area and
7 other areas extremely well. And so I appreciate
8 all that you said, and I can absolutely relate to
9 all that you mentioned. And I think sometimes in
10 our ballot box responses -- I think one of the
11 candidates spoke to it earlier. It might have
12 been Judge Curtis when she talked about a snippet
13 in time, you know, where you meet somebody for
14 the first time on one case, and all of a sudden
15 they've got this view of you and how you are, but
16 that is one case. And sometimes the attention
17 that we're able to give to one case depends on
18 these other 40 cases that we're dealing with.
19 And so I think, and I appreciate our lawyer
20 pointing out the fact that it's just one comment.
21 So I certainly, if I were you, would not take
22 that as being reflective of what you said. I was
23 quite frankly -- and I'm talking more than I'm
24 asking any questions, but you really sort of took
25 me down memory lane, and I was watching the body

1 language of your wife when you were talking
2 about, you know, the weekend work --

3 A. I couldn't see it.

4 Q. I had it, I had it, but I think she was beaming with
5 pride knowing how hard her husband works. And I too
6 had to prepare indictments on weekends and all of that
7 kind of stuff. And so you are by no measure in my
8 eyes a lazy lawyer. You've got the kind of work ethic
9 that it takes, I think, to be a good jurist. And so
10 I'll get off my soapbox now, Mr. Chairman. Thank you.

11 REPRESENTATIVE RUTHERFORD: Was that a question, or
12 were you just --

13 SENATOR SABB: Thank you, I'm finished.

14 CHAIRMAN CASKEY: Representative Rutherford.

15 REPRESENTATIVE RUTHERFORD: Well, Lucy Grey had her
16 hand up first.

17 MS. MCIVER: No, you go.

18 EXAMINATION

19 BY REPRESENTATIVE RUTHERFORD:

20 Q. So to that end, and I didn't know that you were next
21 to Senator Sabb's office, and I imagine the limos and
22 Brinks trucks pulling up probably gave it away in the
23 morning --

24 A. One county over.

25 Q. Still that far. But something that you did mention

1 and that Senator Sabb mentioned as well, and something
2 that is a pet peeve of mine -- the question will be
3 kind of how you think we can deal with this in the
4 future, because what Senator Sabb talked about was my
5 life when I first started practicing law in 1996 and
6 being handed a file and told here, go try this DUI
7 case today. There's nothing in the file, not even an
8 incident report, but you could kind of grab a file and
9 go down and try a case, but now you can't with body
10 worn cameras and pole cameras -- I don't know if you
11 do any federal work -- and dash cams and the demands
12 on a small practitioner are greater than they've ever
13 been. The fact that you have chosen to be a lawyer
14 and that you spend a lot of time doing criminal
15 defense work, to me should not mean that you give up
16 your life just because you have chosen to be a
17 criminal defense lawyer. And again, I don't know if
18 you have any federal cases, but some of the ones that
19 I have with 30,000 pieces of discovery -- and the
20 demands in federal court with the Speedy Trial Act and
21 the -- I called Judge Anderson last week, his clerk,
22 to tell him that I had been called into trial in
23 Chester. And the clerk told me that my schedule was
24 not a reason to continue a case. And so how would you
25 as a judge deal with knowing what you've been through

1 -- deal with the demands that are on practitioners now
2 that are far greater than they were when Senator Sabb
3 talks about being ready for three cases at a time?
4 It's impossible now, impossible.

5 A. Sure.

6 Q. So how would you deal with that?

7 A. Well, first I will say that I think I can relate. I
8 don't have a federal practice, but I've had three
9 murder cases, and I've got a murder case with 80 hours
10 of interviews by law enforcement. And if you've gone
11 through an interview, you know that it takes much more
12 than 80 hours of my time for me to review 80 hours of
13 interviews.

14 Q. You mean because they left the camera on and left the
15 room and --

16 A. Well, just they interviewed my client five times --

17 Q. Right.

18 A. -- and other witnesses, and that's going to take me
19 weeks to go through that and make notes. Things that
20 -- highlight things that I think are important in
21 those interviews. And so first of all I would say
22 that I can relate and I appreciate the demands on a
23 private practitioner time in reviewing cases with
24 significant discovery issues. One thing that I am
25 somewhat passionate about is how best to manage our

1 criminal docket effectively. You know, for the
2 longest time we have done things that don't make a lot
3 of sense. You know, we've had first appearances 30
4 days after arrest and second appearance the next
5 month. And well, what value is there in a second
6 appearance when there's not been any opportunity to
7 review discovery, at least not completely, or have any
8 meaningful discussion with a prosecutor about that
9 discovery. And so -- and I think the new docket
10 management order has some value in maybe relieving
11 some of those issues. I think that -- kind of back to
12 your question, maybe there needs to be more advance
13 notice, a greater expectations as to when a case might
14 land on the trial docket. You know, in common pleas
15 we've kind of got a pretty good idea, because the
16 docket's managed by the court, and we know based on
17 the age of our case and where it was on the last
18 docket where it might be on the next one. And the
19 solicitor's office are setting the docket themselves,
20 and sometimes, you know, that docket doesn't
21 necessarily roll over to the next term of court. It
22 might be totally different. It's hard to have an
23 expectation for when your case might go to trial,
24 unless it's a significant case that you've been
25 talking to the prosecutor about. I tried to do that

1 in practice when I was a prosecutor. When I knew that
2 I had a significant trial, I would let the lawyer
3 know, you know, a couple of months in advance hey, I'm
4 thinking about June for this murder trial. You know,
5 have your schedule open that week. It's March or
6 April now, but we're a discussion and everybody knows
7 there's an expectation for when that case might come
8 to trial. I think the other thing that we can do, you
9 know, as we manage the criminal docket, is make sure
10 that there is opportunity for meaningful negotiations
11 before you get to trial, and, you know, this new case
12 management order -- I think this -- you know, maybe
13 it's 120 days after arrest that you have your second
14 appearance. That is probably not long enough to have
15 obtained full discovery and have a meaningful
16 discussion with the solicitor and negotiations with
17 the solicitor about that case. I don't think it's
18 long enough.

19 **Q. Well, clearly, and especially when there's no penalty**
20 **for law enforcement or the solicitors to not have**
21 **given you discovery by the 120 day notice, or like my**
22 **trial two weeks ago in Chester where three years later**
23 **we were getting discovery and no penalty for them not**
24 **turning it over. But I think one of the problems --**
25 **and this is just me in my soapbox, I continue to deal**

1 with this romanticized notion of how we used to do it
2 a long time ago where we just grabbed the file and
3 went and tried a case, and you just cannot do that
4 anymore. And I think that plays into the fact that we
5 still consider a criminal case to be old after one
6 year. You talked about a civil case where the
7 accident happened two and a half years ago. I've got
8 another six months to file most often, and then at
9 that point it kind of starts the clock ticking --

10 A. Right.

11 Q. -- so you're almost four years in sometimes before
12 you're even trying the case, but yet the criminal case
13 is old at the one year mark even without discovery.
14 And so at some point, you know, with your help either
15 on the bench or not, I think we have to figure out how
16 to define what's old in the criminal system better
17 than we've been doing it thus far.

18 A. I agree myself.

19 CHAIRMAN CASKEY: Ms. McIver.

20 MS. MCIVER: I think Senator Sabb touched a lot on
21 what I was going to say, but I did want to point
22 out for the record some of your letters of
23 reference that you have in your file here that
24 are most impressive. Speaking to your experience
25 on the civil and criminal side, you have letters

1 from giant litigators in your area as well from
2 the clerk of court, who talk about your
3 experience and your work ethic, your integrity.
4 And so I want to commend you for that and also
5 thank you for your willingness to serve.

6 MR. DURANT: Thank you very much.

7 CHAIRMAN CASKEY: Any other members of the Commission
8 have questions? Chairman Rankin.

9 MR. RANKIN: Ever so briefly to just tag that comment
10 and identify one of those giants in personality -
11 - did I say ego, no --

12 REPRESENTATIVE RUTHERFORD: John.

13 MR. RANKIN: -- John Land with whom I have had the
14 pleasure to serve over the years. And Lucy
15 Grey's points, you got fine responses. To the
16 one person who says otherwise. I would suggest
17 if they ever read this transcript, that they
18 might go ask people who actually know you for
19 your work ethic, and kudos to you for running,
20 and John Land writes a beautiful letter. And Ms.
21 Kennedy writes a beautiful letter.

22 MR. DURANT: She does, Ms. Pat.

23 MR. RANKIN: Thank you.

24 CHAIRMAN CASKEY: Any other questions for the
25 candidate. Mr. Durant, thank you so much for

1 being here and going through this process, for
2 serving the state and offering for continued
3 service in the state. I do need to take this
4 opportunity to remind you that pursuant to the
5 Commission's evaluative criteria, the Commission
6 expects candidates to follow the spirit as well
7 as the letter of the ethics laws, and we view
8 violations or the appearance of impropriety as
9 serious and potentially deserving of heavy weight
10 in the screening deliberations. On that note and
11 as you know, the record will remain open until
12 the formal release of the report of
13 qualifications, and you may be called back at
14 such time if the need arises. Again, thank you
15 for being here today. Thank you, Ansley, for
16 being here, and we wish you all the best.

17 MR. DURANT: Thank you very much.

18 CHAIRMAN CASKEY: Members of the Commission, just as
19 an update schedule wise, we will try to do Mr.
20 Smith and Mr. Williams before we break for lunch
21 and Executive Session at the time.

22 (Off the record)

23 CHAIRMAN CASKEY: Mr. Floyd.

24 MR. FLOYD: Yes, sir.

25 CHAIRMAN CASKEY: All right. Thank you for being here

1 today. If you would, please raise your right
2 hand.

3 WHEREUPON:

4 SAMUEL FLOYD, being duly sworn and cautioned
5 to speak the truth, the whole truth and nothing
6 but the truth, testifies as follows:

7 CHAIRMAN CASKEY: Thank you. There should be some
8 documents in front of you. If you would, just
9 take a look at those.

10 MR. FLOYD: Yes, sir. I reviewed them this morning,
11 yes, sir.

12 CHAIRMAN CASKEY: Are those the Personal Data
13 Questionnaire and the Sworn Statement that you
14 have submitted to the Commission?

15 MR. FLOYD: It is.

16 CHAIRMAN CASKEY: Are there any changes or updates
17 that need to be made.

18 MR. FLOYD: No, sir.

19 CHAIRMAN CASKEY: Do you have any objection to our
20 making those documents a part of the record of
21 your testimony here today?

22 MR. FLOYD: I do not.

23 (EXHIBIT NO. 5 MARKED FOR
24 IDENTIFICATION PURPOSES (15 pages)
25 PDQ - Samuel Floyd)

1 (EXHIBIT NO. 6 MARKED FOR
2 IDENTIFICATION PURPOSES (6 pages)
3 Sworn Statement - Samuel Floyd)

4 CHAIRMAN CASKEY: The Judicial Merit Selection
5 Commission has thoroughly investigated your
6 qualifications for the bench. Our inquiry is
7 focused on the nine evaluative criteria and has
8 included a ballot box survey, a thorough study of
9 your application materials, verification of your
10 compliance with state ethics laws, a search of
11 newspaper articles in which your name appears, a
12 study of previous screenings and a check for
13 economic conflicts of interest. We have received
14 no affidavits filed in opposition to your
15 election, and no witnesses are present to
16 testify. Before giving you the opportunity to
17 make a brief opening statement if you want to, I
18 would like to give you the opportunity to
19 introduce the young lady you brought with you
20 today.

21 MR. FLOYD: This is my wife, Tammy Floyd.

22 CHAIRMAN CASKEY: Tammy, very nice to have you here
23 today. Thank you for coming. As I said, Mr.
24 Floyd, you're welcome to make brief opening
25 remarks, or if you're good, then I'll recognize

1 Mr. Hinson for questions.

2 MR. FLOYD: I'm ready.

3 EXAMINATION

4 BY MR. HINSON:

5 **Q. Good morning, Mr. Floyd.**

6 A. Good morning.

7 MR. HINSON: Chairman, I note for the record that
8 based on the testimony contained in the
9 candidate's PDQ, which has been included in the
10 record with the candidate's consent, Mr. Floyd
11 meets the Constitutional and statutory
12 requirements for this position regarding age,
13 residence and years of practice.

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

17 A. Well, I think I've had a very broad practice. I think
18 I've probably tried one of just about every kind of
19 case. In my answer on my application I said in
20 criminal I've tried basically everything from a
21 speeding ticket to a murder case. In civil cases I've
22 tried wreck cases. I've tried one medical malpractice
23 case. I've done multiple partitions, foreclosures. I
24 did practice in family court for a while, but I
25 graciously gave that up in 2009. I do real estate

1 closings. I run a one man office in Kingstree. I do
2 a little bit of everything. I say I'm a jack of all
3 trades and really a master of none. About the only
4 thing I don't do is disability and Social Security is
5 about the only -- and family court now. I gave that
6 up.

7 Q. Thank you. Mr. Floyd, the Commission received 174
8 ballot box surveys regarding you with 28 additional
9 comments. The ballot box survey, for example,
10 contained the following positive comments: This
11 candidate has enormous amounts of legal and life
12 experience that make him an asset to the circuit
13 bench. Another stated: Mr. Floyd has the requisite
14 experience, knowledge and demeanor to be a jurist.
15 Yet another said you would be a very good judge. He
16 has experience in all types of the law. Only a
17 handful expressed concerns. A few of those concerns
18 were regarding your political background and how that
19 would affect your decisions should you ascend to the
20 bench. How would you respond to that concern?

21 A. Well, my response, Mr. Hinson, would be the same thing
22 I told you when you asked me about it previously. You
23 said there was concerns about me being too political -
24 - I think was the way you put it -- and my response
25 was well, you know, I was born into a political

1 family. I was a political science major in college.
2 I've been actively politically since then, so, yes, I
3 am political. However, I can be fair and impartial,
4 and I wouldn't let my political views interfere with
5 my judgment and my ability to carry out the law as the
6 legislature has passed. I wouldn't have a problem
7 doing that to answer your question. But you know, if
8 someone wants to accuse me of being political, I don't
9 know how to answer that other than to say it's true.

10 **Q. Thank you. A couple questioned whether you exercised**
11 **sufficient diligence and knowledge in your private**
12 **practice to join the bench. How would you respond to**
13 **those concerns?**

14 **A.** I would say that being in private practice and being
15 spread as thin as I am sometimes, perhaps I am not
16 quite as diligent as I need to be. However, being a
17 circuit court judge would narrow my focus in that I
18 would really only have about two areas, being civil
19 and criminal, to focus on. So hopefully it would
20 increase my diligence if I were able to become a judge
21 and get on the bench.

22 **Q. Mr. Floyd, your SLED report shows that in 2021 you**
23 **were named Special Administrator in the matter of**
24 **Charles Davis v. Stephen Castleman. My understanding**
25 **is that was simply to accept service and that you have**

1 no other involvement in that matter; is that correct?

2 A. That's correct.

3 Q. Thank you. I would note that the Pee Dee Citizens
4 Committee reported that Mr. Floyd is qualified in the
5 areas of Constitutional qualifications, physical,
6 health and mental stability and well qualified in the
7 areas of ethical fitness, professional and academic
8 ability, character, reputation, experience and
9 judicial temperament. Mr. Floyd, I just have a few
10 housekeeping questions for you. Are you aware that as
11 a judicial candidate you are bound by the Code of
12 Judicial Conduct as found in Rule 501 of the South
13 Carolina Appellate Court Rules?

14 A. Yes, sir.

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

18 A. I have not.

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

23 A. I have not.

24 Q. Are you familiar with Section 2-19-70, including the
25 limitations on contacting members of the General

1 **Assembly regarding your screening?**

2 A. Vaguely, yes, I'm familiar with it. I mean, I can't
3 recite it, I guess.

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

8 A. I am not.

9 Q. And have you viewed and do you understand the
10 Commission's Guidelines on pledging and South Carolina
11 2-19-70(e)?

12 A. I am.

13 Q. Thank you.

14 MR. HINSON: Mr. Chairman, I would note for the record
15 that any concerns raised during the investigation
16 by staff regarding Mr. Floyd were incorporated in
17 the questioning today. And with that, Mr.
18 Chairman, I have no further questions.

19 CHAIRMAN CASKEY: Thank you, sir. Do members of the
20 Commission have questions or comments for Mr.
21 Floyd?

22 EXAMINATION

23 BY CHAIRMAN CASKEY:

24 Q. I have one question then, Mr. Floyd. I was reviewing
25 your answers to the questions relating to evidentiary

1 procedural and substantive ground. There were a
2 couple where you didn't recall the answer off the top
3 of your head, and I can certainly appreciate that when
4 you go into that process. Have you had time to
5 reflect on any of the questions you were asked during
6 that process and refreshed your memory? For example,
7 you noted that with respect to the Collateral Source
8 Rule it wasn't something that was off the top of your
9 head. Have you had a chance to review that since?

10 A. Yes, I have. Yeah, yeah.

11 Q. Do you feel like you're in a position where you could
12 -- for example, the Collateral Source Rule, could you
13 describe that to us today?

14 A. Well, not particularly, no, sir.

15 CHAIRMAN CASKEY: Okay. I can appreciate that. All
16 right. Any other members of the Commission,
17 questions?

18 REPRESENTATIVE JORDAN: Mr. Chairman.

19 CHAIRMAN CASKEY: Oh, I'm sorry. Mr. Jordan.

20 REPRESENTATIVE JORDAN: Thank you, Mr. Chairman.

21 EXAMINATION

22 BY REPRESENTATIVE JORDAN:

23 Q. Mr. Floyd, good morning. Earlier we were actually
24 talking a little bit about Senator Sabb's background
25 prosecuting cases. And I recall many, many, many

1 years ago representing a client Mr. Sabb was
2 prosecuting, and he was so scared of Mr. Sabb he took
3 off. I don't know that they ever found him, but I
4 just couldn't help but think in your years of
5 practicing law I think down the street from Senator
6 Sabb, I'm sure you squared off against Senator Sabb
7 many, many times. I was just curious what your record
8 was against him in those prosecuting days.

9 A. I've been so scared, I've taken off. Senator Sabb and
10 I have been fortunate enough we try cases against each
11 other and with each other, but he's certainly a worthy
12 adversary.

13 Q. Well, if you could whip him, that would go a long way
14 in determining --

15 A. I'm not keeping score, but I'll just say that he's a
16 very worthy opponent. I'd rather have him on my side
17 than sitting across the aisle from me. I'll tell you
18 that.

19 REPRESENTATIVE JORDAN: Fair enough. Thank you, sir.

20 CHAIRMAN CASKEY: Mr. Floyd -- I'm sorry.

21 Representative Rutherford.

22 REPRESENTATIVE RUTHERFORD: So Sam and I go back to an
23 intern in Washington, D. C. back in -- was it
24 1990? It was a long, long time ago, in '91. And
25 I have watched your career from afar and

1 sometimes up close when I travel that way, and
2 I'm very proud to have known you back then and
3 seen what you've been able to do, especially
4 being a sole practitioner. And I want you to
5 know that I don't hold it against you not being
6 able to pass the Chairman's test this morning and
7 "black letter law" as to the Collateral Source
8 Rule, especially standing in front of us at that
9 podium, but certainly if you'd like to write down
10 your answer and submit it later, you can do that
11 if the Chairman would accept that as an answer.
12 But I am very proud of you, and I've watched you
13 grow and heard the lawyers down your way and how
14 much they think of you and your practice, so I'm
15 proud of you and keep it up.

16 MR. FLOYD: And I appreciate that very much. And
17 Representative Rutherford, I actually did look up
18 Collateral Source, and I'm just a little bit
19 nervous right now.

20 REPRESENTATIVE RUTHERFORD: No, I know. Listen, there
21 are judges that come stand there that can't tell
22 you the friends that they brought with them, so
23 this is probably not the best -- And that has
24 happened, so don't take anything from it.

25 MR. FLOYD: The other one was could you grant an

1 extension of time, and Rule 59, and I found out
2 no, you can't because that wasn't -- you lose
3 jurisdiction.

4 REPRESENTATIVE RUTHERFORD: The Chairman is wicked
5 smart, so he likes to show that off sometimes.

6 CHAIRMAN CASKEY: He's contractually obligated to say
7 that. It does not make any of this true. No, I
8 truly didn't mean to cause any embarrassment, and
9 it's certainly understandable. We have, as
10 Representative Rutherford noted, seen candidates
11 who have forgotten their wife's name while
12 standing there, and I think the consequences of
13 that are far more deleterious. So Mr. Floyd, I
14 would commend you for the reputation that you
15 have earned among members of the bar. Obviously
16 we can't share the comments we see through the
17 ballot box process, but there's no doubt that you
18 have earned a reputation for your industriousness
19 and your -- the treatment that you treat other
20 people with. I think that is commendable,
21 something that can make all of us as lawyers
22 proud whenever we see lawyers who treat people
23 with respect and dignity. I think that's
24 incredibly important, and it speaks to the sort
25 of temperament that we could expect from a

1 candidate as that person transitions onto the
2 bench.

3 SENATOR SABB: Mr. Chairman.

4 CHAIRMAN CASKEY: Oh, Senator Sabb.

5 MR. SABB: Mr. Chairman, I'd be remiss if I didn't
6 sort of chime in a little bit. I'm extremely
7 proud of Sam -- I'm sorry, Mr. Floyd -- his
8 practice and all he does. When he says that he
9 grew up sort of under the influence of politics,
10 his dad, Lanue Floyd, served in the South
11 Carolina Senate. So it is in his blood. He's a
12 member of our county council, and obviously would
13 not have been able to get elected but for how he
14 treats people, and he's a people person. He has
15 incredible people skills, and many of you may or
16 may not know this, but Sam and I both ran for the
17 Senate, and we had a conversation -- well, y'all
18 can't know about the conversation, but we had a
19 conversation that we were friends before, that we
20 would be friends during and that we would be
21 friends afterwards, and the beauty of Sam being a
22 friend of mine is that that was true, that was
23 true, and that's still true. And so I'm honored
24 to call Sam a friend, and I'm proud of all that
25 he does. And of course I know his bride, Tammy,

1 and they make a beautiful couple. And so I can
2 just go on and on with accolades about Sam and
3 what he means to our community. We note in his
4 letters of recommendations there's the sheriff,
5 there's Dorn Smith, there's the supervisor, and
6 that's just the respect that he enjoys based on
7 how he carries himself in the area. So I just
8 wanted to add that as a part of the record and
9 for edification for this commission.

10 CHAIRMAN CASKEY: Thank you, sir. Senator Rankin.

11 SENATOR RANKIN: I just wanted to acknowledge that I
12 knew of your name long ago, and it was your
13 father who ran and served back when they were all
14 elected in bunches effectively. Everybody had a
15 little piece of everybody's county. You or
16 rather your father, Frank McGill, a host of
17 others from the Pee Dee -- I grew up knowing your
18 name, so I'm glad that Senator Sabb put that on
19 the record in terms of your lineage, and one day
20 my son may be in this very position, and I
21 certainly hope that he does not invoke my name.
22 If he's asked under oath, I hope he doesn't
23 flinch. Thank you, thank you for running.

24 MR. FLOYD: Thank you, Senator Rankin. Thank you very
25 much.

1 CHAIRMAN CASKEY: Thank you, Mr. Floyd. This
2 concludes this part of our screening process. I
3 need to take the opportunity to remind you that
4 pursuant to the Commission's evaluative criteria
5 the Commission expects candidates to follow the
6 spirit as well as the letter of the ethic laws,
7 and we will view violations or the appearance of
8 impropriety as serious and potentially deserving
9 of heavy weight in the screening deliberations.
10 On that note and as you know, the record will
11 remain open until the formal release of the
12 report of qualifications, and you may be called
13 back at such time if the need arises. Thank you
14 again for offering for service and wish you all
15 the best.

16 MR. FLOYD: Thank you, Mr. Chairman.

17 CHAIRMAN CASKEY: We will stand at ease for about five
18 minutes or so before we begin the next candidate.

19 (Off the record)

20 CHAIRMAN CASKEY: Before us now is James Smith, a
21 candidate for Seat 1 in the Fifth Circuit Court
22 bench. Mr. Smith, if you would, please raise
23 your right hand.

24 WHEREUPON:

25 JAMES SMITH, being duly sworn and cautioned

1 to speak the truth, the whole truth and nothing
2 but the truth, testifies as follows:

3 CHAIRMAN CASKEY: There should be some documents there
4 in front of you. If you would just take an
5 opportunity to look at those.

6 MR. SMITH: Yes, sir, Mr. Chairman. They look very
7 familiar.

8 CHAIRMAN CASKEY: Are those the Personal Data
9 Questionnaire and the Sworn Statement that you
10 have submitted to the Commission?

11 MR. SMITH: Yes, they are, Mr. Chairman.

12 CHAIRMAN CASKEY: Are there any changes or updates
13 that need to be made to those?

14 MR. SMITH: None, it looks great.

15 CHAIRMAN CASKEY: Do you object to our making these
16 documents and any amendments a part of the record
17 of your sworn testimony?

18 MR. SMITH: I do not.

19 (EXHIBIT NO. 7 MARKED FOR
20 IDENTIFICATION PURPOSES (15 pages)
21 PDQ - James Smith)

22 (EXHIBIT NO. 8 MARKED FOR
23 IDENTIFICATION PURPOSES (1 pages)
24 Amendment to PDQ - James Smith)

25 (EXHIBIT NO. 9 MARKED FOR

1 IDENTIFICATION PURPOSES (15 pages)

2 Sworn Statement - James Smith)

3 CHAIRMAN CASKEY: Thank you, sir. We'll ask staff to
4 do that at this time. The Judicial Merit
5 Selection Commission has thoroughly investigated
6 your qualifications for the bench. Our inquiry
7 has focused on nine evaluative criteria and has
8 included a ballot box survey, a thorough study of
9 your application materials, verification of your
10 compliance with state ethics laws, a search of
11 newspaper articles in which your name appears, a
12 study of previous screening, a check for economic
13 conflicts of interest. We have received no
14 affidavits filed in opposition to your election,
15 and no witnesses are present to testify. I first
16 want to note and share appreciate your
17 flexibility in getting here earlier than
18 scheduled.

19 MR. SMITH: Yes, sir.

20 CHAIRMAN CASKEY: I understand that your family was
21 going to be with you here, but due to the demands
22 of our schedule we were unable to accommodate
23 that. So we will give you full credit for having
24 familial support with you.

25 MR. SMITH: Thank you.

1 CHAIRMAN CASKEY: And certainly give you an
2 opportunity to make any brief opening remarks if
3 you would like. Otherwise, we can get straight
4 to questions.

5 MR. SMITH: Thank you, Mr. Chairman and members. I
6 just want to say, you know, no issue, my family
7 and I certainly fully support following with the
8 Commission's time line and certainly understand
9 that, but no real opening statement except to say
10 after having spent a few years on the other side
11 of this process I have grown to have a wonderful,
12 grand new appreciation for what happens in this
13 process of judicial elections. It has really
14 been remarkable, and I just want to say a huge
15 thanks to all of those from the citizens
16 committee that participated, the bar. The work
17 that they do is tremendous, and the staff of JMSC
18 have been just exceptional, and I know they've
19 put in a ton of work, and I'm just grateful for
20 their efforts. And lastly, it's truly an honor
21 to be here today and to be in front of y'all, so
22 thank you.

23 CHAIRMAN CASKEY: Yes, sir. And thank you for the
24 kind remarks for staff. At this point I would
25 recognize Ms. Crawford for questions.

1 EXAMINATION

2 BY MS. CRAWFORD:

3 **Q. Good morning, Mr. Smith.**

4 A. Good morning, Ms. Crawford. I am not Andy Fiffick.

5 **Q. Yes.**

6 A. He is sick today, so you're lucky, I'm lucky to be
7 screening you.

8 **Q. Thank you.**

9 MS. CRAWFORD: Mr. Chairman, I note for the record
10 that based on the testimony contained in the
11 candidate's PDQ, which has been included in the
12 record with the candidate's consent, Mr. Smith
13 meets the Constitutional and statutory
14 requirements for this position regarding age,
15 residence and years of practice.

16 **Q. And you've touched on this a little bit, but, Mr.**
17 **Smith, for the benefit of the Commission, how do you**
18 **feel that your legal and professional experience**
19 **renders you qualified and will assist you to be an**
20 **effective circuit court judge?**

21 A. Yeah. I have been so grateful for the opportunities
22 that have been afforded to me as a lawyer. I have a
23 deep and abiding love for the law, and the experience
24 that I've had has been, you know, really diverse. And
25 this was not an original vision of my own, and I was

1 grateful for the encouragement of some of my
2 colleagues to seek service on the bench, but as I did
3 and had the opportunity to review the experience that
4 I've had, both in federal and state, civil and
5 criminal, administrative, family, you know, the really
6 vast area, both in a small firm by myself running my
7 own practice, being in the trenches for 27 years and
8 then working at one of the largest firms in the state
9 and clients big and small, I just think it really has
10 afforded me -- and I would add also, not just my legal
11 service but my military service and my service as a
12 legislator I think have provided me with some really
13 good qualifications that will help me serve our state
14 well as a judge.

15 **Q. And you mentioned your desire to serve. Are there any**
16 **other reasons you want to serve as a judge?**

17 A. Yeah, thank you. And when I look back on my life, I
18 mean, really, all of my professional -- it's always
19 been motivated by a deep love of our state and our
20 nation. I mean, whether it was, you know, resigning
21 my commission after 9/11 and going back to basic
22 training at 37 -- and thank God I had a loving wife to
23 support and family to support me in that -- or, you
24 know, pursuing public office at the Statehouse, it has
25 all come from a place of a deep devotion and love for

1 our state that I know all of you share. That's why
2 you're here and why you're doing what you're doing
3 today. And so I really saw my background and
4 experience as a place where I could do a really good
5 job for South Carolina. I believe it, and I earnestly
6 hope given that privilege and opportunity I'll do
7 everything to merit your trust every day. So it
8 purely comes from a devotion to South Carolina and our
9 nation.

10 Q. Thank you, Mr. Smith. The Commission received 584
11 ballot box surveys regarding you with 80 additional
12 comments, 73 of which were complimentary as to, among
13 other things, your temperament and experience. For
14 example, some of the positive comments included:
15 James would be an excellent addition to the bench. He
16 has a vast amount of legal experience in addition to a
17 calm and respectful demeanor. Another comment
18 volunteered that James has exactly the sort of
19 temperament necessary to be a well-respected circuit
20 judge. His legal knowledge is also exceptional, and
21 he is extremely familiar with trying cases. Around
22 seven of the comments expressed some concerns. Two of
23 these comments, while complimentary to your
24 temperament and general qualifications, note that
25 concern that you have a lack of criminal experience

1 **and that you really haven't practiced any type of law**
2 **in a long time. How would you respond to those**
3 **concerns?**

4 A. Sure. You know, I can to respond to that say a couple
5 of things. One would be -- and I can understand,
6 because I did spend, you know, four years or so in an
7 administrative body working at the University of South
8 Carolina, which I think was a really -- a beneficial
9 experience for serving as a judge for a variety of
10 reasons, but even during that time I tried a case. I
11 still had a few cases I was running up, and so -- I
12 tried a pretty significant defamation case that had
13 national exposure in the middle of that experience.
14 So I was still getting trial experience even while I
15 was serving at the university. I can understand why
16 my criminal practice may be less familiar among
17 people, particularly in recent years, but I do have
18 quite a bit of criminal, you know, service. I was on
19 the CJA panel early in my practice and got started and
20 handled a bunch of federal CJA cases, which is a great
21 place to kind of cut your teeth in that environment,
22 but I also got to try numerous DUI cases, some, you
23 know, magistrate level cases I've had numerous trials
24 at. But then also at felony level I tried a multi
25 victim week long sexual assault case. It was a

1 military case. I was there as a civilian defense
2 lawyer. It was at Shaw Air Force Base and was a
3 fascinating trial with five alleged victims, four of
4 which recanted on the stand, ending up in a pretty
5 good result for my client after a week long criminal
6 trial. So I've had experience. My experience is
7 certainly greater in civil, and one of the things that
8 I will do that I think is important -- you know, I've
9 already signed up for the big ticket, so I'll be, you
10 know, brushing up on all the latest, you know, changes
11 in the law. I've certainly read what the
12 legislature's done in bond reform and some of those
13 things. So I think it's incumbent upon all of us to
14 stay up to what the latest changes are, and I'll
15 certainly do that.

16 **Q. Thank you, Mr. Smith. And you are actively practicing**
17 **law at this time?**

18 A. I am. I'm a partner in Nelson, Mullins, Riley and
19 Scarborough, which has predominately been civil
20 litigation work now.

21 **Q. Mr. Smith, five of the comments expressed concern**
22 **related to your involvement in politics and your**
23 **previous service in the legislature. And some of**
24 **these questions criticize your previous service in the**
25 **House and question your ability to be neutral given**

1 **your political connections. How would you respond to**
2 **that?**

3 A. I mean, I think, you know, everything that I would,
4 you know, do as a judge would I believe build
5 confidence in the judicial process. And what I love
6 about my service in the General Assembly and whether
7 it's been in the military and others, you know, it's
8 that love and devotion to our institutions and those -
9 - when I was a legislator and I was, you know,
10 legislating, and I was doing policy making, I was
11 doing that. As a judge, I'll be adjudicating, not
12 legislating, and I would no offend the institutions of
13 our democracy to violate that. I've risked my life
14 for that. I would not violate that. I love the
15 difference in the checks and balances in both of
16 those, and I would live every day to uphold those. My
17 service, though, in the General Assembly, while it was
18 certainly partisan -- I served as a democrat for 22
19 years -- but I worked hard to build strong allegiances
20 across the aisle, and I had a long history of passing,
21 you know -- with a lot of people's help -- I mean,
22 significant legislation because we worked together.
23 Whether it was First Steps to School Readiness or the
24 Abandoned Buildings Revitalization Act or just a whole
25 bunch of stuff that wouldn't have happened but for

1 building coalitions, and so I was grateful for that.
2 In the end I would also point to one of the letters.
3 When I was minority leader I was privileged to serve
4 with David Wilkins as the speaker, and, you know, he
5 wrote a letter on my behalf, which I think really
6 answers that question. He obviously has no concern
7 with the fact that I was a democrat, that that would
8 somehow affect my judgment as a judge.

9 **Q. Thank you, Mr. Smith.**

10 MS. CRAWFORD: Mr. Chairman, I would note that the
11 Midlands Citizens Committee reported that Mr.
12 Smith is qualified in the evaluative criteria of
13 Constitutional qualifications, physical health
14 and mental stability and well qualified in the
15 remaining criteria of ethical fitness,
16 professional and academic ability, character,
17 reputation, experience and judicial temperament.
18 The Committee stated in summary: "Well
19 qualified. Will be an asset on the trial bench."

20 **Q. Mr. Smith, I'm going to go over a few housekeeping**
21 **issues. As a judicial candidate you are aware that**
22 **you're bound by the Code of Judicial Conduct as found**
23 **in Rule 501 of the Appellate Court Rules?**

24 A. Yes, ma'am.

25 **Q. After submitting your Letter of Intent, have you**

1 **contacted any members of this Commission about your**
2 **candidacy?**

3 A. I have in error texted one member, and I profusely
4 apologize because I had forgotten that he was on the
5 Commission at the time, but other than that I have not
6 made any affirmative efforts to contact members of the
7 Commission.

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

12 A. No, ma'am.

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

16 A. Yes, ma'am.

17 Q. **And have you asked any third parties to contact**
18 **members of the General Assembly on your behalf?**

19 A. No, ma'am.

20 Q. **Are you aware of anyone attempting to intervene in**
21 **this process on 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 **2-19-70(e)?**

1 A. I have reviewed it, and I've been quite familiar with
2 it over two decades to which I ensure that it was
3 followed when I was on the other side of this process,
4 yes, ma'am.

5 **Q. Thank you, Mr. Smith.**

6 MS. CRAWFORD: And Mr. Chairman, I note for the record
7 that any concerns raised during the investigation
8 by staff regarding Mr. Smith were incorporated
9 into the questioning of the candidate today, and
10 I have no further questions.

11 CHAIRMAN CASKEY: Thank you, ma'am. Do members of the
12 Commission have questions or comments? Mr.
13 Strom.

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

15 EXAMINATION

16 BY MR. STROM:

17 **Q. Mr. Smith, I think I've known you since 1997.**

18 A. Yes, sir.

19 **Q. And I remember we were sharing office space, and I**
20 **have no question about your work ethic. I remember**
21 **I'd go home, and I'd come back the next morning, and**
22 **you had stayed all night answering discovery or**
23 **writing a brief. And I agree with you, you know, this**
24 **diverse experience you have is good. Your service to**
25 **our country is important, and I'm glad you're**

1 offering. I do have this question. We're in Richland
2 County. Fifth Circuit.

3 Q. And there's a lot scrutiny with this process --

4 A. Yes.

5 Q. -- a lot of scrutiny about judges now, and a lot of it
6 revolves around the issue of bonds.

7 A. Right.

8 Q. And we've got a tremendous backlog --

9 A. Yes, we do.

10 Q. -- in Richland County, thousands and thousands of
11 cases, and people have a right to a bond. It's a two
12 prong analysis as you know, but --

13 A. Flight risk and danger to the community.

14 Q. -- flight risk and whether they're a risk to the
15 community.

16 A. Yes, sir.

17 Q. But it's taken so long for people to get into court,
18 we're having repeat offenders out killing people. And
19 I've defended, you know, people's right to a bond, and
20 that's what our Constitution says, but citizens are
21 getting tired of that.

22 A. Yes, sir.

23 Q. And I just want to know what your philosophy is going
24 to be regarding bonds. How are you going to handle
25 repeat offenders? How do we deal with this,

1 particularly in Richland County and the Ninth Circuit
2 in Charleston where we've got big, big dockets?

3 A. Thank you very much, Mr. Strom, and for the question.
4 I think the first thing that needs to be dealt with is
5 the backlog, and I think part of that's going to be
6 work ethic and a devotion to the effort, and you've
7 already mentioned the work ethic that I have. And I
8 am going to take the opportunity to use every moment
9 to do what we can to move cases and reduce them. You
10 know, we're down two circuit judges right now. You
11 know, I've been on the lawyer side of bonds on many
12 occasions in federal and state courts. I'm very
13 familiar with the right to a bond and the
14 circumstances and the standards that is there. I do
15 think given the direction that the Legislature has
16 given on at least some of the bond reform, about
17 particularly those that are out on bond on a violent
18 crime already in another occurrence, granted they
19 haven't been convicted of that as of yet, and there's
20 a lot of conversation about that, but I can't prejudge
21 any decision. I mean, every particular defendant that
22 would come before me is entitled to an unbiased
23 arbiter, and so I can't at this point say what I might
24 do in a particular case, but I believe that I will set
25 bonds that will protect our community and that will

1 follow the law.

2 Q. Let me ask you this. You talked about your CJA
3 experience.

4 A. Yes, sir.

5 Q. Of course in federal court when a bond is set,
6 pretrial services does an extensive background
7 investigation --

8 A. Right.

9 Q. -- into each defendant. They interview the family
10 members. They're got to make sure they have a job.
11 And so the judge has a lot more facts --

12 A. That's true.

13 Q. -- in federal court than they do in state court. Do
14 you think we need that in state court in South
15 Carolina?

16 A. You know, if I thought -- Mr. Strom, I think that's --
17 so the difference is the federal court system might
18 deal with a thousand criminal cases a year, and, you
19 know, state we're dealing with a hundred thousand.
20 And I do think more information before the judge would
21 be clearly advantageous, and to the extent we could
22 implement something like that I do think that would be
23 a positive part of the process. But not to be too
24 presumptuous, but I've been talking with the circuit
25 court judges here. That's been a conversation that

1 we've had, and I think there will be some strategy to
2 bring forth. And also talking with the chief justice,
3 who I know is very much interested in reform in this
4 area, because he also sees the backlogs that are
5 there.

6 **Q. Justice Kittredge?**

7 A. Yes, sir. Yeah, I've spoken with him about the same
8 subject.

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

10 A. Yes, sir.

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

12 CHAIRMAN CASKEY: Other members of the Commission.

13 Mr. Jordan.

14 REPRESENTATIVE JORDAN: Thank you, Mr. Chairman.

15 EXAMINATION

16 BY REPRESENTATIVE JORDAN:

17 **Q. Good morning, Mr. Smith. How are you today?**

18 A. Good morning, Representative Jordan. How are you,
19 sir?

20 **Q. We, of course, served together, and didn't always 100**
21 **percent of the time agree, but I always found you to**
22 **be prepared and knowledgeable and in my experience a**
23 **true gentleman.**

24 A. Thank you.

25 **Q. I just had a couple of questions, and I wasn't**

1 planning on asking this one, but I want to ask this
2 based on some of the information from you and Mr.
3 Strom. So when it comes to how we move these dockets,
4 you know, I think in my experience in a post Langford
5 sort of world in the criminal side especially --

6 A. Right.

7 Q. -- how do you see a circuit court judge, especially
8 one who in this position probably will end up being
9 the chief administrative judge for a period time --

10 A. Sure.

11 Q. -- how does that role interact with the clerk's office
12 and the solicitor? It used to be very clearly
13 defined. I'm not so sure that it's as clearly defined
14 as it used to be.

15 A. It is not, and I think it is fundamentally a team
16 effort, right, particularly when it comes to criminal
17 cases because of the role that solicitors have and
18 when those case are brought. And what I have seen in
19 talking with the judges here is a plan to really work
20 together with the PD's office, with the criminal
21 defense bar, with the solicitor's office on really
22 planning ahead for the docket so that we are more
23 efficient with court time, and we find ways to deal
24 with, you know, circumstances where a court falls
25 apart. If you have one judge that's been dedicated to

1 do trials or two and then those things fall apart,
2 then they can maybe step forward and handle a
3 secondary non jury roster or, you know, other criminal
4 pleas. So I think there are places where there is
5 unused potential and resource that can be used by
6 virtue of some planning and coordination among all the
7 parties to make sure that our justice system moves
8 forward. And that's the kind of thing that excites
9 me. When we were serving in the legislature, the kind
10 of stuff that bores some people really, you know, the
11 nuts and bolts of moving legislation. And the same
12 with serving as a judge, working to administer the
13 judicial process is something that I really get
14 excited about the chance to be a part of.

15 **Q. I want to change gears just for a second. I'm looking**
16 **over some of the documents provided. It looks like --**
17 **and I would certainly not be surprised by this -- as**
18 **someone who's been involved in politics now, but you**
19 **have a tremendous -- historically a tremendous social**
20 **media presence.**

21 **A. Yes. Yeah, I have.**

22 **Q. And no criticism there. If anything, in the modern**
23 **political era, if you don't have a social media**
24 **presence, you're not going to win any races. But if**
25 **you transition into this position, how do you --**

1 **certainly as a citizen you're entitled to social**
2 **media, but do you think it has a different sort of**
3 **flavor based on your role as a judge?**

4 A. Representative Jordan, 100 percent it does, and I
5 really appreciate you asking this question, because,
6 you know, I've thought about it a lot. And one of the
7 things that -- you know, when I left public office,
8 you know, I left. I mean, I didn't stay involved
9 endorsing people or pushing, you know, candidates. I
10 really took a step back, and it was time for other
11 voices to come forward. I did a few little retweets
12 and stuff that year for -- I was at one time, you
13 know, pretty close to our current President, but
14 honestly have stepped back from that. If you look at
15 the history of my social media presence since that
16 time, it's been pretty sparing, but fundamentally,
17 yes, it needs to change. I would like to have the
18 history of that experience a part of my life archived,
19 you know, cut off, you know, contained. There's
20 nothing that I feel, you know, bad about those. I
21 mean, you know, I'm happy for those to be scrutinized,
22 but I do believe there is a transition, an important
23 transition, in one's life going from, you know, before
24 they were a judge to being a judge, and it requires
25 change in how you conduct yourself in your social

1 life, in your professional life and certainly in
2 social media. And I know there are some judges that
3 do have social media accounts, and I would look to the
4 court for guidance, but it would clearly be a
5 transition to the extent I did any social media would
6 follow the guidance of the court, and it would
7 certainly -- but I have not, you know, written a plan
8 for that.

9 REPRESENTATIVE JORDAN: Thank you very much.

10 MR. SMITH: Yes, sir.

11 CHAIRMAN CASKEY: Senator Rankin.

12 SENATOR RANKIN: Thank you.

13 EXAMINATION

14 BY SENATOR RANKIN:

15 Q. James, I know you well and think more of your wife,
16 probably than I do you.

17 A. Rightfully so, as you should. That's right.

18 Q. Most that know you both do. She's not here yet, but
19 this record will --

20 A. Yes.

21 Q. -- bear, I pray, all these comments.

22 A. Yes.

23 Q. To the question about your partisanship, I must offer
24 for the record what we all see, but that is not
25 immediately contained within the transcript. Perhaps

1 one of the most partisan guys while speaker of the
2 house, now your partner, but Ambassador David Wilkins
3 -- his comments about you that effectively to my
4 purposes put to bed any question that you're going to
5 be a partisan hack. When he says as he was the
6 speaker of the House and you were beginning your
7 service and ascended to the role of minority leader,
8 though with republicans in charge there, you were
9 reputable and respectful and enjoyed great respect and
10 that you worked twice as hard to bring the issues to
11 the table and understanding respect to the
12 institution. So David Wilkins is no wallflower, and
13 he's not one to pass compliments lightly. Again, you
14 have a professional association no doubt, but I don't
15 think he's shilling for you if you go back to revisit
16 history to say things about you that those of us that
17 know you saw to be the case fortunately for me on the
18 other side of the aisle in the Senate.

19 A. Yes, sir.

20 Q. So I just wanted that to be included. You have been
21 lots of places. You've done lots of things the social
22 media referenced by Representative Jordan is not a
23 shock to me. I made a joke about how many phones
24 you've got and asked that you turn all of them off.
25 It might be a good thing for you to move forward in

1 this candidacy to maybe back 18 steps from all social
2 media.

3 A. Understood.

4 Q. It's not a place for people to play without possible
5 misinterpretation. You know, again, that's going to
6 be a hard thing for you to do, I just have to believe,
7 but probably not. So --

8 A. No -- yeah, it's a good point. Honestly, Senator
9 Rankin, Mr. Chairman, it's a good point. And, you
10 know, I recognize it's going to be a change. It's
11 going to be a different -- on the political side,
12 assuming I'm given the extraordinary privilege of
13 serving, but I'm prepared to make the changes in my
14 life that are going to be necessary to be a really
15 good judge for our state. And I'll add, you know,
16 Ambassador Wilkins and I have a number of connections.
17 One was spending Christmas together in Afghanistan.
18 We were -- it was 2007, and I get this call saying
19 hey, James, I'm going to be over taking the soldiers
20 around. And my guys, we lived in our trucks, and Mr.
21 Chairman I know you're quite familiar with this
22 environment.

23 CHAIRMAN CASKEY: A long time ago.

24 A. And know it very well. But so we had a chance to come
25 -- we lived in this little fire base by ourselves,

1 nine guys, and we had a chance to come to Kandahar,
2 which is like this big city in the middle of the
3 desert, and so I show up there and I tell my guys it's
4 Christmas. They've got two days to just sort of kick
5 around and go do whatever they want to do. And I
6 ended up being this captain, sort of aide, to the
7 Ambassador, running around a bunch of Canadian
8 soldiers, and we were giving out Tim Horton's coffee,
9 which is like their Starbucks. And it was Christmas
10 Day, and we had just got rocketed. We were sitting in
11 a shelter with our Tim Horton's coffee, and he said
12 like, you know what, I really would love to call
13 Susan. And I had a sat phone. I said well, here you
14 go, and he dialed her up. So we've built
15 relationships on the floor of the House but also in
16 bizarre places like Afghanistan and Christmas, and so
17 I've had a chance to get to know him well, and I'm
18 grateful for his comments on my behalf.

19 **Q. Not just his, and I will make brief work of these two,**
20 **but effectively lawyers' lawyers, the highest**
21 **compliment that a lawyer could get and two of whom**
22 **have endorsed you, John Nichols and John T. Lay,**
23 **different perspectives of perhaps sides of the aisle**
24 **litigating or advocating for clients, but again, those**
25 **are worth noting and certainly speak glowingly of your**

1 work ethic and your ability to call the balls and
2 strikes fairly.

3 A. Thank you, Senator, very much.

4 CHAIRMAN CASKEY: Representative Rutherford.

5 EXAMINATION

6 BY REPRESENTATIVE RUTHERFORD:

7 Q. I, like Senator Rankin, saw Ambassador Wilkins' letter
8 and was there with you when Ambassador Wilkins was the
9 speaker. And as Senator Rankin said, he doesn't
10 suffer fools gladly and would not have written a
11 letter for anyone, especially using all those words
12 that he used, unless he thought a lot of you. Letters
13 that he didn't think anything of, he'd have probably
14 written two words and moved on knowing Ambassador
15 Wilkins. But having sat next to you for 16 years and
16 seeing your work ethic, it was disturbing a lot of
17 times, and several times I said what are you doing.
18 For two years I couldn't sit at my desk because you
19 had prepared an amendment for some bill I don't know
20 that ever came up, and you had all these boxes under
21 the desk. And so we just kept on moving, and then you
22 took it upon yourself to go to Afghanistan even though
23 you didn't have to. You could have gotten out of it.
24 And you went, and then you came back. You lost your
25 hearing while you were over there, so trying to talk

1 to you was always difficult because you had to turn
2 around on everything that we dealt with, but you were
3 always there. And to say that -- for anyone to say
4 that you were partisan, clearly doesn't know you,
5 didn't take the time to learn who you are. In fact, a
6 number of democrats accuse you all too often of
7 cozying up to the republicans. So I don't know how
8 anyone could say that you were a partisan. I can tell
9 you that I am concerned about the work ethic because I
10 know several times you left the Statehouse to go to
11 your law office to do things that were both work and
12 Statehouse related that other people could have
13 probably done, and you took it upon yourself to do it.
14 And I don't want you to think that every lawyer should
15 work as hard as you do, because that's simply not
16 possible, but I saw it. I saw it firsthand. I
17 questioned it. I thought that you lacked logic
18 sometimes with the amount of work that you put into
19 stuff, but I did appreciate it. We've been in a
20 number of fights together.

21 A. Yes.

22 Q. Never were you ill prepared. Never were you caught
23 off guard, and sometimes when things would just come
24 to the floor at the last minute you were ready. You
25 took up the fight yourself, whether it meant printing

1 off a thousand amendments or just simply being ready
2 to stand at the podium and take questions for hours,
3 you were always there. So I just wanted to tell you
4 thank you.

5 A. Thank you, Representative Rutherford, but I will
6 forever cherish the 22 years I was privileged to serve
7 in the House, and it was some of the best years of my
8 life. And I would only presume to correct one thing.
9 Our seats were together. We rarely sat in them. We
10 were always -- as everyone knows always running the
11 floor, but it was an extraordinary privilege, one that
12 I believe because of that experience I'll be a better
13 judge for it without a doubt.

14 CHAIRMAN CASKEY: Any other member of the Commission
15 comments or questions?

16 MR. STROM: I think he's got some family that have
17 come in that he needs to introduce.

18 CHAIRMAN CASKEY: Yes, sir, I appreciate you raising
19 that to my attention. Mr. Smith, we'd be happy
20 to have you introduce the folks who have joined
21 us.

22 MR. SMITH: Thank you very much, Mr. Chairman and Mr.
23 Strom. I am very pleased to have my parents here
24 with me today, Jim Smith and Nina Nelson Smith,
25 and of course for so many reasons I certainly owe

1 much of the success I've ever had in my life to
2 them and their love and support for me. So I'm
3 so thankful that they're here.

4 CHAIRMAN CASKEY: Mr. and Mrs. Smith, thank you for
5 being here. I appreciate your flexibility with
6 our scheduling. Sometimes we run hot, sometimes
7 we run cold, and today for whatever reason we are
8 a bit ahead of schedule, which is an atypical
9 position for us to be in, but here we are
10 nonetheless. And so we appreciate your
11 flexibility.

12 MR. SMITH: Thank you, Mr. Chairman.

13 EXAMINATION

14 BY CHAIRMAN CASKEY:

15 Q. I want to make sure any other Commissioners with
16 questions can get those asked. Mr. Smith, I want to
17 first start by saying, at the risk of being redundant
18 and repetitious just how glowing the comments are that
19 we have received. Clearly the letters of reference,
20 should your candidacy move forward -- that will be a
21 part of the record, and everyone can read for
22 themselves comments from Mr. Lay and Ambassador
23 Wilkins and the other, Mr. Nichols and take those for
24 what they are. What will not be in the record are all
25 of the ballot box comments that come in. For reasons

1 related to preserving anonymity, we can't disclose
2 those, but I will say that they are resoundingly
3 positive, and they're positive in all of the ways that
4 we should want and hope for our legal community at
5 large, but also for judicial candidates and ultimately
6 judges. And I think that's a very positive thing.
7 And I also add that it's consistent with my experience
8 with you. Having served with you in the House, at
9 times found -- often frequently -- our preferred
10 policy outcomes are different, but I have also enjoyed
11 the opportunities to be with you in public settings
12 and do speaking events together to promote not just
13 civics education, but the value of civility. And so
14 I've always greatly admired and respected you. And
15 the approach that you've brought to public life, I
16 think that's important in a day where things are
17 seemingly inescapably caustic. We have some folks who
18 try to show that there is a better path, and I think
19 you're one of those people, and I appreciate that.
20 And a good number of the other comments speak to your
21 competence and capabilities as a lawyer, and I think
22 that again speaks to your work ethic, your intellect,
23 your preparation, and again commend you for that. I
24 don't want to not address the elephant in the room,
25 though, in perhaps a slightly different way, because

1 while it is not the charge of this Commission to
2 assess your political preferences, no doubt there may
3 come a time were you do ascend to the bench where
4 there would be an issue that would catch the public's
5 mind in a way that should the result not end up in a
6 preferred way for some substantial proportion of the
7 population, they'll cry foul, because while I
8 understand and believe that one can apply the law
9 neutrally and fairly -- and I think we all understand
10 that, those of us who at least practice law -- we can
11 recognize that a Constitutional form of government
12 often produces results that we don't like, because
13 when you hold some principles dearly, that may
14 ultimately require a decision that is different than
15 what a visceral or lay reaction might be. And so were
16 that moment to come where you're asked to adjudicate
17 an issue with a undeniable partisan color, the public
18 looks back and says how did this guy ever become a
19 judge, I want to give you the opportunity to tell
20 people, because these hearings are now -- we will
21 release the video when the report comes out, as I'm
22 sure staff has told you. I want to give you the
23 opportunity to say directly why it is that your
24 previous commitment to partisan activity is going to
25 end if and when you should take on the robe.

1 A. Mr. Chairman, thank you for asking that question. I
2 do think it's very important, and I'll answer this in
3 a couple of ways. And first is just who I am and who
4 I have always been, and I go back to, you know, my
5 love and devotion for our institutions, and it more
6 offend who I am to take my partisan beliefs into a
7 courtroom and have them be how I act. I believe so
8 strongly in our institutions, as you have offered to
9 risk your life, that I would not dare dishonor that by
10 following a partisan notion. There was a time where I
11 was a policymaker. That time has ended. I'm not a
12 policy maker, and certainly going from a legislator to
13 being an adjudicator, I will adjudicate. You say what
14 the balls and strikes are, and I'll call them. And
15 the way that I think the public I hope -- and I
16 believe will have confidence in the work that I will
17 do is ensuring that everybody that comes before me
18 understands and has a belief that the process was
19 fair. They might not always like the result. And as
20 the policymaking is going on right on how this process
21 if going to go forward, you're balancing, you know,
22 competence and the independence of the judiciary and
23 all those things that are up, you know, for the
24 General Assembly to decide. For me as a judge, I
25 believe everything that I do needs to build confidence

1 in the judicial system and the belief that everybody
2 has had an opportunity to be heard and the decision is
3 fair and that it's done in a system in which fosters
4 the independence of the judiciary. And so I can't say
5 for sure -- actually, I can probably say for sure not
6 everybody would like every decision I would make, and
7 I would not expect that, but I believe they'll be
8 confident that it was fair and I followed the law.

9 **Q. Thank you, I appreciate that. As you were talking,**
10 **what you didn't know is that your wife slipped in**
11 **behind. And so I wanted to give you an opportunity to**
12 **--**

13 **A. I knew I was feeling really good about this.**

14 **Q. Well, I wanted to make sure you had an opportunity to**
15 **say again all the things you were going to do around**
16 **the house this weekend. I didn't want her to miss**
17 **that.**

18 **A. No, thank you, Mr. Chairman. And y'all have been so**
19 **gracious, but I'm very thankful to have my wife,**
20 **Kirkland, who we met when we were teenagers and have**
21 **been together for almost 33 years, but many, many,**
22 **many occasions I haven't been there on a variety of**
23 **pursuits, which y'all know. You sacrifice a lot from**
24 **family and time by virtue of the work that you do for**
25 **our state. And so I'm just so thankful that she's**

1 here today. So thank you, Kirkland Smith.

2 CHAIRMAN CASKEY: Kirkland, thank you for being here.

3 I apologize for the scheduling changes, but
4 nonetheless glad to have you here. He's done a
5 great job so far, so you can be proud of that.

6 SENATOR RANKIN: Real quick. And I just want Ms.

7 Smith, Ms. Kirkland Smith, to know I've never
8 seen this guy look back more times awaiting your
9 arrival. Hallelujah, you made it.

10 CHAIRMAN CASKEY: Mr. Smith, thank you so much. I do
11 want to thank you for your service to our state
12 and to our nation. I think you have provided an
13 example to South Carolinians and Americans of all
14 stripes, and I appreciate you offering for
15 continued service. I do also need to take the
16 opportunity to remind you that pursuant to the
17 Commission's evaluative criteria, the Commission
18 expects candidates to follow the spirit as well
19 as the letter of the ethics laws, and we will
20 view violations or the appearance of impropriety
21 as serious and potentially deserving of heavy
22 weight in the screening deliberations. On that
23 note and as you know, the record will remain open
24 until the formal release of the report of
25 qualifications, and you may be called back at

1 such time if the need were to arise. This
2 concludes this part of our screening process, and
3 we thank you for being here today, sir.

4 MR. SMITH: Yes, sir. Thank you, Mr. Chairman. Thank
5 you very much, members. Thank you.

6 CHAIRMAN CASKEY: We'll stand at ease for a couple of
7 minutes as we help the next candidate get here
8 and proceed with one more before lunch.

9 (Off the record)

10 CHAIRMAN CASKEY: Before us is Justin Williams, the
11 candidate for Seat 1 of the Fifth Circuit of our
12 circuit court bench. Good morning, Mr. Williams.

13 MR. WILLIAMS: Good morning, sir. How are you?

14 CHAIRMAN CASKEY: I'm fantastic, thank you. If you
15 would, please raise your right hand.

16 WHEREUPON:

17 JUSTIN WILLIAMS, 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: There should be some documents in
21 front of you. If you would, take a look at
22 those.

23 MR. WILLIAMS: Yes, sir.

24 CHAIRMAN CASKEY: Are the Personal Data Questionnaire
25 and the Sworn Statement before you the documents

1 that you've submitted to the Commission?

2 MR. WILLIAMS: Yes, sir.

3 CHAIRMAN CASKEY: Are they correct, or are there any
4 changes or updates that need to be made?

5 MR. WILLIAMS: You have the only update I made, sir,
6 Exhibit 11, so the other documents are correct to
7 the best of my knowledge.

8 CHAIRMAN CASKEY: Do you object to our making these
9 documents a part of the record of your testimony
10 here today?

11 MR. WILLIAMS: No, sir.

12 (EXHIBIT NO. 10 MARKED FOR
13 IDENTIFICATION PURPOSES (20 pages)
14 PDQ - Justin Williams)

15 (EXHIBIT NO. 11 MARKED FOR
16 IDENTIFICATION PURPOSES (1 pages)
17 Amendment to PDQ - Justin
18 Williams)

19 (EXHIBIT NO. 12 MARKED FOR
20 IDENTIFICATION PURPOSES (5 pages)
21 Sworn Statement - Justin Williams)

22 CHAIRMAN CASKEY: All right, thank you. We'll have
23 staff do that now. The Judicial Merit Selection
24 Commission has thoroughly investigated your
25 qualifications for the bench. Our inquiry is

1 focused on nine evaluative criteria and has
2 included a ballot box survey, a through 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 and a check for
7 economic conflicts of interest. We have received
8 no affidavits filed in opposition to your
9 election, and no witnesses are present to
10 testify. Before giving you the opportunity to
11 make any brief opening remarks if you would like,
12 I want to give you an opportunity to recognize
13 the folks who have come with you today and
14 introduce us to them.

15 MR. WILLIAMS: Absolutely. My wife, Stacey Heirs
16 Williams is here with me today, my brother,
17 Johnny Marion Williams is here with me today and
18 a law school friend, Christopher Jackson, is here
19 with me today.

20 CHAIRMAN CASKEY: Thank you all for being here today.
21 I certainly appreciate your flexibility in
22 scheduling. Sometimes things move beyond our
23 control, and obviously this wasn't as designed,
24 but nonetheless we're appreciative of you all
25 being here. So with that, Mr. Williams, if you

1 have an opening statement, we'll be happy to hear
2 from you. Otherwise, we can go straight to
3 questioning from the staff.

4 MR. WILLIAMS: It's a privilege, honor and pleasure to
5 be here before you today. I appreciate the
6 opportunity.

7 CHAIRMAN CASKEY: Thank you, sir. At this time I
8 would recognize Mr. John for some questions.

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

10 EXAMINATION

11 BY MR. JOHN:

12 Q. Good morning, Mr. Williams.

13 A. Good morning, sir.

14 Q. I would note for the record that based on the
15 testimony contained in the candidates PDQ, which has
16 been included in the record with the candidate's
17 consent, Justin Williams meets the Constitutional and
18 statutory requirements for this position regarding
19 age, residence and years of practice. Mr. Williams,
20 how do you feel your legal and professional experience
21 thus far renders you qualified and will assist you to
22 become an effective circuit court judge?

23 A. Thank you for the question, sir. I have a combination
24 of qualifications and experience that start as an
25 assistant solicitor, then transitioning as an

1 associate as a workers' compensation defense attorney
2 and then back to the solicitor's office in a mid level
3 role, trying more major felonies and then onto a
4 plaintiff's and criminal defense law firm in the past
5 five years as a Commissioner at the South Carolina
6 Public Service Commission, serving as vice chair and
7 chair in my first term. That combination, unique
8 combination, I think has prepared me to see a broad
9 world of issues, not only criminal, not only civil,
10 not only administrative, but also my military
11 experience. And but for that combination of
12 experience I don't think I would be prepared to be a
13 circuit court judge where you're going to see many
14 different cases, both on the general session and
15 common pleas side.

16 **Q. Why do you now wish to serve as a circuit court judge**
17 **at this stage in your career?**

18 A. After practicing well over 12 years, I've had the
19 opportunity to explore many different areas. And I
20 will say the past five years have been the most
21 rewarding, serving at the Public Service Commission,
22 getting to decide cases of first impression and making
23 a huge impact on South Carolina's energy future. When
24 the opportunity came up, it was one of those things
25 where it almost was too good to be true, because even

1 though I've always wanted to be a judge, it seemed
2 like one of those lofty aspirational goals that may
3 not come around until later in life, but the timing
4 here along with my experience up to this point, I just
5 felt it was right, and I wanted to offer myself for
6 service.

7 **Q.** Thank you. Mr. Williams, the Commission received 262
8 ballot box surveys regarding you with 42 additional
9 comments, 29 of which were complimentary as to, among
10 other things, your professionalism and diverse
11 employment background. The ballot box survey, for
12 example, contained the following positive comments:
13 He is well educated, very smart and experienced in the
14 type of cases that will come before him. Another
15 comment noted Mr. Williams' excellent track history
16 with vital experience across a vast assortment of
17 subject matter. Thirteen of the written comments did
18 express some concerns. Several comments pertained
19 specifically to your time working as a prosecutor and
20 raised concerns regarding what might be considered
21 unethical behavior in handling cases and dealing with
22 other attorneys. How would you respond to those
23 comments?

24 **A.** It's very concerning for someone to challenge my
25 ethics. As an officer in the U.S. Army, ethical

1 behavior is one of the most important factors that we
2 must demonstrate. Unfortunately, I don't know the
3 specific instances that the commenters are referring
4 to, but I'm very, very concerned that someone is
5 challenging my ethics. I've always attempted to
6 uphold the highest degree of moral and ethical
7 conduct, not only in the practice of law, but also in
8 my personal life. And without knowing more, it's
9 really not much I can say to those accusations.

10 **Q. Sure, thank you. Other comments expressed concerns**
11 **regarding your lack of courtroom experience. How**
12 **would you address those concerns?**

13 A. Well, I think courtroom experience is relative. As a
14 prosecutor I've tried a murder case. I prepared a
15 life without parole case. I didn't try it because the
16 other side asked me to recuse myself because
17 unbeknownst to me my wife's judge was the judge that
18 would hear the case, so unlucky draw. I've tried drug
19 cases. I've tried dog fighting cases. I've tried
20 magistrate cases. I've tried cases on the
21 administrative side in the Army, and I've heard
22 hundreds of hours of testimony through hearings at the
23 Public Service Commission. I've only been practicing
24 law for a little over 12 years, so compared to someone
25 who maybe has twice as much experience as me by way of

1 time, maybe they've tried a few more cases, but I
2 think I've had adequate courtroom experience, four
3 years as a prosecutor handling over 2,000 warrants and
4 then the time on the Public Service Commission.

5 **Q. Great, thank you. And then finally there were some**
6 **concerns raised regarding your judicial temperament,**
7 **that you can sometimes be rude or condescending with**
8 **other attorneys and witnesses. Your response to that?**

9 A. Well, I have to accept what the commenters have
10 offered about the experience with me. What I can tell
11 you is that I've always been honest, forthright, fair,
12 treating everyone with dignity and respect. I think
13 sometimes especially in the criminal world it's highly
14 adversarial, and I have to consider as a prosecutor
15 and administer of justice -- I have to not only
16 consider the defendant's rights, but also the
17 community interests and law enforcement interests and
18 balance those to try to reach the right conclusion to
19 make sure that the public feels safe and that the
20 defendant's rights are also protected. So in the
21 course of that, if someone thought that I was rude or
22 disrespectful, that's unfortunate, but that's never
23 been my intent especially considering the way I grew
24 up.

25 **Q. Great. I would note that the Midlands Citizens**

1 Committee reported that Mr. Williams is qualified in
2 the evaluative criteria of Constitutional
3 requirements, physical health and mental stability and
4 well qualified in the evaluative criteria of ethical
5 fitness, professional and academic ability, character,
6 reputation, experience and judicial temperament. The
7 Committee also commented that he was well qualified.
8 Mr. Williams, are you aware that as a judicial
9 candidate you are bound by the Code of Judicial
10 Conduct as found in Rule 501 of the South Carolina
11 Appellate Court Rules?

12 A. Yes, sir. Not only that, as a South Carolina Public
13 Service Commissioner I have been under the Code of
14 Judicial Conduct for over five years.

15 Q. Great. Since submitting your Letter of Intent, have
16 you contacted any members of this Commission about
17 your candidacy?

18 A. No, sir.

19 Q. Have you sought or received the pledge of any
20 legislator either prior to this date or pending the
21 outcome of your screening since submitting your Letter
22 of Intent?

23 A. No, sir.

24 Q. Are you familiar with Section 2-19-70, including the
25 limitations on contacting members of the General

1 **Assembly regarding your screening?**

2 A. Yes, sir.

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

8 A. No, sir.

9 Q. Have you reviewed and do you understand the
10 Commission's Guidelines on pledging in Code Section 2-
11 19-70(e)?

12 A. Yes, sir, I do.

13 Q. Great. Mr. Chairman, I would note for the record that
14 any concerns raised during the investigation by staff
15 regarding the candidate were incorporated into the
16 questioning of the candidate today. I have no further
17 questions.

18 CHAIRMAN CASKEY: Thank you, sir. Do members of the
19 Commission have questions or comments for Mr.
20 Williams? Mr. Strom.

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

22 EXAMINATION

23 BY MR. STROM:

24 Q. **Good morning.**

25 A. Good morning, sir.

1 Q. First, I'll make a couple of comments. One, I don't
2 know you well, but we have a lot of common friends,
3 and I've asked them about you, and I don't have any
4 concerns about your ethics or your temperament at all.
5 The people that know you well speak very highly of
6 you. I do want to ask you a substantive question. I
7 asked Mr. Smith the same question. This is Richland
8 County. We've got -- what's the backlog now in
9 Richland County on the criminal side? Do you have any
10 idea?

11 A. Sir, I haven't practiced criminal law in Richland
12 County in quite some time. When I first came in as
13 assistant solicitor in 2011, I think there were about
14 12,000 pending cases. My first caseload -- and this
15 is going to sound like an embellishment, but it's not
16 -- was about 700 cases. I want to say 800, but I'm
17 just going to be low just to be safe there. I can't
18 tell you the why behind it, but for whatever reason at
19 that time it was an incredible backlog in cases, and I
20 would imagine with Covid and all the retirements of
21 judges it possibly could worse.

22 Q. I would suspect it's worse, and this process is being
23 criticized right now, the way we elect judges. And
24 one of the criticisms about judges is the issue on
25 bond. We've got a lot of people who are repeat

1 offenders committing violent crime, and of course as a
2 judge and a sworn prosecutor you know it's a two prong
3 test on the bond, whether somebody's a flight risk,
4 whether they're a risk to the community. And the
5 public now is tired of people getting out of jail and
6 killing other people. And as a judge you're going to
7 hear those cases, and you're going to be -- in
8 Richland County there's a lot of things that come up,
9 like how are you going to handle that issue? How are
10 you going to handle bonds and repeat offenders?

11 A. Well, thank you for the question, and I'll tell you I
12 understand that there is great concern and a lot of
13 media attention. I've been paying attention, but I
14 would just offer for everyone's consideration that I
15 started my career in Richland County as a prosecutor
16 under a new solicitor, and there was a lot of concern
17 then from my perspective. And I will tell you some of
18 the things that were implemented at the time that may
19 have caused some folks to feel as if I was rude, and
20 it really wasn't coming from me, but it was what the
21 order of the day was under that solicitor. For
22 example, on bond, if someone -- we had a case where
23 someone was out on bond and committed another crime.
24 We were told to file a motion, rule to show cause, to
25 revoke the bond, because even at that time, 11, 12

1 years ago, people were upset with folks committing a
2 crime, being charged with another crime and causing
3 chaos in the community. That ruffled some feathers
4 for us to do that, because we were -- I'd do what I
5 was told. It was my first job. I was happy to have a
6 job, so I did what I was told. Another issue was this
7 thing called re notices. So those that practice in
8 criminal court know that you have the first
9 appearance, the second appearance, and on the third
10 appearance you should plea, but when I first got there
11 we had -- if you're familiar with Spartan, that system
12 that manages and tracks all the cases, you would see a
13 case and someone would have 20, if not more, re
14 notices where they had been coming to court, coming to
15 court, coming to court and nothing was happening. And
16 so we were instructed you either plead a case or call
17 the case to trial in a very direct way. I did what I
18 was told. I don't know what was going on before I got
19 there, but I picked up that that may not have been the
20 way things were handled. And so the way I will handle
21 myself on the bench, sir, is in a similar manner, a
22 workman like manner, saw the wood that's in front of
23 me, address the issues, not dodge them and weigh each
24 case based on the merits and the facts and the
25 evidence and the circumstances of that case. And if

1 the facts say that the bond needs to be revoked or
2 whatever the case may be, I'm going to make a decision
3 based on those facts in evidence of that particular
4 case without fear of public clamor, retribution or
5 anything else.

6 **Q. The issue of backlog, how do you think you would**
7 **address the backlog. If you're elected, at some point**
8 **you're going to be chief of criminal and have to**
9 **administer that. How are you going to cut down the**
10 **backlog?**

11 **A.** Well, the first thing I'd have to do is make sure that
12 I'm doing what I'm supposed to do, and that's showing
13 up for court on time, being ready to accept the
14 matters that come before me. To the extent that I
15 have any ability to manage or control the docket, I
16 want to do that in a workman like manner. The cases
17 are here. The cases need to be resolved. Call the
18 lawyers in. See if they can resolve the matter. If
19 the case needs to be set for trial, set the case for
20 trial and move through the docket. I just lean
21 forward, keep my head down and work.

22 **Q. And that's all the questions. I did want to make the**
23 **comment I've seen that one of your letters is from**
24 **Stanley Meyers, someone that we all loved and**
25 **respected. He passed away recently. A real Titan in**

1 the bar, so that says a lot for you to have him write
2 that letter.

3 A. Thank you, sir.

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

5 CHAIRMAN CASKEY: Sir, thank you. And I would
6 underscore your reflection on Stanley. His loss
7 is a loss not only felt by his family and
8 friends, but all of us who've ever known him, and
9 he served the community impartially. So I
10 appreciate you recognizing that, Mr. Strom.
11 Other comments or questions for the Commissioner
12 for Mr. Williams. Representative Rutherford.

13 REPRESENTATIVE RUTHERFORD: Thank you. Justin, I
14 apologize. I had to run to my office. I had a
15 new client come in, so I apologize. I apologize
16 to all your supporters and friends here.

17 EXAMINATION

18 BY REPRESENTATIVE RUTHERFORD:

19 Q. Tell me -- and again, I apologize also to my fellow
20 Commissioners, because I may have missed something
21 that they were asking you about, and I hope I'm not
22 duplicating a question, but tell me how it is that you
23 believe transitioning from the PSC, which is certainly
24 relatively standoffish to the bench would be for you,
25 going from what you're currently doing to what you

1 aspire to do.

2 A. Okay. Could you repeat the question again?

3 Q. So the PSC in terms of you taking on this role of
4 being someone advocating on behalf of consumers -- I
5 guess that's the role. I'm not really sure, but
6 you're not doing the sitting down with lawyers in
7 chambers talking about issues before they come up.
8 You're not trying to figure out trials before they
9 come up and other issues or are you. And if so, how
10 do you think that being a Public Service Commissioner
11 transitions to your role on the bench?

12 A. Okay, thank you. I'm sorry. I understand your
13 question now. So the Commissioners are under the
14 Code, not only the Commissioners, but all commission
15 employees are under the Code of Judicial Conduct, so
16 we're not an advocate for anyone. We weigh the facts
17 and evidence that come before us equally from the
18 consumer interest, from the consumer advocate, from
19 the office of regulatory staff that represents the
20 public interest and then from the utility perspective.
21 So we don't advocate, and if anyone believes that,
22 we're doing our job the wrong way, because we are
23 neutral, and we're unbiased, and we make decisions
24 based on the evidence before us. I had the
25 opportunity to serve as chair during my time at the

1 Commission, and we do manage a docket. We have a
2 hearing schedule. I work with our chief clerk to
3 manage those cases and to work with the hearing
4 schedule to get through the work that comes before the
5 Commission. We also work with lawyers. Now we don't
6 meet with lawyers on an individual basis, because
7 we're very serious about the rules of ex parte
8 communication. So any time we communicate with
9 lawyers it's going to be on the record, and quite
10 frankly, I don't know how much of a bad idea that is
11 even going to circuit court. I do understand that
12 there are meetings in chambers, which is fine. I
13 participated in those, but honestly I think my time at
14 the Commission is really what has prepared me to go to
15 the bench, because I've had to think from a judicial
16 perspective for the past five years, especially when
17 it comes to interpreting the laws and being fair to
18 all sides.

19 **Q. No questions.**

20 CHAIRMAN CASKEY: Other Commissioners? Mr. Safran.

21 EXAMINATION

22 BY MR. SAFRAN:

23 **Q. Good morning, Mr. Williams.**

24 A. Good morning, sir.

25 **Q. I hope you're doing well. You and I had a few things**

1 years ago I think when you were over there with
2 Willson & Jones.

3 A. Yes, sir.

4 Q. And, you know, I always understood you to be somebody
5 that got to the point, was very businesslike, and I
6 appreciate that, certainly. One thing that we had
7 come up in the, I guess, eight years I've been doing
8 this is the recognition that being a practicing lawyer
9 nowadays has come to be as hard as it's ever been in
10 terms of times. We have so many demands that are just
11 pulling in all different directions. People who are
12 in general practices more or less may be asked to have
13 to attend multiple courts in a relatively limited
14 time. And all the balancing is going on in the
15 context of having a life. Now one of my first years
16 here we were interviewing someone who basically
17 professed to want to do thing in a very businesslike
18 manner and actually had been a judicial officer at a
19 different level. And he sat here and with great glee
20 sat and said yeah, I brought them in here on the
21 Saturday of the Carolina Clemson game just to let them
22 come in here and take care of our business of court.
23 Needless to say, that went over like a lead balloon.
24 And I guess the question I've got is this, have you
25 recognized that as much as we have to do that lawyers

1 have lives, that lawyers have children that they may
2 want to go and have to attend a meeting that's
3 important, a very significant activity that a child
4 may have. Maybe they're running in a track meet.
5 Maybe they're participating in a football game, and I
6 hear you. You know, you sound very hard charging, and
7 you sound like hey, I want to get in there and get the
8 job done. And certainly in a place like Richland
9 County, that is substantially needed, but again, I
10 need to understand kind of how you look at it in terms
11 of, you know, the people that are going to come in
12 front of you having more than their law practice as
13 parties in their lives.

14 A. So that's a great question, and what I would point you
15 to, Mr. Safran, is my demonstrated practice. We'll go
16 back to my time as a prosecutor. So I believe in
17 roles and responsibilities, doing my job and let
18 everyone else do their job. And I don't comment on
19 what they're supposed to do. I just focus on what I'm
20 supposed to do. So in doing my job, for example, with
21 the re notice issue, I followed the procedure that was
22 laid out before me. I never took a position for or
23 against why the person needed a re notice. If they
24 shared it with me, then I could make a judgment call.
25 A lot of times that was not happened, but there have

1 been times where there's been death, where there's
2 been a kid issue or sickness. I don't want to get
3 into people's personal business, but there's been
4 times where I've used the discretion that I've had
5 based on the information presented to me to give
6 grace, if you will, or to give the time and space and
7 capacity necessary for lawyers to do what they need to
8 do in their personal lives understanding that. And I
9 think I understand that more now than ever, because I
10 worked for what was Moore Taylor, now Moore Bradley
11 Meyers, where on 8:00 on a Monday morning I would need
12 to be in Orangeburg County, Lexington County, Richland
13 County all at the same time and trying to make that
14 happen. So I've lived that life, and I know what it's
15 like, and I don't want to confuse my hard charging
16 with being cold and callus. I wouldn't even describe
17 it as hard charging. It's as simple as this. If we
18 have a matter before us, and the matter needs to be
19 resolved, how are we going to do it. Let's pick a
20 day. If you have things that are going on, we all
21 have things that are going on. I understand that.
22 It's not going to be the Carolina Clemson game. I'm
23 surprised that guy didn't get fragged, but it will be
24 at a point in time where we all can agree and we'll
25 handle the case. I think in my humble opinion the

1 backlog that exists in Richland County is not due to
2 lawyers having to take care of their personal lives,
3 because that happens and judges -- and I think lawyers
4 are understanding of that. I don't think that's the
5 issue. I think it's something else. I don't know
6 what that else is, but I don't think it's giving grace
7 to lawyers who need to handle other things.

8 Q. Well, and I'm glad to hear you say it. And I mean, I
9 think the other thing that we've touched on with a lot
10 of people over these last couple of years is the fact
11 that, you know, I hear you that many of the capacities
12 that you've been in you're more or less told these are
13 your marching orders. This is what you've got to do.
14 What we found, and I think you've probably seen,
15 because you've been on the other side of the bench in
16 court, is that circuit judges are given a tremendous
17 amount of discretion in terms of how they conduct
18 business. And, you know, it's not like a chief
19 justice is in there tweaking your ear and everything,
20 because again, you've got a lot of autonomy. And we
21 have seen -- I've seen, going back almost 40 years,
22 that autonomy can be exercised in a lot of different
23 ways. There are people who basically did it a
24 terrifying manner. There are people that have done it
25 maybe where they could be almost accused of being too

1 lax. So we know that there's got to be somewhere in
2 between that will work, but I guess the thing about it
3 is is that I just want to make sure that, you know,
4 there's an understanding that while you have the
5 opportunity and responsibility to be a shepherd, that
6 you've got to move these things along. You can't take
7 every excuse every time, and you use your common sense
8 and say this is guy has abused the privilege. I'm not
9 going to let him continue to do it, because, you know,
10 you've got to maintain some order in terms of the
11 docket. I guess again, what's your philosophy as far
12 as how you would tend to kind of more or less treat
13 the lawyers as your normal protocol, because again,
14 you've seen them as I have, all ends of the spectrum.
15 And, you know, sometimes, you know, the lash may be
16 something that needs to at least be threatened. Other
17 times it is the last thing you want to do. And I can
18 tell you that when people have had problems with this
19 Commission, it has been because they've kind of gone
20 over the edge on that whipping side. And as much as I
21 used to think as part of my career that taking those
22 beatings in your career was something that was just a
23 rite of passage, it don't work that way anymore, that
24 it is basically considered to be something that can
25 cost you a job as others have found out. And so I

1 guess again I want to just make sure, because I know
2 when you were put in that position of chairman over
3 there at the Public Service Commission you're kind of
4 running the show at least in terms of administratively
5 and hearing. You know, it can be easy, you know, to
6 let that kind of consume you. I just want a sense
7 from you, because again, you're going to be stuck in a
8 courtroom and pretty well going to have free rein on
9 how everything gets done, and, you know, we just want
10 to have some sense of having not maybe had the length
11 of experience, but certainly some of the quality of
12 experience that you've gotten -- how do you intend to
13 approach that?

14 A. Thank you. Well, let me lay a foundation out, and
15 I'll answer your question. I believe in demonstrated
16 experience. Test what someone's going to do based on
17 what they've done in the past. It doesn't mean they
18 can't deviate from it. It doesn't mean they can't
19 learn. Doesn't mean they can't regress, but if you
20 look at the demonstrated experience, it at least gives
21 you something to start with. When I was chair of the
22 PSC I dealt with a lot of those issues. I had to deal
23 with my colleagues and their appointments and things
24 outside of work. I had to do with the lawyers
25 internally, externally, and I get reviewed. I got

1 reviewed every year since I've been there, and there
2 were no issues ever with me not being fair,
3 compassionate, kind or understanding when it came to
4 scheduling issues. And not only that, you've been
5 doing this for eight years, and you may take it for
6 granted compared to me, for me you see my family is
7 here and my friends are here. I'm not a fan of being
8 publicly embarrassed, so the last thing I'm going to
9 do, knowing I'm a 39 year old lawyer here in South
10 Carolina, is go over -- if I'm fortunate enough to get
11 elected is go over to 1800 Main Street I believe it is
12 or 1700 Main Street and act like some power hungry
13 crazy person. Because you know why I'm not going to
14 do that. Not only it's not the right thing to do, but
15 where am I going to find myself, right back in front
16 of you, and I don't want to be whipped. I don't
17 believe in -- I don't want to be -- no, I mean,
18 whipping has a lot of connotations. I want to be
19 respectful. I want to speak to you plainly. I don't
20 want to be whipped, especially for something that is
21 as easy to resolve and to address as being kind,
22 diligent and patient when it comes to scheduling
23 issues. So I understand the free rein concept and
24 that nobody's watching, but that's really not true.
25 Everybody's watching, and the surveys that y'all send

1 out, it's not like I'll be able to do that and no one
2 will have the opportunity to report that conduct or
3 behavior. So honestly if folks come through this
4 process and they don't understand the responsibilities
5 they have to abide by the Code of Judicial Conduct,
6 it's going to come out sooner or later. And I can
7 commit to you that I understand the Code of Judicial
8 Conduct. I think my past has demonstrated that, and I
9 look forward to answering any questions in the future
10 about my temperament, especially when it comes to
11 scheduling, which you're referring to, but I can
12 assure you being married, having a new kid, being in
13 the military, also being in a graduate program, of
14 having the death of loved ones and all the things that
15 goes on, life is living. I understand that folks need
16 time and space to handle their affairs. And I'll
17 close with this. As a judge if fortunate to be
18 elected, I want to give the lawyers the space to be
19 professionals. Lawyers are professionals. We go to
20 school for three years. We sit for the bar, and we
21 take time to practice and to sharpen our craft for a
22 very, very long time. And so I don't believe in being
23 paternalistic. If a lawyer comes into court and says
24 they need a continuance or they are not ready to go
25 forward, whatever the case may be, the first one --

1 and I don't want to speak too soon, but generally
2 speaking, the first or second one is always free,
3 because I don't know what you have going on. You know
4 your life better than I do. Now if it becomes, like
5 you said, a recurring thing, we might have to dig a
6 little bit deeper in that discussion, but there's no
7 way even with the backlog that I can come in on day
8 one and immediately whip things into order. That's
9 just ingenuous. That's impossible, and it just can't
10 work that way.

11 **Q. And to that effect, have you actually seen yourself**
12 **change some in the five years you've been at the PSC**
13 **as far as how you went about doing the job in a way**
14 **that just came with the experience?**

15 A. Oh, absolutely, because I was giving orders as opposed
16 to taking them. So when I have the ability -- what I
17 would say to you is this. When you look at the course
18 of my career, if you want to see how I will be as a
19 leader, you can look at the past five years of tape at
20 the PSC. No offense to this body, but the PSC is the
21 most transparent organization in the state. Every
22 business meeting and every hearing, every decision we
23 make is on our website. It's live stream, and it's
24 recorded. You can pull up the first business meeting
25 I ever participated in, watch from there back in 2018

1 all the way up to the present. And I think that's
2 pretty cool actually, but I digress. When you have
3 the ability to make the decision and do it the way you
4 think it needs to be done, we can use those times and
5 those experiences where you may have suffered a
6 whipping or things didn't go the way you thought they
7 should have gone and make that change. And I think
8 the PSC has given me the opportunity to do that.

9 **Q. So you've learned with the ability comes the**
10 **responsibility?**

11 A. Yes, sir, absolutely.

12 **Q. Well, thank you for your responses.**

13 CHAIRMAN CASKEY: Senator Rankin.

14 EXAMINATION

15 BY SENATOR RANKIN:

16 **Q. Thank you, Mr. Williams, for your service to our**
17 **country, your service to our state. I've met you more**
18 **at arms length with PSC overview, PURC review, and as**
19 **have many of the obviously folks who have elected you**
20 **to serve currently. Who in your repertoire of judges**
21 **would you like to be most compared to if you are**
22 **successful in terms of style, demeanor, intellect and**
23 **civility?**

24 A. Judge Clifton Newman.

25 **Q. I hear you, and we all know him, but I want to know**

1 **why you named him. What about him makes him the guy?**

2 A. I've appeared before him many times as a prosecutor
3 while I was at the Fifth Circuit Solicitor's Office.
4 I found him to always be fair, reasonable, kind,
5 patient and diligent. All the cases I had before him
6 didn't go my way, but I never felt as if I wasn't
7 given a fair opportunity to present my arguments or
8 present my position. And I never -- and even not in
9 matters that dealt with me or matters I was involved
10 in directly, just sitting in court and watching him,
11 to me he just is the ideal version of what I would
12 consider a fair and impartial judge. And intellect is
13 important. He definitely has that, but for me what's
14 most important is as a litigant, a party, I want to go
15 before someone that's going to give me a fair
16 opportunity. I don't want to go before someone where
17 I feel like the cake is baked before it's put into the
18 oven, and through watching him I believe that's how he
19 operates, and that's the way I want to be.

20 CHAIRMAN CASKEY: Any other comments or questions for
21 Mr. Williams.

22 EXAMINATION

23 BY CHAIRMAN CASKEY:

24 **Q. Mr. Williams, I'll tell you, I've known you. We've**
25 **been friends since law school, and so I've greatly**

1 admired and respected you in all you've accomplished.
2 Our shared disdain for Clemson being an important one
3 of those qualities, but also your commitment to
4 serving the country. If I recall, three or four years
5 ago you served in Iraq, and I've always respected and
6 admired that from you. The but here is really I'd
7 like you talk about the challenge that any younger
8 attorney faces in trying to go to the bench with
9 respect to -- is just a matter of math a lack of
10 experience that somebody older would have had? And in
11 particular, you know, having also been a solicitor I
12 can appreciate the depth of knowledge that comes
13 pretty quickly with respect to criminal issues, and I
14 know you've been on both sides of the aisle on the
15 criminal setting. And as I review your PDQ, what I
16 see in terms of civil litigation experience is about a
17 year and a half of experience there. And what I am
18 hoping you can do is help me understand how your time
19 on the PSC may relate to the sort of things that you
20 would see on the circuit court bench with respect to
21 civil litigation, because -- and I won't speak for any
22 of the other Commissioners or other members of the
23 General Assembly, but sometimes -- well, the PSC is a
24 bit of a black box to those of us who -- well, we
25 can't practice in front of the PSC per statute. So I

1 don't know as much about how the PSC is operating and
2 what parallels or inferences we could draw from your
3 experience there as a mirror into what your civil
4 litigation experience is, if I'm making the question
5 somewhat clear at least.

6 A. Yes, sir. So it's very obvious based on my Resume and
7 my PDQ that the weakest part of my application for
8 circuit court judge is my civil experience. As you
9 said, I only have a year and a half, and in that time
10 my primary practice area was personal injury. I was
11 fortunate enough to have a pretty complex med mal
12 case. What I will tell you is that at the Public
13 Service Commission we hear very complex, highly
14 intellectual, sometimes abstract, issues of law. And
15 in doing that it requires a lot of time, thinking,
16 research, writing and then going through that process
17 for several iterations. No offense to the criminal
18 practice, but in my experience criminal practice can
19 be compared to civil practice and especially matters
20 before the PSC are a little bit more black and white,
21 whereas civil matters and matters before the PSC are
22 definitely various shades of gray. And there's a
23 spectrum there that you have to dig deep into the
24 issues and dig deep into the law to fully understand
25 before you render a decision. And then in rendering

1 the decision you have to be able to articulate the why
2 and how for the decision to synthesize the facts in
3 the case with the law and the evidence. And so what I
4 will say to you is that from an intellectual
5 perspective my time on the PSC has prepared me to
6 address and handle the issues that will come before me
7 if I were elected as a circuit court judge when it
8 comes to matters in common pleas.

9 **Q. Thank you. I appreciate that answer. I think that**
10 **helps me understand a little bit better.**

11 CHAIRMAN CASKEY: All right. This concludes this
12 portion of our screening process. I need to take
13 the opportunity to remind you that pursuant to
14 the Commission's evaluative criteria, the
15 Commission expects candidates to follow the
16 spirit as well as the letter of the ethics laws,
17 and we will view violations or the appearance of
18 impropriety as serious and potentially deserving
19 of heavy weight in the screening deliberations.
20 On that note and as you know, the record will
21 remain open until the formal release of the
22 report of qualifications, and you may be called
23 back at such time if the need were to arise. So
24 again, thank you for your service to our state
25 and to our country. Thank you for offering for

1 service today. We appreciate you being here.

2 MR. WILLIAMS: Thank you, Mr. Chair. Thank you all.

3 CHAIRMAN CASKEY: Thank you, sir.

4 MR. WILLIAMS: May I be excused?

5 CHAIRMAN CASKEY: Yes, sir, thank you. That concludes
6 this screening. On motion of Mr. Jordan,
7 seconded by Mr. Rutherford, the pending question
8 is going into Executive Session. All in favor
9 signify by saying aye.

10 (Ayes are heard.)

11 CHAIRMAN CASKEY: All opposed nay. The ayes have it.
12 We will go into Executive Session now and ask
13 everyone who is not supposed to be here to not be
14 here, and to members of the Commission, we will
15 also grab lunch and then come back in here for
16 the legal briefing. Thank you very much.

17 EXECUTIVE SESSION WAS HELD FROM 11:56 TO 2:05 PM

18 (Off the record)

19 CHAIRMAN CASKEY: Thank you, ladies and gentlemen. We
20 are back on the record. For the record, I'd like
21 to state that we have been in executive session
22 receiving a legal briefing. However, no
23 decisions were made. No votes were taken during
24 executive session. And we are now in a position
25 to proceed with our screening process. Before us

1 we have, Mr. Grant Gibbons who is running for
2 seat two of the Second Circuit circuit court.

3 MR. GIBBONS: Correct.

4 CHAIRMAN CASKEY: Good afternoon, sir.

5 MR. GIBBONS: Good afternoon.

6 CHAIRMAN CASKEY: If you would please, raise your
7 right hand.

8 WHEREUPON:

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

12 CHAIRMAN CASKEY: There should be some documents there
13 in front of you. If you would, take a moment and
14 review those.

15 MR. GIBBONS: I recognize them.

16 CHAIRMAN CASKEY: Okay. Are those the personal data
17 questionnaire and sworn statement before you that
18 you have submitted to the Commission?

19 MR. GIBBONS: They are.

20 CHAIRMAN CASKEY: Are there any updates or changes
21 that need to be made?

22 MR. GIBBONS: I do have a sheet of some CLEs I've
23 taken since that time if you want it.

24 CHAIRMAN CASKEY: It's certainly your option, sir, to
25 submit it to the Commission. We only require the

1 last year's.

2 MR. GIBBONS: Okay, that's fine.

3 CHAIRMAN CASKEY: It's your -- at your discretion.

4 MR. GIBBONS: It's no big deal. Just I've done some
5 civil stuff since that time.

6 CHAIRMAN CASKEY: Okay. Do you object to our making
7 these documents a part of the record of your
8 sworn testimony?

9 MR. GIBBONS: Absolutely not. That's fine.

10 (EXHIBIT NO. 13 MARKED FOR
11 IDENTIFICATION PURPOSES (18 pages)
12 PDQ - Grant Gibbons)

13 (EXHIBIT NO. 14 MARKED FOR
14 IDENTIFICATION PURPOSES (7 pages)
15 Sworn Statement - Grant Gibbons)

16 CHAIRMAN CASKEY: Thank you, sir. We'll pass those to
17 staff to get marked. The Judicial Merit
18 Selection Commission has thoroughly investigated
19 your qualifications for the bench. Our inquiry
20 has focused on nine evaluative criteria and has
21 included a ballot box survey, thorough study of
22 your application materials, verification of your
23 compliance with state ethics laws, search of
24 newspaper articles in which your name appears,
25 study of previous screenings, and check for

1 economic conflicts of interest. We've received
2 no affidavits filed in opposition to your
3 election and no witnesses are present to testify.
4 Before extending to you the opportunity to make a
5 brief opening statement, if you'd care to
6 introduce this lovely lady who you brought.

7 MR. GIBBONS: Yes. This is my beautiful wife of 38
8 years, Ms. Bonnie Gibbons.

9 CHAIRMAN CASKEY: Nice to meet you, Ms. Gibbons.
10 Thank you for being here today.

11 MR. GIBBONS: Thanks for letting her come with me.

12 CHAIRMAN CASKEY: All right, Mr. Gibbons, as I said,
13 you're welcome to give a brief opening statement
14 if you like. Otherwise, we can go straight to
15 questions from staff.

16 MR. GIBBONS: I'll waive that. That's fine.

17 CHAIRMAN CASKEY: Okay. Then, at this time, I'd
18 recognize Mr. Cohl for some questions.

19 EXAMINATION

20 BY MR. COHL:

21 Q. Thank you, Mr. Chairman. I note for the record that
22 based on the testimony contained in the candidate's
23 PDQ, which has been included in the record with the
24 candidate's consent, Mr. Gibbons meets the
25 constitutional and statutory requirements for this

1 position regarding age, residence, and years of
2 practice. Mr. Gibbons, how do you feel your legal and
3 professional experience thus far renders you qualified
4 and will assist you to be an effective circuit court
5 judge?

6 A. Thank you for that question. I've been practicing law
7 now for 32 years. I spent the first 16 years as a
8 prosecutor. I went -- straight out of law school, I
9 was sent down to Barnwell County and I was made a
10 prosecutor in charge of Barnwell and Bamberg and I was
11 kind of a one man show. They gave me some boxes of
12 files and I put them in my trunk and drove down there.
13 I was able to work closely with law enforcement and
14 with the court system. I got to know all the lawyers
15 down there. I typed subpoenas. I typed indictments.
16 I typed the docket. I ran the docket. I was kind of
17 a one man show. And so I was able to learn a whole
18 lot during that experience. I had a very seasoned
19 judge. Judge Peeples was my resident judge. He
20 taught me a whole lot. Sometimes it was a pleasure
21 learning. Sometimes it was not. But I learned to be
22 thorough, I learned to work hard, I learned how to
23 move cases, and I gained a lot of experience during
24 that time. After 16 years, they created the circuit
25 defender -- public defender position and I noticed

1 that there were some problems with that side of the
2 equation and I thought I could help. And so I took
3 that position and that's where I've been for the last
4 16 years. I've been teaching new lawyers with the
5 public defender organization for the last 8 years.
6 Teaching trial and skills, and how to behave
7 themselves in the courtroom. So I think I've had a
8 lot of experience, especially on the criminal side.
9 I've had the opportunity to run court with many
10 judges. I believe I've run court with all the judges
11 on the supreme court and -- and I've learned their
12 different priorities and how they handle themselves.
13 And I think I've gained a lot of knowledge of what to
14 do and knowledge of what not to do, in some instances.
15 As I've been directing my office the last 16 years,
16 and even as a deputy solicitor, I had the opportunity
17 to hire and interview numerous lawyers and I learned
18 that you can teach them about the law, you can teach
19 them about the rules, you can teach them about the
20 procedure, but you can't teach them integrity and you
21 can't teach them good judgment. And I think that's
22 something I've gained over that period of time that
23 would help me be a good judge and help me make good
24 decisions and move the case load along. When -- when
25 judges became more involved in the docket, that's when

1 I really started thinking about trying for this
2 position. I think I know the challenges on both sides
3 of the equation. I know their concerns. I know the
4 obstacles to getting a case ready for trial. And I
5 feel like I could move the back log along and help --
6 help my community out. I've put 32 years of my life
7 into our judicial system in the Second Circuit and I
8 would like to see it become what it could be. Maybe
9 that was too much.

10 **Q. Thank you, Mr. Gibbons. The Commission received 194**
11 **ballot box surveys regarding you with 39 additional**
12 **comments. The ballot box survey, for example,**
13 **contained the positive comments: "He is experienced,**
14 **fair, and possesses a well-tempered demeanor. He is a**
15 **man of high moral character and has a sound**
16 **understanding of the law, evidence, and courtroom**
17 **rules." A few of the written comments expressed a**
18 **concern with your civil experience. What response**
19 **would you offer to this concern?**

20 **A.** Well, I understand that they're concerned about that
21 and I look on that as a challenge that I'm going to
22 have to overcome. You know, a lot of people can learn
23 about civil law. They can go to classes about civil
24 law. But until you actually get on the bike and ride,
25 you really don't know what you're doing. I've made

1 contacts in the community with seasoned lawyers. I'm
2 good friends with a number of judges that are both on
3 the bench and retired. I know how to learn things.
4 During my time as a prosecutor, you know, we tried
5 eight capital cases and you have to become an expert
6 on every little fact in those cases. I've had to
7 learn three -- three or four DNA protocols, or DNA
8 systems, and that's pretty technical. And I just
9 buckled and learned it. Put my head to it and learned
10 it. I've also had to learn about cell phone towers.
11 You know, I'm not intimidated by learning new things
12 and I look forward to the chance to throw myself into
13 the civil side of practice.

14 **Q. Thank you, Mr. Gibbons. I would note that the**
15 **Midlands Citizens Committee found Mr. Gibbons to be**
16 **qualified in the evaluative criteria of constitutional**
17 **qualifications, professional and academic ability,**
18 **physical health, mental stability, experience, and**
19 **judicial temperament. The committee found him well**
20 **qualified in the evaluative criteria of ethical**
21 **fitness, character, and reputation. The committee**
22 **stated in summary: "Lack of civil experience." Mr.**
23 **Gibbons, are you aware that as a judicial candidate,**
24 **you are bound by the Code of Judicial Conduct as found**
25 **in Rule 501 of the South Carolina Appellate Court**

1 Rules?

2 A. I am.

3 Q. Since submitting your letter of intent, have you
4 contacted any members of the Commission about your
5 candidacy?

6 A. I have not.

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

11 A. I have not.

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

15 A. I am.

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 have not and I am not aware of anybody.

21 Q. Have you reviewed and do you understand the
22 Commission's guidelines on pledging and South Carolina
23 code section 2-19-70(E)?

24 A. I am aware of it. I have reviewed it.

25 Q. Thank you, Mr. Gibbons.

1 MR. COHL: Mr. Chairman, I would note for the record
2 that any concerns raised during the investigation
3 by staff regarding the candidate were
4 incorporated in the questioning of the candidate
5 today. And I have no further questions.

6 CHAIRMAN CASKEY: Thank you, sir. Do members of the
7 Commission have any comments or questions? All
8 right, well, Mr. Strom. We've got a little lunch
9 lethargies seeping in.

10 EXAMINATION

11 BY MR. STROM:

12 Q. So I notice that you have a letter of reference from
13 Barbara Morgan, the former solicitor.

14 A. Correct.

15 Q. And that says a lot about a public defender. Also,
16 the sheriff of your county --

17 A. Yes, sir.

18 Q. -- has written a letter of support. I was just
19 looking at your CLE. And, of course, any time you
20 have somebody spend all their time doing criminal law,
21 like Mr. Rutherford and I have done most of the time,
22 you don't -- it's hard to get all the experience.

23 A. Correct.

24 Q. And that's where you fall. Have you taken some CLEs
25 to try to learn about civil law?

1 A. I have. I've got a list here. Would you like me to
2 go --

3 **Q. I would like to hear, yes, sir.**

4 A. -- through it? Sure. I went to the trial lawyers
5 convention and I took the following courses there.
6 Nuts and Bolts of Litigating a Medical Malpractice
7 Action. That was taught by Ashley Creech. I took
8 Duty, Proximate Cause, and Comparative Negligence.
9 That was taught by Bert Utsey. Utsey maybe. I took
10 Monetizing Medicine, Private Equity Ownership, and
11 Medical Practices and How to Discover With Rule 30.
12 That was by Robert Reichert. I also attended Top 10
13 Evidentiary Issues in Personal Injury Cases taught by
14 Robert Goings. And Vehicle Defect and General Tort
15 Litigation by Kevin Dean. I also have taken the 2023
16 Personal Practice Essentials which was a full CLE.

17 **Q. Thank you.**

18 A. And I'm going to attend every civil trial I can find.

19 **Q. Well, that answers my questions. I don't have any
20 concern about your qualifications.**

21 A. Thank you.

22 CHAIRMAN CASKEY: Other members? Senator Sabb?

23 EXAMINATION

24 BY SENATOR SABB:

25 **Q. Thanks, Chairman. And thank you, Mr. Gibbons. I**

1 thought I was one of the speakers at that seminar, but
2 probably not. You had to have the others there for
3 sure.

4 MR. STROM: Senator Sabb, I think you spoke on Camp
5 Lejeune.

6 SENATOR SABB: Yeah, I thought that --

7 A. I missed that.

8 Q. No, that's okay. I feel all right. Not holding that
9 against you here.

10 A. I'm waiting for the movie.

11 Q. Well, since we're on Camp Lejeune, I will say this. I
12 have never had an opportunity, as a lawyer, to have
13 been involved in a greater cause. When I received a
14 phone call -- because I was not familiar with what had
15 happened at Camp Lejeune. And at that time,
16 procedurally, all of the soldiers and their families
17 were barred because of the statute of repose that
18 would not allow the actions to go forward. And I'm
19 very proud to say that I was part of writing the
20 legislation that ultimately got passed along with a
21 group of people that were a lot smarter than I was. I
22 was just a member of the team and Marlon Kimpson likes
23 to talk in the Senate about getting an invitation to
24 the White House. And so I got my first invitation to
25 the White House at a bill signing and that was it.

1 A. Thank you.

2 Q. So I am kind of proud of all of that. It's a great
3 cause. So he missed the best presentation.

4 A. I did.

5 Q. But that's okay. That's still all right.

6 A. It's one of those things I need to learn, right?

7 Q. Yeah, but I wanted to harken back to your experience
8 as a solicitor and really ask a very pointed question.
9 How did you view your role?

10 A. I threw myself in the community. I felt like I was
11 the voice of the community at that time and I really
12 took it to be a serious thing. I mean, you're -- it's
13 not a game. These are people's lives.

14 Q. I remember my law partner was a defense attorney and
15 got approached by then solicitor Wade Kolb because
16 they had been involved in a trial and Wade was
17 impressed with his trial skills. And Wade said to him
18 Clifton, would you consider coming and prosecuting
19 with me? And his response was well, no, I want to
20 fight for those who, you know, are wrongfully charged
21 and I want to fight for the people. And the response
22 is what caused him to accept the position as solicitor
23 because he was told well, look, when you're a defense
24 attorney and there's a case and you believe your guy
25 is innocent, you're satisfied, and you fight for him,

1 that's a good thing to do. When you're the solicitor
2 and you see that a person is wrongfully charged and
3 the evidence is not there, you don't have to fight.
4 You can simply sign your name on the dotted line and
5 administer justice in that way. And so he ended up
6 becoming an assistant solicitor because he saw it from
7 a different perspective. I.e. the prosecutor's role
8 is to administer justice and not to count wins and
9 losses.

10 A. Right.

11 **Q. How did you land on that issue?**

12 A. Well, I think everybody kind of starts like you say.
13 You know, I don't want anybody to beat me but when it
14 -- when it really hits home when you have a victim
15 that's life has been destroyed and when you do come
16 across a case where someone is being wrongfully
17 accused, it is a good feeling to be able to fix that
18 right away. I had a lot of questions when I changed
19 to the public defender side. You know, how can you do
20 this job when you've already done that job? And it's
21 been really good to see both sides because every case
22 -- we look at back log numbers, we look at case
23 numbers but every one of those numbers is a person,
24 you know. And I think they all deserve to be treated
25 fairly under the law and deserve respect. And I've

1 world to not appreciate the need for competent legal
2 representation from all -- with all parts -- in all
3 parts -- in all phases of any litigation of any kind.
4 I do want to ask, though, again, what was already
5 asked by Mr. Cohl with respect to -- and this was sort
6 of what Mr. Strom was asking. The dearth of
7 experience in the civil litigation context. I can
8 appreciate you've taken some CLE courses this year and
9 intend to observe any civil trials that you can but
10 I'm hoping that you can tell me more about your plans
11 or how you might supplement, you know, your experience
12 while -- while vast in the courtroom, those skills are
13 hard earned and developed only with time and effort.

14 A. Right.

15 Q. But insofar as there are so many discovery disputes
16 that happen nowadays, particularly with more and more
17 complex litigation. Not having had been a part of
18 that, what would give us confidence that you would be
19 able to fairly and rightly adjudicate those issues?

20 A. Well, I'll just tell you this. When I started as a
21 lawyer and got put in that little office, I took down
22 the Title 16, Title 44, Title 56, and I briefed them.
23 And I took down the rule book and I briefed the
24 criminal procedure part of that and the discovery part
25 of that. And I tried to stay up on it. And that's

1 what I intend to do on the civil side. I'm going to
2 read and study and bury myself in it until I get
3 comfortable. Because it's just like the criminal
4 numbers, every case is someone's life and I'm going to
5 take it seriously and work hard.

6 **Q. Do you know -- this may be a better question for you.**
7 **Do you know when you would actually -- if you were**
8 **successful in the election, when you would actually**
9 **take the -- I never know --**

10 A. It's kind of unclear. I was thinking July 1st but I
11 don't know for sure.

12 **Q. July 1st, okay. I never know. I mean, we always do**
13 **the election in January or February. And then**
14 **sometimes people take the bench the next week and**
15 **sometimes it's like the following December.**

16 A. Well, I could do it any time but my understanding
17 would be July 1st. And that was going to give me that
18 gap to watch a bunch of trials all over the state, if
19 I have to.

20 CHAIRMAN CASKEY: Got it. Thank you. Seeing no
21 further questions, again, I would thank you for
22 your service to the state both as a solicitor and
23 as a public defender. I need to note here that
24 to remind you that pursuant to the Commission's
25 evaluative criteria, the Commission expects

1 candidates to follow the spirit as well as the
2 letter of the ethics laws and we will view
3 violations or the appearance of improprieties as
4 serious and potentially deserving of heavy weight
5 in the screening deliberations. On that note,
6 and as you know, the record will remain open
7 until the formal release of the report of
8 qualifications and you may be called back at such
9 time, if the need arises. Before I give you the
10 last thank you, I did want to note, as I was
11 reviewing your PDQ, not only have you had a
12 diverse set of criminal experiences as a
13 litigator, your career background and the one
14 that stood out to me was the explosives crew
15 member for a uranium processing mill.

16 MR. GIBBONS: Yep.

17 CHAIRMAN CASKEY: That sounds awesome.

18 MR. GIBBONS: It was fun. I got to blow stuff up all
19 day.

20 CHAIRMAN CASKEY: All right, anyway. Thank you, sir.
21 Appreciate you being here.

22 MR. GIBBONS: Thank y'all.

23 CHAIRMAN CASKEY: Thank you, ma'am, for being here. I
24 wish y'all the best.

25 MR. GIBBONS: Thank you for your time. Appreciate

1 y'all.

2 CHAIRMAN CASKEY: And I think staff is going to usher
3 in our next screening candidate as we're here.

4 (Off the record)

5 CHAIRMAN CASKEY: Good afternoon. We are now back on
6 the record. Before us, we have a Ms. Martha
7 Rivers-Davisson who is an applicant for seat two,
8 the Second Circuit of the South Carolina Circuit
9 Court. Is that right, Ms. Rivers-Davisson?

10 MS. RIVERS-DAVISSON: That's correct.

11 CHAIRMAN CASKEY: Okay. If you would, please raise
12 your right hand.

13 WHEREUPON:

14 MARTHA RIVERS-DAVISSON, being duly sworn and
15 cautioned to speak the truth, the whole truth and
16 nothing but the truth, testifies as follows:

17 CHAIRMAN CASKEY: There should be some documents in
18 front of you. If you would just take a second
19 and review those.

20 MS. RIVERS-DAVISSON: There are.

21 CHAIRMAN CASKEY: Are those the personal data
22 questionnaire and the sworn statement that you
23 have submitted to the Commission?

24 MS. RIVERS-DAVISSON: They are.

25 CHAIRMAN CASKEY: Are there any changes or updates to

1 those that need to be made?

2 MS. RIVERS-DAVISSON: Included in these documents is
3 the amendment that I submitted.

4 CHAIRMAN CASKEY: Okay, thank you. Do you object to
5 our making these documents and the amendment a
6 part of the record of your testimony?

7 MS. RIVERS-DAVISSON: I do not.

8 (EXHIBIT NO. 15 MARKED FOR
9 IDENTIFICATION PURPOSES (16 pages)
10 PDQ - Martha Rivers Davisson)

11 (EXHIBIT NO. 16 MARKED FOR
12 IDENTIFICATION PURPOSES (5 pages)
13 Amendments to the PDQ - Martha
14 Rivers Davisson)

15 (EXHIBIT NO. 17 MARKED FOR
16 IDENTIFICATION PURPOSES (7 pages)
17 Sworn Statement - Martha Rivers
18 Davisson)

19 CHAIRMAN CASKEY: We'll have staff do that now. And
20 the Judicial Merit Selection Commission has
21 thoroughly investigated your qualifications for
22 the bench. Our inquiry has focused on nine
23 evaluative criteria and has included a ballot box
24 survey, thorough study of your application
25 materials, verification of your compliance with

1 state ethics laws, search of newspaper articles
2 in which your name appears, study of previous
3 screenings, and a check for economic conflicts of
4 interest. We've received no affidavits filed in
5 opposition to your election and no witnesses are
6 present to testify. Before we give you the
7 opportunity to make any brief opening remarks you
8 may, you are certainly welcome to introduce
9 anybody that has joined you here today in
10 support.

11 MS. RIVERS: My husband, Doug Davisson, is here with
12 me.

13 CHAIRMAN CASKEY: Good morning or afternoon. Thank
14 you for being here. Appreciate you making the
15 time to join us this afternoon. Okay, as I said,
16 Ms. Rivers-Davisson, you are certainly welcome to
17 make any brief opening remarks, if you wish, or
18 we can straight to questions from staff.

19 MS. RIVERS-DAVISSON: I have no remarks. I will
20 clarify, professionally, I use the name Martha
21 Rivers although my full name is Martha Rivers-
22 Davisson. So if anyone wants to refer to me as
23 Martha Rivers, that's perfectly fine.

24 CHAIRMAN CASKEY: Okay, thank you. Appreciate it.
25 Ms. Benson?

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

EXAMINATION

8
9 BY MS. BENSON:

10 **Q. Ms. Rivers, how do you feel about your legal and**
11 **professional experience thus far? What do you feel**
12 **renders you qualified and will assist you to be an**
13 **effective circuit court judge?**

14 A. I think the best attribute I have as a lawyer and I
15 would hope would continue to be an asset to me as a
16 circuit court judge is that I'm a small town lawyer.
17 I come from a very small town. You know, the majority
18 of South Carolina is still rural, I believe, and if
19 you -- many of you probably grew up in small, rural
20 areas as well and what's happens is that I know the
21 people that I'm assisting as a lawyer. I go to church
22 with them. I see them in the grocery store. I end up
23 down the street with them. If we have a disagreement,
24 I have to deal with them outside of the courtroom as
25 well as in the courtroom. And that has shown me more

1 than the time that they are in my office as to how the
2 judicial system affects them. I think that is
3 probably the greatest asset to take to the bench
4 because the circuit court judge has a very brief time
5 with people. There are times that we forget that
6 we're in that courtroom every single day but the
7 people before us are not and you need to have a
8 respect for that and an acknowledgment of that and how
9 it effects them outside, regardless of your ruling on
10 the law. But a respect for the people before you.

11 **Q. Thank you. Ms. Rivers, your SLED report indicated**
12 **several cases in which you were listed as a party but**
13 **you noted -- they were not in your PDQ and in our**
14 **conference together you indicated that you were**
15 **actually not a party in those cases but that you were**
16 **acting in representative capacity. Could you please**
17 **explain your role in those cases?**

18 **A.** If I remember correctly, Ms. Benson, one of the cases,
19 I was a special administrator of an estate. At that
20 time, an attorney in Barnwell, and that's a -- it's
21 even a smaller bar now but it was a very small bar at
22 the time, just called me up and said I would like to
23 bring this action. I don't have a person who can
24 serve as a personal representative. Can you be the
25 special administrator for me to be able to see if

1 there is anything to this case? And I agreed to do
2 that. The other one, I was a guardian ad litem Nisi,
3 which there needed to be a representative party due a
4 John Doe or Jane Doe in the action and so they had
5 published and asked me to serve in that role. So my
6 name's in there with a comma special administrator or
7 a comma guardian ad litem Nisi.

8 **Q. Thank you, Ms. Rivers. Ms. Rivers, the Commission**
9 **received 159 ballot box surveys regarding you with 18**
10 **listing additional comments and many of those comments**
11 **were very positive. Good knowledge and temperament**
12 **and preparation. And good character and judicial**
13 **demeanor. Four of the eighteen written comments**
14 **expressed concern. What -- and I'd like to ask you**
15 **what that you would offer to this concerns, one of**
16 **which is your preparation for court cases. What**
17 **response would you offer to the concern that you're**
18 **not always as prepared as you could be?**

19 **A.** I don't know of the instance that that happened. I
20 regret if anyone had that impression of me. I
21 certainly do prepare for court. I can say that. I'm
22 in court a lot in a lot of capacities. I practice in
23 probate court, general sessions, circuit court, and
24 family court. So I'm in the courtroom every week. I
25 would only say that I do prepare cases and hope that

1 others do see that in my work. There are times that
2 perhaps I have been accused of appearing to make
3 things look easier than they are. I have a friend of
4 mine who says that and she's probably just being nice
5 to me but I don't -- I don't try to signal to the
6 opponent or the other advocate the work that I'm
7 doing. You know, I do regret that anyone would think
8 that the presentation I give to the Court is less than
9 -- than acceptable and I would continue to work to try
10 to make sure that would not happen again.

11 **Q. Thank you. Another concern raised was about your**
12 **reputation among the members of the bar, suggesting**
13 **that, perhaps, you are not as well liked or considered**
14 **as trustworthy as you might be. What response would**
15 **you make to this concern?**

16 **A.** I would take grave objection to any idea that I am not
17 trustworthy. I don't know who would make that
18 allegation and, of course, I'm not asking who but I
19 take my reputation of honesty and trustworthiness very
20 seriously.

21 **Q. Thank you, Ms. Rivers.**

22 MS. BENSON: Mr. Chairman, I would note that the
23 Midlands Citizens Committee reported that Ms.
24 Rivers is qualified in the evaluative criteria of
25 constitutional qualification, physical health,

1 mental stability, ethical fitness, professional
2 and academic ability, character, reputation,
3 experience, and judicial temperament. The
4 committee made the following comment: Some
5 concern about experience.

6 **Q. Ms. Rivers, I have just a few housekeeping questions**
7 **now. Are you aware that as a judicial candidate you**
8 **are bound by the code of judicial conduct that is**
9 **found in rule 501 of the South Carolina Appellate**
10 **Court Rules?**

11 A. I am.

12 **Q. Since submitting your letter of intent, have you**
13 **contacted any members of the Commission about your**
14 **candidacy?**

15 A. I have not.

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

19 A. I have not.

20 **Q. Are you familiar with section 2-19-70 including the**
21 **limitations on contacting members of the general**
22 **assembly regarding your screening?**

23 A. Yes.

24 **Q. Have you asked any third parties to contact members**
25 **of the general assembly on your behalf or are you**

1 **family court, help me understand why you would want**
2 **to be a circuit court judge.**

3 A. Certainly. I started out my career as a law clerk as
4 a circuit court judge and I originally was practicing
5 primarily in civil litigation and criminal defense.
6 Over the years, particularly with the family the
7 domestic practice was easier to accomplish and lent
8 better for me and what I needed for a balance of home
9 life and professional life. And that has been a
10 blessing to me. As I said, I'm in court all the time
11 and a lot of that is through the family court process
12 because I do DSS litigation, which has you in court
13 all of the time. The rules in the family court are
14 the same except for a couple of tweaks involving the
15 family court practice so the part of the family court
16 practice that I enjoy is the litigation portion of
17 that. That bodes very well over into the circuit
18 court practice. In my other case work, my common
19 pleas style work, you often end up settling the cases
20 and don't get to go do the trials. And whereas in my
21 family court work, I often get to do the trials.
22 Criminal defense has had the problem with the Covid.
23 It kind of slacked off as far as being able to do
24 trial work. And so when you look at the PDQ for this
25 time -- if I had done that -- the first PDQ in 2014,

1 when I ran for family court, I was often asked why I
2 wasn't running for circuit court at that time because
3 my practice was so evenly divided. And just factors
4 in my family life and factors in the pandemic and
5 others has lent it more to domestic now. But given
6 my prior experience and the fact that I'm continuing
7 to be a private solo practitioner with that practice,
8 I believe I can offer myself for the circuit court
9 bench as well.

10 CHAIRMAN CASKEY: Okay. Thank you. That helps us.

11 That's why we asked the question.

12 MS. RIVERS: Certainly.

13 CHAIRMAN CASKEY: So we can understand. Mr.

14 Rutherford, did you still have a question?

15 REPRESENTATIVE RUTHERFORD: You kind of answered it
16 or she answered it, the same thing. Her
17 allocation of her time.

18 CHAIRMAN CASKEY: Okay. Any other questions or
19 comments for Ms. Rivers? All right, seeing none
20 then that will conclude this portion of the
21 screening process. Ms. Rivers, we thank you for
22 being here today. I do want to take this
23 opportunity to remind you that pursuant to the
24 Commission's evaluative criteria, the Commission
25 expects candidates to follow the spirit as well

1 as the letter of the ethics laws and we will
2 view violations or the appearance of impropriety
3 as serious and potentially deserving of heavy
4 weight in the screening deliberations. On that
5 note, and as you know, the record will remain
6 open until the formal release of the report of
7 qualifications and you may be called back at
8 such time, if the need arises. Thank you for
9 offering to serve the state of South Carolina.

10 MS. RIVERS-DAVISSON: Thank you.

11 CHAIRMAN CASKEY: Yes, ma'am. Have a great
12 afternoon.

13 MS. RIVERS: You too.

14 CHAIRMAN CASKEY: We will stand at ease for a couple
15 of minutes until our next applicant can get in
16 here and settled.

17 (Off the record)

18 CHAIRMAN CASKEY: Thank you all for being here. We
19 will go back on the record with the screening
20 here. Mr. Miller, if you'll come forward to the
21 podium. Ladies and gentlemen, before us we have
22 Mr. David Miller who is an applicant for the
23 seat two position in the Second Circuit circuit
24 court. Mr. Miller, if you would please raise
25 your right hand.

1 WHEREUPON:

2 DAVID MILLER, being duly sworn and
3 cautioned to speak the truth, the whole truth
4 and nothing but the truth, testifies as follows:

5 CHAIRMAN CASKEY: If you'll look in front of you, you
6 should have some documents there. If you'll
7 review those please.

8 MR. MILLER: Yes, sir.

9 CHAIRMAN CASKEY: Are those the personal data
10 questionnaire and the sworn statement that you
11 have submitted to the Commission?

12 MR. MILLER: Yes, sir, they appear to be. They are
13 unsigned.

14 CHAIRMAN CASKEY: Are there any updates or changes
15 that need to be made to those?

16 MR. MILLER: Not that I'm aware of, sir.

17 CHAIRMAN CASKEY: Do you have any objection to making
18 those documents a part of the record of your
19 testimony here today?

20 MR. MILLER: I do not.

21 (EXHIBIT NO. 18 MARKED FOR
22 IDENTIFICATION PURPOSES (17
23 pages) PDQ - David Miller)

24 (EXHIBIT NO. 19 MARKED FOR
25 IDENTIFICATION PURPOSES (7 pages)

1 Sworn Statement - David Miller)

2 CHAIRMAN CASKEY: Okay. The Judicial Merit

3 Commission has thoroughly investigated your
4 qualifications for the bench. Our inquiry has
5 focused on nine evaluative criteria and has
6 included a ballot box survey, thorough study of
7 your application materials, verification of your
8 compliance with state ethics laws, a search of
9 newspaper articles in which your name appears, a
10 study of previous screenings, and a check for
11 economic conflicts of interest. We've had
12 received four affidavits filed in opposition to
13 your election. My understanding is that two of
14 the affiants are not here and pursuant to our
15 rules, those affidavits cannot be entered into
16 the record. However, the two affiants that are
17 here are witnesses in opposition to your
18 election. And so before we proceed with the
19 balance of the questioning, we're going to hear
20 from them first. So if you'd like to take a
21 seat there in the front row, we will call
22 forward Ms. Ford.

23 MR. MILLER: Yes, sir.

24 CHAIRMAN CASKEY: And, Ms. Ford, as you make your way
25 to the podium, I have reviewed the complaints

1 and I want to, just as a preliminary note,
2 recognize the gravity and the sensitivity of the
3 issues involved in those allegations. And I
4 want to emphasize here the point of -- the
5 purpose of the Commission is to evaluate the
6 constitutional and statutory qualifications of a
7 candidate, in this instance Mr. Miller. This is
8 not a place where we can provide some relief or
9 remedy to any case whatsoever and so I would ask
10 while there's certainly a need for a factual
11 basis and a foundation for understanding the
12 complaint, we need to be mindful that the focus
13 should be on the nine evaluative criteria.

14 MS. FORD:: Absolutely.

15 CHAIRMAN CASKEY: And I just offer that as a
16 cautionary note. So we're going to give you all
17 the time you need to be heard. I want to make
18 sure the Commission has all that information so
19 we can then incorporate that into our report to
20 the General Assembly as per our charge. But
21 just keep it between the left and right lateral
22 limits if you would, please, ma'am.

23 MS. FORD: Yes, Mr. Chairman.

24 CHAIRMAN CASKEY: One more thing. If you would
25 please, raise your right hand.

1 WHEREUPON:

2 SARAH FORD, being duly sworn and cautioned
3 to speak the truth, the whole truth and nothing
4 but the truth, testifies as follows:

5 CHAIRMAN CASKEY: Thank you, ma'am. Be happy to hear
6 from you.

7 MS. FORD: Thank you, Mr. Chairman. I know when a
8 lawyer says that they're going to be brief, it's
9 normally the opposite but I promise, I will be
10 brief. My name is Sarah Ford. I'm a lawyer and
11 advocate for crime victims and I'm here before
12 you to share my concerns and those of clients
13 regarding David Miller and his candidacy for
14 circuit court judge. I am not here to re-
15 litigate any case. I am here to express my
16 viewpoint in an effort to make the candidacy of
17 Mr. Miller more comprehensive for this body to
18 consider. The majority of judges and those
19 running for judges are excellent candidates.
20 But it's important to note that I don't think
21 most judges or lawyers have no complaints
22 submitted because there are no complaints, but
23 because people are apprehensive of the
24 consequences of making those complaints known.
25 Not doubt Mr. Miller believes very differently

1 from my opinion and those of clients who have
2 also submitted affidavits for you all to read.
3 And, of course, this commission may consider
4 some or all or part of the testimony that is
5 submitted. It is difficult to be succinct in
6 cases that have stemmed many years. However,
7 one thing in all of the cases in my experience
8 with Mr. Miller is this. Mr. Miller lacks
9 sensitivity to victims and their positions and
10 the laws that protect them. His action or
11 inaction in cases left multiple victims and
12 survivors feeling re-victimized and without
13 faith in our system, which as a lawyer I
14 absolutely detest. Everyone should feel
15 confident and secure that if they are a crime
16 victim, their case will be investigated fully,
17 that the matters will be prosecuted effectively,
18 and they can count on justice to be done for
19 defendants and victims. There are cases in
20 which Mr. Miller was involved where victims
21 rights were not protected or complied with even
22 by his own admission. Cases in which victims
23 were told investigations would be reopened and
24 nothing ever happened other than to string
25 victims along making them believe that cases

1 would be prosecuted, and ultimately, they
2 weren't. Situations where request for
3 information went unanswered for months.

4 SENATOR SABB: Mr. Chairman.

5 CHAIRMAN CASKEY: Senator Sabb.

6 SENATOR SABB: I really hate to interrupt but it's
7 almost as if we're talking about a broad
8 spectrum. Now, I've read the complaint that was
9 filed and it seemed very specific in terms of
10 the subject matter. As I'm trying to follow
11 you, it appears as if your comments are directed
12 to more than what's identified in the complaint.
13 Am I reading you right in that?

14 MS. FORD: Correct, Senator. I am speaking broadly
15 about my experience as a former prosecutor and a
16 victims rights attorney with my experiences with
17 Mr. Miller. The case specifically that I spoke
18 of in the -- my affidavit specifically was a
19 case he prosecuted in -- on the Bowen Turner
20 case but I also reference several other cases as
21 well. So I'm not speaking specifically on the
22 Turner case but more my broad perspective on
23 that. I hope that answers your question.

24 SENATOR SABB: It does.

25 MS. FORD: Thank you, sir. May I continue?

1 CHAIRMAN CASKEY: Yes, ma'am.

2 MS. FORD: There were situations where Mr. Miller
3 allowed defendants to travel places contrary to
4 bond orders without giving victims the
5 opportunity to be heard on that. And that's
6 concerning for me, as an attorney, that someone
7 who has behaved in such a way is seeking a job
8 as a circuit court judge. You know, South
9 Carolina law requires that family court and
10 circuit court judges protect the rights of
11 victims as diligently as those of defendants.
12 You know, my concerns extends to his disposition
13 of cases, catering to certain defense attorneys,
14 failing to fully prosecute cases in which
15 multiple women were sexually assaulted,
16 explaining to victims that he didn't want to
17 make it look like he was, quote, going after a
18 defendant who was accused of at least three
19 sexual assaults, and not complying with laws in
20 situations that would benefit defense attorneys.
21 Our judiciary needs individuals who are
22 exemplary in every way. Ethically,
23 intellectually, temperamentally. I do not
24 believe, based on my experiences with Mr.
25 Miller, that he has those necessary qualities.

1 I do stand on the submission of Dr. Bess, Mr.
2 Montgomery, and Mr. Stoller as further evidence
3 of those concerns regarding Mr. Miller. And as
4 such, I do encourage the Commission to find Mr.
5 Miller unqualified for the position of circuit
6 court judge. Hope that was brief enough.

7 CHAIRMAN CASKEY: Yes, ma'am. Thank you. Any
8 comments or questions from members of the
9 Commission? Seeing none, thank you for being
10 here and thank you for your testimony.

11 MS. FORD: Thank you, Mr. Chairman.

12 CHAIRMAN CASKEY: Next I'd like to call Mr. Stoller.
13 Am I pronouncing that correctly, sir? Stoller?

14 MR. STOLLER: Stoller. That's correct.

15 CHAIRMAN CASKEY: Thank you, sir. We'd be happy to
16 hear from you.

17 MR. STOLLER: All right.

18 CHAIRMAN CASKEY: I forgot. I do need to put you
19 under oath. Come on down. Apology. If you
20 would, sir, just raise your right hand.

21 WHEREUPON:

22 KARL STOLLER, being duly sworn and
23 cautioned to speak the truth, the whole truth
24 and nothing but the truth, testifies as follows:

25 CHAIRMAN CASKEY: Thank you, sir. As I said, we'd be

1 happy to hear from you.

2 MR. STOLLER: Good afternoon. My name is Karl
3 Stoller. I came to speak to you today as a
4 parent of a victim, one Dallas Stoller, and also
5 as a law enforcement officer in this state. In
6 my capacity of law enforcement, I've had the
7 privilege of dealing with many fine judges,
8 solicitors, and even attorneys on the defense
9 side. But I've never quite had the occasion to
10 deal with someone quite like Mr. Miller. What I
11 experienced as a parent of a victim was someone
12 who I would bring his character into question
13 after dealing with him. His demeanor and his
14 general lackadaisical attitude towards that
15 case. What I mean by that is I never met the
16 man, okay. I talked to him one time on a Zoom
17 meeting. On bond hearings, he never bothered to
18 reach out to any of us. And, again, as a law
19 enforcement officer, I've never experienced
20 that. I've seen both sides of it. He didn't
21 reach out to us. He just didn't seem to care.
22 And when it comes down to being a prosecutor,
23 which I am not, I would think that there is -- I
24 know it's not his sole job to represent the
25 victim. I understand that. He's representing

1 the state on behalf of the victims. I
2 understand that. However, he still has a duty.
3 He still has a duty, okay. But I recall that
4 one conversation that I had with him and that
5 was on a Zoom call because I think he was too
6 busy to come talk to us in person. We had a
7 Zoom call before this so-called advertised bond
8 revocation hearing in Orangeburg County on the
9 Chloe Bess case regarding Bowen Turner. My
10 daughter, as I'm sure most of you know, Dallas
11 Stoller, died November 14, 2021. So this was in
12 April of 2022. He stated during that Zoom
13 meeting -- he -- he was somewhat apologetic
14 initially but it -- not so much. But he said,
15 you know, in light of Dallas's death, they had
16 decided to dismiss the charges against Mr.
17 Turner regarding Dallas's case. That did not
18 come as a complete surprise to me because I do
19 know it's very difficult to prosecute a case
20 without a victim. I get that. Even more so,
21 when the victim's deceased. I understand that
22 too. However, just the matter of fact approach
23 to it. And I do know as an officer that you can
24 prosecute some cases without the cooperation of
25 the victim. I've done it on assault and battery

1 cases myself in magistrate court. I'm not a
2 prosecutor so I don't do it on a general
3 sessions court level but, obviously, you know
4 law enforcement generally in the misdemeanor
5 level cases does their own prosecution in those
6 summary courts. And I didn't have the
7 cooperation of a victim. Some I was successful
8 with. Some I wasn't. But to my point, I
9 questioned him and I asked him I said do you
10 think that you actually did the absolutely best
11 job you could for not just my daughter but all
12 these victims involved. And his response, he
13 fired back at me. He was angry that I even
14 asked that. He said I absolutely do. He said
15 as a matter of fact, I'm going to tell you this,
16 and a SLED agent witnessed this conversation,
17 our attorney, other people on the Zoom call, a
18 lady from the attorney general's office. He
19 said I'm not wasting my time or 12 jurors time
20 on a case I can't win. Is that the kind of
21 person that we want as a circuit judge in South
22 Carolina? I question that. I appreciate you
23 all listening to me and there's a plethora of
24 things I could go over. Most of them are
25 addressed in my statement. So I'm open to any

1 questions that any one of you may have of me.

2 I'm happy to speak to you.

3 CHAIRMAN CASKEY: Thank you, sir. Do any members of
4 the Commission have any questions for Mr.
5 Stoller?

6 SENATOR SABB: I do, Mr. Chairman.

7 CHAIRMAN CASKEY: Senator?

8 MR. STOLLER: Yes, sir?

9 EXAMINATION

10 BY SENATOR SABB:

11 Q. So I guess I would -- would start off by asking you
12 to accept our condolences.

13 A. Yes, sir. I appreciate that.

14 Q. One of my mother's prayers was that she would be
15 taken before any of her children.

16 A. Yes, sir.

17 Q. It's just not a natural thing.

18 A. It is not.

19 Q. But I'm curious about some of the things that I read.
20 And I understand it, there was an understanding that
21 there was going to be one type hearing and you all
22 appeared and as it turns out, it ended up being a
23 guilty plea.

24 A. That's correct, yeah.

25 Q. What I am curious about is at the time of the guilty

1 plea, were there members of your family who would
2 otherwise have been there if they had known that it
3 was a guilty plea as opposed to a bond hearing?

4 A. Just to make sure I understand it.

5 Q. Sure.

6 A. Would there have been other family members there --

7 Q. No. So, for instance, --

8 A. Okay.

9 Q. -- let's assume for a second, there are three people
10 who are really interested in this case.

11 A. Yes, sir.

12 Q. And then they understood that there was going to be a
13 bond revocation hearing, these three people.

14 A. Yes, sir.

15 Q. And one of them said well, you know, I'm not going to
16 go --

17 A. Right.

18 Q. -- because it's just a bond revocation. It's not
19 like it's a guilty plea or it's not -- it's not
20 something that dispositive of the entire case.

21 A. Right.

22 Q. It's just one procedural thing that's part of the
23 case.

24 A. I understand.

25 Q. So, I was curious and I couldn't glean from what I

1 read, --

2 A. Yes, sir.

3 Q. -- as to whether or not there was or whether there
4 wasn't some.

5 A. I would say, generally, that -- honestly, Senator,
6 that most everybody in my family did attend. You
7 know, we don't have a very big family. So most
8 everybody did and a lot of friends and whatnot in the
9 community, which we were very appreciate of. But
10 yes, that -- that was advertised as a bond revocation
11 hearing publically.

12 Q. Yeah.

13 A. And it turned out to be the acceptance of a plea
14 deal.

15 Q. Yeah. So let me be candid with you.

16 A. Yes, sir.

17 Q. And tell you as I read what concerned me but now I'm
18 not as concerned upon this particular issue as I was
19 initially.

20 A. Yes, sir.

21 Q. Initially, I thought it may have been one of those
22 situations where some people did not come because
23 they didn't realize what was actually going to take
24 place.

25 A. Yes, sir.

1 Q. But it sounds like in this situation, at least,
2 fortunately, from the standpoint of anybody who
3 wanted to be there or wanted to be heard, they would
4 have been there.

5 A. Yes, sir.

6 Q. Okay.

7 A. Yes, sir.

8 Q. All right, that helps me.

9 A. Yeah. And we made -- we were allowed to give a
10 victim's impact statement --

11 Q. Yeah.

12 A. -- to the judge at that hearing, which I think we all
13 know that's a joke. That amounts -- the decision's
14 already made before you're allowed to speak as a
15 victim. That's a fact, okay. So it has about has
16 much bearing on it as, excuse me, but flying to the
17 moon, okay. So we were able to do that. So we were
18 able to say some -- some things that we needed to
19 talk about but at the end of the day, the decision
20 was already made. And it was made well in advance
21 and to that -- also to that point, I will add to
22 this, that court order, that bond modification
23 hearing in Lee County -- I'm backing up a little bit.
24 I think it was Judge McFaddin made an order that said
25 should the defendant violate the conditions of his

1 bond in any shape or form, he is to be immediately
2 taken into the custody -- he lived in Orangeburg
3 County -- by the Orangeburg County Sheriff's Office,
4 upon notification, okay. If he's observed, okay. So
5 he was allowed -- he was wearing a GPS monitor --

6 Q. Yes, sir.

7 A. -- and we can -- we can wear out the rest of the day
8 talking about GPS monitors --

9 Q. Can I interrupt one quick second?

10 A. Yes, sir.

11 Q. Just to share this as a matter of information because
12 I sat on a sub-committee this past year when we
13 passed --

14 A. Yes, sir.

15 Q. -- the bond reform bill.

16 A. Yes, sir.

17 Q. And what we discovered was there were a number of
18 instances where persons were on GPS monitoring
19 violated it and nothing ever happened.

20 A. And nothing happened.

21 Q. And so that's one of the things legislatively that we
22 tried to tighten up on because that's not good for
23 anybody --

24 A. Yes, sir.

25 Q. -- when that occurs.

1 A. I appreciate that because you're exactly right. As a
2 matter of fact, probably eight or nine weeks ago, I
3 arrested a guy with a GPS monitor on. Not for the
4 GPS monitor. He was committing another crime while
5 wearing one. So that's still about how good that is,
6 okay. But, to my point, this defendant, Mr. Turner,
7 was ordered to wear this GPS monitor which he was
8 wearing, documented 50 plus, there might have been 60
9 violations of bond. That paperwork showed up on this
10 gentleman's desk, from my understanding, about a
11 month before he ever put this ad in the paper about
12 the bond revocation hearing, okay. Well,
13 everything's up to interpretation right, but I think
14 it's pretty obvious the way the judge wrote that
15 order. He said if he's observed violating the
16 conditions of this bond, he is to be taken into
17 custody immediately. Not let's talk about it a
18 little while, think about it a little bit, and then
19 go get him. Let's not set up -- the bond revocation
20 hearing, the order goes on further to say that it
21 would be set after he is picked up, okay. That
22 wasn't done. The argument Mr. Miller posed is well,
23 we didn't observe him doing that. Well, again, you
24 got the printout that shows it. That's an
25 observation, right? I'm seeing that. So, to my

1 point, and, again, Senator, I appreciate your
2 comments about the GPS and I'm thankful that
3 something's actually moving forward with it. But to
4 my point, what's the point of GPS if that's not a
5 tool for observation? We can't station a deputy
6 outside that yard 24/7. It's impossible.

7 **Q. I promise you I get it.**

8 A. So that's what I'd say to that. But that's the
9 response I got. So that -- you know, it's just been
10 a -- it's been a horrible experience with him and,
11 you know, hey, at one time, he may have been an
12 excellent prosecutor. He might have been right on
13 target but somewhere along the line he's lost his
14 way, okay. Too many years -- maybe he's spoiled to
15 it. Soured to the system. I know in law enforcement
16 you get that way because you don't feel like you're
17 making any difference. Maybe that's the case. But
18 all I can speak to is what we dealt with as a family.

19 CHAIRMAN CASKEY: Thank you, sir. I think Ms.

20 Blackley has some questions or comments.

21 MR. STALLER: Yes, ma'am?

22 EXAMINATION

23 BY MS. BLACKLEY:

24 **Q. Hello. Just wanted to extend my condolences --**

25 A. Thank you so much.

1 Q. -- to your family. And just to tell you I can
2 empathize. I am a former victim's advocate.

3 A. Yes, ma'am.

4 Q. I would like to still consider myself an advocate for
5 all people --

6 A. Thank you.

7 Q. -- always.

8 A. Yes, ma'am.

9 Q. I do want to go back to a statement you made earlier
10 in regards to Mr. Miller when you said he never
11 reached out --

12 A. Correct.

13 Q. -- before that Zoom hearing.

14 A. That is correct.

15 Q. What indications -- in what way did he not reach out?
16 Was it --

17 A. He never made any contact with us. You know, he
18 never made a phone call. I think he talked to my
19 daughter one time, I think. I can't swear to that.
20 She was 17 when this happened so, obviously, her
21 parents are still involved when the offense occurred.
22 But he never bothered to even come and introduce
23 himself as the person prosecuting the case for the
24 State. And it was literally, in the -- in the
25 hearings I did sit on, especially the one in Lee

1 County when the defense attorney, Mr. Hutto, would
2 propose something -- I've never, again being in law
3 enforcement, and sitting in a courtroom many times,
4 I've never seen a prosecutor that didn't have at
5 least some exception to what the defense was offering
6 up in their words. And it was all right, no, that's
7 good. I'm good with that. Always.

8 **Q. But for -- but -- but for -- point of clarification -**
9 **-**

10 A. Yes, ma'am.

11 **Q. -- was it -- but you were notified for all court**
12 **proceedings or your attorney? Well --**

13 A. Sometimes it was -- if -- if it hadn't have been for
14 Ms. Ford being involved, we wouldn't have known about
15 them, no, ma'am. Because the solicitor's office --
16 the second judicial solicitor's office, not just Mr.
17 Miller, they didn't talk to us about a thing.

18 **Q. Were you never -- did you not receive a victim's**
19 **impact statement form from the victim's advocate from**
20 **the solicitor's office?**

21 A. I do not recall getting anything from the solicitor's
22 office, ma'am. We got some information from SLED and
23 that was -- that was about the extent of it. But Ms.
24 Ford was the one that was able to let us know when
25 something was coming up.

1 MS. BLACKLEY: Thank you.

2 MR. STOLLER: Yes, ma'am.

3 CHAIRMAN CASKEY: Senator Rankin.

4 MR. STOLLER: Yes, sir.

5 EXAMINATION

6 BY MR. RANKIN:

7 Q. Mr. Stoller, Luke Rankin.

8 A. Yes, sir.

9 Q. Sorry to meet you under these circumstances. I am a
10 father and just cannot imagine all of this and I just
11 want to ask a couple of questions.

12 A. Yes, sir.

13 Q. And again, embrace the condolences that we have for
14 you that any father of a child has for your loss and
15 --

16 A. Yes, sir

17 Q. -- and ever being in this situation in the first
18 place. I've read the -- your affidavit and I got the
19 transcript here --

20 A. Yes, sir.

21 Q. -- where you, without any prodding, because you know
22 how to speak in public as well as you did today --

23 A. Yes, sir.

24 Q. -- speak freely to Judge Dennis --

25 A. Yes, sir.

1 Q. -- about your position. I want to ask one question,
2 though, and because it's a unique thing to me. You
3 reference in your affidavit that -- that Sarah Ford
4 was your daughter's legal counsel.

5 A. Correct.

6 Q. Did y'all retain her?

7 A. Yes. Yeah. She came to us through SCVAN.

8 Q. And so is that -- is that a paid position --

9 A. No, sir.

10 Q. -- or just a rights acknowledgment --

11 A. She is a victims rights attorney so she there to
12 represent the victims. Yes, sir.

13 Q. She spoke first at the hearing. I've read that. And
14 then she introduced you and others before Judge
15 Dennis, correct?

16 A. That's correct.

17 Q. Horry County. I think all counties -- all districts,
18 rather, have the victims representative within the
19 solicitor's office that is separate and distinct from
20 the assigned solicitor.

21 A. Right.

22 Q. And who was that? Who served that role for --

23 A. I don't recall ever meeting anybody in that role with
24 the solicitor's office. I may be incorrect but I
25 don't remember anybody coming to me saying that they

1 were the victim's advocate for the solicitor's
2 office. No, sir.

3 **Q. And this case arose from an event that took place in**
4 **Orangeburg, correct?**

5 A. In Bamberg County.

6 **Q. Bamberg.**

7 A. My daughter was assaulted in Bamberg County.

8 **Q. And who is the solicitor for Bamberg?**

9 A. Bill Weeks.

10 **Q. Okay. And is that the assistant solicitor or the**
11 **head --**

12 A. No. David Miller's the deputy solicitor and his boss
13 is Bill Weeks. He is the solicitor.

14 **Q. And that -- and this case was transferred was out**
15 **because of what? What was the conflict that --**

16 A. It was conflict -- the Chloe Bess case -- the third
17 incident it was conflicted out of Orangeburg because
18 David Pasco is the solicitor in Orangeburg County,
19 first judicial circuit. The defendant's father, Walt
20 Turner, was an investigator for the first judicial
21 circuit solicitor's office.

22 **Q. And who is the first solicitor?**

23 A. David Pasco.

24 **Q. So David Pasco's --**

25 A. Investigator --

1 Q. -- investigator is the father --

2 A. -- son was the defendant.

3 Q. The father of the defendant?

4 A. Correct, yeah. Mr. Turner -- Walt Turner is his
5 father, the investigator. And so David Pasco
6 conflicted it out. First -- second judicial circuit
7 solicitor's office was already working on Dallas's
8 case in Bamberg County and because of that, it's my
9 understanding, that Pasco passed it over to them
10 because they were already working on the case
11 involving the same defendant. And he conflicted
12 himself out because of his employee's -- the
13 defendant being his employee's son.

14 Q. Who was the investigator that --

15 A. Walt Turner who is Bowen Turner's father.

16 Q. Who is the employee of David Pasco.

17 A. For David Pasco. For Solicitor Pasco, yes, sir.

18 Q. And so I don't do criminal at law. These folks that
19 are wishing that I would hush will attest to that.

20 A. It's okay.

21 Q. Again, -- and I've had clients who are victims. I
22 become a contact on behalf of -- I've got a trustee -
23 - I serve a trustee of a infirmed person who was
24 victimized by a crime. And, again, it may just be
25 one county or another, some are more astute, but I

1 literally got more contact from, not the solicitor
2 assigned to prosecute his case but from a couple of
3 folks in an administrative role. And not that speaks
4 to the relationship or interaction that you've
5 complained about today. But are you saying that that
6 was really not present in this case either from
7 Orangeburg or from Lee County or --

8 A. Absolutely. I didn't -- I was never contacted by
9 anybody with even victim's assistance, victim's
10 advocates with the solicitor's office. We did --
11 like I said, the SLED victim's advocate did reach out
12 to us early on but that was while SLED was doing the
13 investigation. I had no contact with a -- now, maybe
14 my wife did and I wasn't -- I'm not familiar with
15 that. but not me. But I did think it would have been
16 appropriate too for Mr. Miller to at least have
17 introduced himself to us, as being the prosecutor.
18 Because he was not the original one on the -- on the
19 case.

20 **Q. And your role in law enforcement is what?**

21 A. Sheriff's deputy of Orangeburg County Sheriff's
22 Office. I'm a sergeant there.

23 **Q. In Orangeburg?**

24 A. Yes, sir.

25 **Q. Okay. And so you know folks in Orangeburg well I'm**

1 **sure.**

2 A. Yes, sir.

3 **Q. There's victims --**

4 A. And -- born and raised in Bamberg County. My father
5 was the agent in charge of probation and parole in
6 Bamberg County for many years. I knew Mr. Weeks when
7 he was just starting out. I was Judge Peeples's jury
8 boy when I was 11/12 years old. So yes, sir, I've
9 been around for a while. Fifty-four.

10 **Q. And not that they -- their voice counts but in terms**
11 **of how it's done in Orangeburg, is it done**
12 **differently in terms of that victim's outreach?**

13 A. Yes, sir. Our sheriff's office has their own
14 victim's advocates office. Amy Rinkenberger is our
15 director. She is on it. You know, when we take
16 calls for service, we give -- that's the first
17 information we give to a person who is the victim of
18 a crime in Orangeburg County. We have a list that we
19 work by. They stay in contact and I've never had one
20 complaint out of Pasco's office that their victim's
21 advocate has not reached out and followed-up and
22 coordinated with ours. Never. Not once.

23 **Q. And, again, it may be of no value. But surely,**
24 **you're not afraid to reach out and talk to the folks**
25 **you interact with all the time. Did you ever tell**

1 **your solicitors in Orangeburg --**

2 A. I did. I did have a meeting with David Pasco. I
3 did.

4 **Q. And did he say?**

5 A. He thought it was appalling, yeah.

6 **Q. Who was the --**

7 SENATOR SABB: Thought what was appalling?

8 MR. STOLLER: There was no contact. He thought that
9 was appalling, yeah.

10 **Q. So he would know his brother or sister in a different**
11 **solicitor's -- in Lee County, I guess, Weeks did --**

12 A. You know, Aiken. They're headquarters in Aiken
13 County. That's the seat of the second judicial
14 circuit, yeah.

15 **Q. So did you ask him to reach out to Aiken --**

16 A. I was -- yeah. I said any -- any information. Our
17 former chief deputy with the sheriff's office, Kenny
18 Kinsey -- Dr. Kenny Kinsey who was -- everybody knows
19 about in the Murdaugh trial, yeah. He was -- he
20 tried to -- our sheriff. Everybody. We couldn't get
21 any -- I got no information. None.

22 **Q. But did Pasco get information for you from his**
23 **brother in the solicitors --**

24 A. If he got anything -- he told me -- I recall him
25 meeting with me one time and saying that, you know,

1 that -- and this was kind of after the fact. This
2 was after the case had been disposed of and there was
3 talk of reopening Dallas's case. He had reached out
4 to me. Bill Weeks said yeah, he said we're going to
5 take a second look at it and we're going to look it
6 into a little bit. Mr. Miller won't be involved this
7 time. And that was one of the last things that Mr.
8 Pasco relayed to me that they had some communication
9 with them and that's been well over a year ago.

10 **Q. So the first solicitor in, again, Solicitor Weeks's**
11 **office, who as that?**

12 A. Who's the solicitor in --

13 **Q. Who's the first one assigned this once it was**
14 **transferred.**

15 A. When it was -- when Dallas's assault occurred, there
16 was another -- and I can never remember this young
17 man's name. I think his first name was Michael. He
18 was the prosecutor assigned to Dallas's case. And he
19 got out rather quickly. I think he had some kind of
20 conflict. Honestly, what I was told is he was
21 physically intimidated by the defense attorney, Mr.
22 Charlie Williams. And he was scared of his size and
23 stature. That's what I was told. And then the next
24 thing I know, I get Mr. Miller. We find out that Mr.
25 Miller's our guy handling the case. And that's what

1 I would stress. At that point -- the part about the
2 first guy, that's neither here nor there. But at
3 that point, if he's the new guy in town, -- just like
4 if I was investigating a crime and I was new to the
5 case, I would certainly introduce myself to the
6 victims and saying hey, I'm here working for you.
7 And he didn't do that.

8 SENATOR RANKIN: Thank you.

9 SENATOR SABB: Mr. Chairman. I'm sorry. I yield to
10 Mr. Safran.

11 CHAIRMAN CASKEY: Mr. Safran. Before you get going,
12 let me just interject here. I appreciate the
13 issues we have before us but I want to remind my
14 fellow commissioners that our task is to
15 evaluate the candidate as to the value of
16 criteria. I know there are moments where our
17 curiosities bring us into the details of the
18 case. But insofar as we do that, it needs to be
19 directly related to our mission and scope.

20 MR. STOLLER: Yeah, I would think that some of the
21 questions they're asking are speaking to the
22 character -- his character.

23 CHAIRMAN CASKEY: Yes, sir. Absolutely. As we get
24 into details that are more tangential --

25 MR. STOLLER: Correct.

1 CHAIRMAN CASKEY: -- we just need to be mindful of
2 that. Mr. Safran.

3 EXAMINATION

4 BY MR. SAFRAN:

5 Q. Thank you, Mr. Chairman. I hate having to go through
6 this with you.

7 A. Yes, sir.

8 Q. I mean, this is -- it's a trauma every time you do
9 it.

10 A. Yes, sir.

11 Q. And I hate it for you.

12 A. Yes, sir.

13 Q. I'm just curious about a couple of things. And,
14 again, my whole goal here is to just get a fair
15 understanding --

16 A. Yes, sir.

17 Q. -- of everything. And with the understanding -- and
18 you know because you're in law enforcement. When we
19 come to something like this, we're not a super jury.
20 We don't -- we don't basically go back and try to
21 figure out what should have been --

22 A. Right.

23 Q. -- and who didn't. It's not our job to do that. But
24 it is our job to kind of, at least, understand, okay?

25 A. Yes, sir.

1 Q. What I'm hearing from you is a couple of things but
2 let me just ask one quick question. At some point
3 while your daughter was still with us, --

4 A. Yes, sir.

5 Q. -- y'all got Ms. Ford involved, is that fair? I
6 mean, she was still alive.

7 A. They actually -- Ms. Ford actually reached out to us.

8 Q. I mean, she got involved and you say somehow y'all
9 more or less connected. She was acting as your
10 attorney from that point forward.

11 A. Correct.

12 Q. Okay.

13 A. Well, Dallas's, yeah.

14 Q. Dallas's. But then even after -- I believe even
15 after that untimely --

16 A. Yes, sir.

17 Q. -- y'all were still reaching -- she was reaching out
18 to you and still kind of representing your interest.

19 A. That is -- that is correct, yes, sir.

20 Q. Okay. Now, you talk about that you didn't hear
21 anything from Mr. Miller during this time frame, him
22 reaching out personally to you, okay. If -- is there
23 any possibility that Ms. Ford had told him not to?

24 A. Not that I'm aware of.

25 Q. But if that was true, though, that, at least, might -

1 - that might be consistent.

2 A. That might speak to it but I don't think that was the
3 case.

4 Q. And I'm just asking. To your knowledge, that wasn't.

5 A. Because, Mr. Safran, because she was directly more --
6 she was Dallas's attorney. He would be -- he would
7 be under no privilege that he couldn't -- couldn't
8 speak to me separately.

9 Q. No, and I get that. But I think sometimes people may
10 assume more.

11 A. Right.

12 Q. That, at least, if in fact he was told don't go
13 through to them, you go through me.

14 A. Right.

15 Q. That at least is a possible explanation. If and in
16 fact, it happened.

17 A. Right.

18 Q. Is that fair?

19 A. Possibly.

20 Q. Let me ask you also. What I'm hearing is this. You
21 know, you deal with these issues as far as law
22 enforcement and stuff every day.

23 A. Uh-huh.

24 Q. And what I'm hearing from you is at least your
25 experience is the interaction between solicitor and

1 victims is different based on what your normal
2 experience is?

3 A. Uh-huh.

4 Q. And, I mean, do you, as an investigating officer or
5 arresting officer, do you stay involved from a
6 victim's standpoint once, you know, somebody -- so
7 you stay --

8 A. One hundred percent.

9 Q. The whole way?

10 A. To the end.

11 Q. So you'd be talking to your liaison within the
12 department. You'd be talking whoever the person is
13 at the solicitor's office.

14 A. Yes, sir.

15 Q. Is it fair to say that -- because, I mean, have you
16 spent your whole time as far as law enforcement with
17 the Orangeburg Sheriff's Department?

18 A. Yes, sir.

19 Q. Is it -- I mean, I represent a lot of law enforcement
20 --

21 A. Yes, sir.

22 Q. -- people in what I do, okay. I see from department
23 to department things aren't uniform. One place may
24 have something cracker jack and another place, you
25 might look at it and say they're not even in the same

1 world. I mean, we all understand --

2 A. I won't dispute that.

3 Q. -- that that's the reality.

4 A. Yes, sir.

5 Q. What I'm also hearing is this. You, on one hand, as
6 a law enforcement officer understand how the legal
7 system works. And I think I heard you say I
8 understand about having to try to prosecute without a
9 victim. You got that part.

10 A. Uh-huh.

11 Q. What I'm hearing, though, is there wasn't, at least,
12 maybe the inclusion in the process to kind of maybe
13 let you know as things were going along this is what
14 we're hitting as an obstacle. This is a problem
15 we've got. And really kind of reaching out to you
16 from the human side as opposed to maybe just --

17 A. I would say human and professional.

18 Q. Okay.

19 A. You know, I would -- I would argue that that would be
20 a human element, one, but primarily a professional
21 element. That's what my stance would be. I would
22 think that he would need to talk to us about that.

23 Q. I mean, with the professional side, again, the lack
24 of communication?

25 A. Yeah. And -- and just a general -- again, I don't

1 even know the word for it, a lackadaisical attitude
2 towards the whole thing.

3 **Q. And I think that --**

4 A. It was very passive. Just push it off. And he -- he
5 was irritated -- I mean, just like I said, in the
6 Zoom meeting, anything you said and questioned him,
7 he was immediately irritated by that. And I find
8 that very unprofessional.

9 **Q. And what I'm hearing is, at least, where most of that**
10 **comes from is at least in that one interaction on the**
11 **Zoom all those things kind of came to you as far as**
12 **don't care.**

13 A. Right.

14 **Q. We're just a number.**

15 A. Right.

16 **Q. Okay.**

17 A. And I'm not -- and you're not going to waste my time.
18 I don't think I would have ever said that a -- I've
19 never said that to a victim. Never once. As a
20 matter of fact, I think the sheriff would take my
21 badge if I did that.

22 MR. SAFRAN: Thank you.

23 MR. STOLLER: Okay.

24 CHAIRMAN CASKEY: Okay. Let me just say, Mr.

25 Stoller, if you don't want to take anymore

1 questions, you don't have to.

2 MR. STOLLER: I'm fine. Shoot.

3 CHAIRMAN CASKEY: Okay. At this point, I'd just
4 recognize Mr. Strom. He indicated he had a
5 question. And, Senator Sabb, I saw you as well.

6
7 SENATOR SABB: I yield to the gentleman across the
8 way.

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

11 EXAMINATION

12 BY MR. STROM:

13 Q. Mr. Stoller, I join everybody and I've got two
14 daughters. I can't imagine --

15 A. Yes, sir.

16 Q. -- and I'm -- I hate it. I wrote three words.
17 Temperament, procedure, and what I mean by that is
18 constitution, and outcome. I heard you on the
19 temperament. I heard everything you said about that.

20 A. Right.

21 Q. Constitutionally. You understand what we're talking
22 about. Victims rights you deal with that. Is there
23 any issues with that in this case?

24 A. Well, Mr. Strom, I think, -- if I can speak candidly.
25 I think that a lot of time victims' rights are

1 routinely violated, honestly. And what I'm speaking
2 to is the fact that you're allowed to give a victim's
3 impact statement after a judgment has been rendered,
4 that's not right. What effect does that have if it's
5 after the fact? The decision's already been made.
6 All you're doing is just telling a little story, you
7 know, how things went outside -- you know, I consider
8 that just a waste of time honestly. So, you know,
9 and I think that, to a degree, because I'm not aware
10 of him talking to my daughter one time that he -- he
11 just -- he or his clerk or his aide, whatever the
12 heck you want to call it, somebody should have been,
13 you know, because she was a victim.

14 **Q. Right.**

15 A. You know, she was the one. He should have been, at
16 least, communicating with her. You can push me to
17 the side. I'm fine with that. I can deal with that.
18 But deal with her because that's your job, okay. And
19 so I think that those -- honestly, I can't sit here
20 and defend that victims' rights are always protected.
21 I can't do that because I'd be being dishonest.

22 **Q. But I guess -- and I get what you're saying. They --**
23 **they dropped the ball because they didn't communicate**
24 **the way they should have. But it sounds like that**
25 **after y'all's case came about, you got notice about**

1 **the hearings because you went to all the hearings.**

2 A. I went to a bond hearing in Bamberg County.

3 **Q. Okay, you went to that and then you went to what you**
4 **thought was going to be a bond revocation.**

5 A. We actually had a couple of bond hearings -- a bond
6 mod in Lee County, one in Bamberg, and then --
7 because he got in more trouble and he had to be
8 remanded to the Department of Juvenile Justice for a
9 period of time. And one of those was announced so
10 late there was no way you could get to it.

11 **Q. Who was -- who was communicating with you about those**
12 **hearings?**

13 A. I think Sarah was -- got us some information on
14 those, if I make no mistake, when I got involved.
15 But I know for a fact Lee County and the, ultimately,
16 which I -- which, I mean, it was advertised in the
17 T&D, the local paper in Orangeburg that we were going
18 to have a bond revocation hearing. And I did that
19 because that's the approach he had is six guns out,
20 you know.

21 **Q. Okay. So the Lee County hearing what was that?**

22 A. That was a bond modification hearing. Mr. Turner was
23 having to live with his grandmother. He was not
24 allowed, as part of conditions of bond, to live with
25 his parents. And they asked for him -- Senator Hutto

1 asked for him to be able to go back to his parents
2 care and, unfortunately, that decision was made and
3 it was granted with no opposition by this gentleman
4 behind me that it was okay. It was good. And what
5 that led up to is the assault of Chloe Bess --

6 **Q. Did y'all --**

7 A. -- 45 days later.

8 **Q. Did y'all get notice of that hearing?**

9 A. Huh-uh.

10 **Q. So the bond --**

11 A. I didn't get an email or anything like that.

12 **Q. The bond --**

13 A. I think Sarah was the one that let me know it was
14 coming up.

15 **Q. Okay. That it was coming up or that it was
16 happening?**

17 A. It was about to happen. So we stopped everything we
18 were doing and went because I made a statement there.

19 **Q. Okay, so you went to that one?**

20 A. Uh-huh.

21 **Q. Okay. And I think you said there was one that you
22 didn't -- that was such short notice you didn't get
23 to go.**

24 A. Correct.

25 **Q. Tell me about that one.**

1 A. I think that was in Bamberg County and, honestly, I
2 believe that might have been the initial bond
3 hearing. The very first one on Dallas's case.
4 Because the one I actually went to, there was another
5 request for modification to remove the GPS monitor.

6 **Q. So y'all didn't --**

7 A. Because he was initially on a GPS monitor in Bamberg
8 County.

9 **Q. So you didn't -- I mean, you're -- this is in --**

10 A. Bamberg County.

11 **Q. -- Bamberg. You didn't get notice of the original**
12 **bond hearing in Bamberg County?**

13 A. Huh-uh. I don't recall ever receiving --

14 **Q. That would have been set at magistrate's court.**

15 A. That's right.

16 **Q. And typically, the solicitor's not involved.**

17 A. No, and Miller wasn't even the solicitor at that
18 point.

19 **Q. Okay.**

20 A. Let me make that perfectly clear. He was not
21 involved out the gate.

22 **Q. Okay. So where did he get involved?**

23 A. I think that came in after -- I think -- I'm at a
24 little bit of a loss there. I think that came in at
25 some time between the bond hearing -- the -- the bond

1 modification hearing request in Bamberg County to
2 remove the GPS monitor --

3 **Q. Right.**

4 A. -- and then somewhere in the interim between that and
5 the Lee County thing. Because I definitely know I
6 saw him in Lee County. I do not recall seeing him at
7 the courthouse in Bamberg but, honestly, when that
8 one happened, my father had just died a couple of
9 days before and I wasn't really paying a lot of
10 attention.

11 **Q. Right. And then were there any other hearings that**
12 **y'all didn't notice of or got real short notice of?**

13 A. Those were the only ones that I remember ever -- them
14 ever having.

15 **Q. Them having?**

16 A. Yes, sir. Yes, sir.

17 **Q. All right. And then when it came down to the plea**
18 **negotiations, and what worked out when you thought it**
19 **was going to be bond revocation and it turned into a**
20 **plea hearing. Tell me some details on that.**

21 A. Say that again. What do you want me to --

22 **Q. I want to know -- you said you had a Zoom call.**

23 A. Yeah.

24 **Q. Okay. And he was less than kind and polite.**

25 A. Correct.

1 Q. And how far in advance of that was that before the --

2 A. I want to say it was the day before the hearing. It
3 was a very short period of time.

4 Q. And y'all thought during that Zoom call, it was going
5 to a bond revocation and not a plea?

6 A. That was how it was advertised, yes, sir. But I kind
7 of knew it wasn't going to be that way. I already
8 kind of figured it out.

9 Q. You kind of figured it out?

10 A. Yes, sir.

11 Q. Okay.

12 A. Experience allowed me to figure that out.

13 Q. But everybody else on that call would have thought
14 that it was a bond revocation?

15 A. Yeah, that it was a bond revocation hearing coming
16 up. Like I said, again, it was advertised publicly
17 in the local paper as such.

18 Q. All right, y'all show up for what you think's a bond
19 revocation, or at least everybody else did. You had
20 in the back of your mind, with your experience, that
21 this thing was going to get changed.

22 A. And once I knew those GPS readings came out and
23 nothing happened, I said here we go. That compels
24 you to get something done.

25 Q. So when did you find out what the offer was on the

1 **plea?**

2 A. At the courtroom that day.

3 **Q. That morning?**

4 A. That morning, yes, sir.

5 **Q. All right, and tell me about that conversation. Was**
6 **everybody involved? Who all was --**

7 A. We were sitting there in open court. So, yes, sir,
8 everybody was involved.

9 **Q. But did he come tell you ahead of time?**

10 A. No, sir. I'm telling you I've never spoken to that
11 gentleman in person.

12 **Q. So the first time you heard that the case was being**
13 **pled to an assault case --**

14 A. Assault and battery I.

15 **Q. -- was on the record?**

16 A. Yes, sir.

17 **Q. So they were telling the judge --**

18 A. They were presenting the information, sir, right
19 there when it was being done. That's the first I
20 heard of it, yes, sir. Even though, like I said, my
21 intuition and instinct told me I knew that something
22 was going on.

23 **Q. You know, and I've been in a solicitor's office.**
24 **I've been on the other side.**

25 A. Yes, sir.

1 Q. All right, when you do that, you prepare your victims
2 to talk. So, at some point, somebody had to have a
3 conversation with you to say do you want to come up
4 and speak?

5 A. Ms. Ford said we're allowed to give a victim's impact
6 statement after the fact.

7 Q. Okay. Were you opposing the plea going forward at
8 that time?

9 A. Absolutely.

10 Q. Why?

11 A. Because I thought it was ridiculous.

12 Q. You thought what part of it was ridiculous?

13 A. To take a young man who has -- the first victim --
14 known victim remains anonymous, okay. The second
15 being my daughter who is now deceased. And the third
16 being Ms. Chloe Bess. He had a pattern, Mr. Strom,
17 of re-offending while out on bond. No regard for the
18 law whatsoever. So I knew -- I said, you know, the
19 reality of it is, -- you know, there was a time --
20 let me back up. When this thing first happened to my
21 daughter, when Bowen was 16-years-old -- listen, my
22 daughter never wanted that boy to go to jail because
23 you know what, they were friends. They went to
24 Orangeburg Preparatory School together, okay. She
25 knew he had an issue. You find out about the history

1 of this kind of stuff when something happens, okay.
2 You find out from SLED that something had happened
3 prior to your child, okay. And you've got to
4 understand my daughter -- and I know everybody's
5 going to brag on their daughter just like you would
6 yours, right, you know. But she was an exceptional
7 person. And she had one of the most forgiving
8 personalities and hearts of anybody I've ever met in
9 my life. And she did not want Bowen to go to jail.
10 She wanted her friend to get help because she knew he
11 needed it. And had that been listened to, maybe
12 things would have turned out a lot different for
13 everybody, right.

14 **Q. Been listened to by who?**

15 A. By all parties involved. The solicitor's office, the
16 defense attorneys, et cetera. I mean, it just fell
17 on deaf ears, you know. But, at the end of the day,
18 to ask -- to speak to your question about his
19 sentence, I did not feel like it was appropriate to
20 give him -- to sentence him under the YOA for assault
21 and battery first degree with no sex offender
22 registry. Honestly, I don't even know why the word
23 sex offender registry came up in the conversation for
24 an assault and battery one charge because, generally,
25 that's not of a sexual element, would you agree? All

1 right, so, obviously, somewhere along the line
2 somebody's admitted to saying hey, there's a --
3 there's something going on -- we're accepting the
4 fact that there's a sexual element to it. So why
5 wasn't it pled to maybe criminal sexual conduct in
6 the third degree or second degree or something. Why
7 did it go all the way to A & B one. I don't
8 understand that.

9 **Q. I got it.**

10 A. But, again, I'm not a lawyer.

11 **Q. Right. But -- but your complaint there is that you**
12 **didn't like the plea negotiations and you were -- and**
13 **you just learned about them that day.**

14 A. That day.

15 **Q. And you didn't -- the victims didn't know it was**
16 **going to be a plea down to an aggravated assault or**
17 **assault one until you heard it on the record?**

18 A. That's when I heard it and I'm going to have to
19 assume that's when they heard it too. I cannot
20 honestly speak to what they heard or didn't hear.

21 **Q. Right.**

22 A. But that was me.

23 **Q. Okay, so that's the outcome piece that I was talking**
24 **about. But procedurally, I think we've covered all**
25 **that. It sounds to me like the only real substantive**

1 issue procedurally is this plea -- this bond hearing
2 turning into a plea without victims having adequate
3 notice. That's -- that's the one thing -- because
4 you are at the bond hearings. Is that right?

5 A. Yeah.

6 Q. Okay.

7 A. Yeah.

8 Q. Is there anything else that I didn't ask you about?

9 A. Huh-uh.

10 MR. STROM: Thank you.

11 MR. STOLLER: I'm here to answer your stuff.

12 CHAIRMAN CASKEY: Thank you, Mr. Stoller. I

13 appreciate you answering all these questions.

14 MR. STOLLER: Yes, sir.

15 CHAIRMAN CASKEY: You're uniquely positioned to know
16 all of these sorts of details as we try to
17 evaluate everything. I think Senator Sabb had a
18 question. I'll recognize him at this time.

19 RE-EXAMINATION

20 BY SENATOR SABB:

21 Q. And as it turns out, it really follows up on Mr.
22 Strom's questions. When I looked at the transcript
23 and I looked at what was placed on the record, one
24 thing I did not see, and so I want you to help me
25 with this one -- Oftentimes when -- when there is a

1 plea negotiation, it's -- actually, every time, it's
2 incumbent upon the parties, actually both the
3 solicitor and the defendant, to put the entire plea
4 agreement on the record. One of the things I did not
5 hear is that he is pleaing to is that the defendant
6 has three charges pending. And that as part of this
7 plea negotiation, we're going to plea bargain this
8 case from this charge to this charge and we're going
9 to dismiss two other cases as a part of the plea
10 negotiations. I never saw that in the record.

11 A. Right.

12 Q. And so my question is what is your understanding? Is
13 your understanding that the defendant was pleaing to
14 the lesser charge and in response to that, the state
15 would be dismissing two additional counts or were
16 they all handled separate and independent from each
17 other?

18 A. Yes, sir. The first case was never charged, okay.

19 Q. Yes, sir.

20 A. Dallas's case he told us on the Zoom call that he was
21 moving to dismiss. I'm assuming that decision was
22 made -- finalized by Judge Dennis in the courthouse
23 in Orangeburg the morning of the so-called bond
24 revocation hearing. I'll have to say that. But the
25 -- the Bess case -- the Chloe Bess that was the

1 assault pled down to assault and battery one, that's
2 -- that's -- if I'm understanding you right, it may
3 show up in the record or whatever because they -- I
4 guess they were -- the first one wasn't charged. The
5 second one, being Dallas's case, I was assuming was
6 already dismissed. So I don't know why. I can't
7 rally speak to why it wouldn't show up.

8 **Q. I just didn't see it in the record --**

9 A. Yes, sir.

10 **Q. -- where it was being conditioned upon it.**

11 A. Right.

12 **Q. And when I heard you say that there were some**
13 **discussions about looking at the case again --**

14 A. Uh-huh.

15 **Q. -- that sort of confirmed in my mind that the**
16 **dismissal was not a part of the plea bargaining as it**
17 **relates to the Bess case.**

18 A. That's -- that's right. I would say I agree.

19 **Q. They were really separate and independent.**

20 CHAIRMAN CASKEY: Gentlemen, let me interrupt you
21 there. I'm so sorry. But I've gotten enough
22 side eyes from the court reporter. We've got to
23 go one at a time of when we talk back.

24 SENATOR SABB: I apologize. Thank you, Mr. Chairman.

25 CHAIRMAN CASKEY: Yes, sir. Sorry to interrupt you.

1 SENATOR SABB: That's okay. Neither one of us were
2 talking over each other. We were just kind of
3 talking to each other but sorry about that,
4 Madame Reporter.

5 Q. But I think you and I are one accord that they were
6 really separate and independent from each other,
7 right?

8 A. Correct. Yes, sir.

9 SENATOR SABB: Thank you, Mr. Chairman.

10 CHAIRMAN CASKEY: Thank you, Senator. I certainly
11 meant no disrespect. Representative Rutherford.

12 EXAMINATION

13 BY REPRESENTATIVE RUTHERFORD:

14 Q. Thank you. And, again, let me join my colleagues in
15 saying how sorry I am that you have to relive this.

16 A. Yes, sir.

17 Q. As it relates to the bond motion, that hearing was
18 held in Lee County, is that -- because he --

19 A. Yeah, the bond modification that -- the second bond
20 modification hearing, yeah.

21 Q. You're referring to the second bond modification --

22 A. Yeah, because his bond was modified once before in
23 Bamberg County, yeah.

24 Q. Right. But the final, I guess, order of bond would
25 be the second bond modification just so we're --

1 A. To my understanding, yes, sir.

2 Q. And when that bond modification hearing was held, it
3 was your understanding that Mr. Miller objected to
4 him getting a bond, correct?

5 A. At the -- in Lee County?

6 Q. Yes, sir.

7 A. No, I don't remember him objecting to that.

8 Q. It says the -- it says in the order that the state
9 was represented at the hearing by Second Circuit
10 Deputy Solicitor David Miller, who opposed the
11 request for bond.

12 A. I don't remember that at all.

13 Q. Okay.

14 A. I'm not saying it's a lie. I just don't remember it.

15 Q. Yes, sir. And it also -- and maybe I didn't read for
16 enough down. It says the victims' family members
17 were present at the hearing and were represented by
18 Sarah Ford. And so, I guess, if she was representing
19 you all maybe she would have been the one to
20 communicate to you all that he objected or didn't.

21 A. I'm going to look back at her and defer because I --
22 I don't recall him ever objecting --

23 CHAIRMAN CASKEY: Let me stop you right there. We've
24 got to do it one at time on the microphone so we
25 have it on the record. All of this is -- is

1 recorded and such. If you know, you can say you
2 know --

3 MR. STOLLER: Well, then I --

4 CHAIRMAN CASKEY: If you don't know, you can say you
5 don't know. If you don't recall, you don't
6 recall.

7 MR. STOLLER: I don't recall.

8 CHAIRMAN CASKEY: I want to be very mindful of him
9 because I recognize the natural speech patterns
10 of, you know, quick responses back and forth.
11 But because the boss lady there has made it
12 clear that we have got to be more deliberate
13 about --

14 MR. STOLLER: Okay.

15 CHAIRMAN CASKEY: -- pushing pause. Answer. Pause.
16 Question. So, Mr. Rutherford.

17 CONTINUED BY REPRESENTATIVE RUTHERFORD:

18 **Q. Thank you. And this order states -- and I assume**
19 **that this is the one that you were referring to --**
20 **that he's to be on home detention and that any and**
21 **all violations shall be reported to the Second**
22 **Circuit solicitor's office or the Orangeburg County**
23 **Sheriff's Office within -- within 24 hours of the**
24 **violation. And it is directed at the Orangeburg**
25 **County Sheriff's -- Orangeburg County Magistrate to**

1 do the paperwork to let him out. Was he in jail in
2 Orangeburg at the time?

3 A. When the bond modification -- no.

4 Q. He was in jail in Lee County or he was out on bond?

5 A. No, he was out on bond.

6 Q. Okay.

7 A. Yeah, he was just having to live with his -- he was
8 just having to live with his grandmother at the time.
9 They wanted him to be able to return back home and
10 live with them.

11 Q. And so before the plea when he was out on GPS
12 monitoring, he was living in what county?

13 A. Orangeburg County.

14 Q. He was living in Orangeburg?

15 A. Uh-huh.

16 Q. And the observations of his violations of the bond
17 were made by whom?

18 A. Okay, so this is where I'm going to go back to the
19 GPS thing, okay. It is my understanding that they
20 wear the GPS monitor. I think, you can correct me if
21 I'm wrong, but I think in this situation, a bail
22 bondsman is the one that handles this while they're
23 out on bond. They're supposed to be monitoring his
24 activities. If they see him violate or go outside of
25 his perimeters, they're supposed to notify law

1 enforcement that he is outside of that, okay. That
2 did not happen. The only reason that those noted
3 violations came to light is because the mother of
4 Chloe Bess, Ms. Carol Bess, had been hearing that
5 Bowen had been seen in multiple places that he was
6 not supposed to be. She pressed the issue. And
7 finally, the bonding company released the data for
8 the GPS printouts. It's my understanding, sent them
9 to the solicitor's office, okay. I know they didn't
10 come to the sheriff's office. Sent them to the
11 solicitor's office. And that is where, I guess, we
12 all differ in our opinion on what observation is but
13 that GPS printout is supposed to be the paperwork you
14 need to be able to observe to say that, okay, he has
15 been operating outside of his limits. And per the
16 judge's order, if you read it, Mr. Rutherford, he was
17 -- once that's discovered, he's to be immediately --
18 not later -- but immediately placed into custody and
19 held in the Orangeburg County Detention Center until
20 a bond revocation hearing can be set.

21 **Q. Right, I saw that. But you never were privy to --**
22 **you never had access to what exactly the violations**
23 **were, other than GPS.**

24 **A.** It was all -- it was -- it was printed out on the
25 news.

1 Q. It was printed on the news?

2 A. Yeah, it was all over the news.

3 Q. But in terms of you seeing that -- no one reported
4 that they saw him out after 7:00 p.m., is that fair
5 to say? According to your recollection?

6 A. Not to -- not my knowledge.

7 Q. Right. Because the problem is that if you look at
8 it, it says there are places that he can go between
9 7:00 a.m. and 7:00 p.m. And so using the GPS
10 coordinates, you'd have to figure out that he was not
11 at some place --

12 A. Yeah, but those --

13 Q. -- that he was allowed to go --

14 A. -- printouts will show you where he was. They will
15 tell you where he was. He was in Georgia.

16 CHAIRMAN CASKEY: If you would, sir, two things.

17 We've got to remind ourselves to not talk to
18 each other at the same time.

19 MR. STOLLER: Okay.

20 CHAIRMAN CASKEY: Also, I would remind everyone we
21 are focused on Mr. Miller as a candidate. And,
22 again, this is a -- there's a lot happening
23 here. Anytime you have multiple jurisdictions
24 involved trying to unwind and understand
25 everything is not necessarily self-evident. So

1 I understand the need for a lot of questioning
2 but let's stay focused on the evaluation of Mr.
3 Miller as a candidate for judicial office.

4 **Q. Right. And so Mr. Miller nor you, best of your**
5 **recollection, nobody said we saw him out after 7:00**
6 **p.m., is that right?**

7 A. Nobody physically saw him out, yeah.

8 **Q. Right. Right. In terms of observation, nobody said**
9 **that they observed him out after 7:00 p.m.**

10 A. Right. And I guess that's your definition of
11 observation is actually seeing the person, not --
12 mine differs in that but that's okay.

13 **Q. Is there another word for observation?**

14 A. If I had a paper and it had those printouts and it
15 said he was in Georgia on December 24, whatever year.
16 That's certainly not on Jackson Boulevard in
17 Orangeburg County, okay. And so that to me, Mr.
18 Rutherford, and, again, that's an argument, I guess,
19 that we all can have later on. But to me, that's an
20 observation.

21 **Q. But was there an observation of him that Mr. Miller**
22 **ignored that he was out after 7:00 p.m.? Or did the**
23 **coordinates put him out after 7:00 p.m.?**

24 A. The coordinates put him out after those time frames.

25 **Q. After 7:00 p.m.**

1 A. Yeah.

2 **Q. Okay.**

3 A. So that's why I argued that there's an observation
4 there, yeah. He was -- to speak to what you were
5 saying a minute ago about he was allowed certain
6 areas. To counseling, to see his attorney, to
7 different -- I don't think even to go to church,
8 honestly. I don't think that was part of it either.
9 But I tell you where he was. The night after my
10 daughter was buried at 11:00 something o'clock, he
11 was at that cemetery. At the cemetery she was buried
12 in.

13 **Q. And so when the Orangeburg -- you're saying the**
14 **Orangeburg County Sheriff's Office did not have**
15 **notice and that's why they didn't do anything about**
16 **it.**

17 A. They didn't give us -- they didn't give us that
18 sheet.

19 **Q. All right.**

20 CHAIRMAN CASKEY: Thank you, gentlemen. I appreciate
21 that line of questioning but I think we've --
22 we've exhausted that -- that -- that inquiry.
23 So, again, Mr. Stoller, as you heard from my
24 colleagues, I extend my sympathies -- all of our
25 sympathies for the position you're in. Also our

1 gratitude for your willingness to take questions

2 --

3 MR. STOLLER: Yes, sir.

4 CHAIRMAN CASKEY: -- so thoroughly. I think it's

5 been immensely helpful, at least, for me.

6 Probably -- surely as to the other members of

7 the Commission as we try to understand that and

8 contextualize it. So I thank you for being here

9 today. Thank you for your patience in helping

10 us to understand the complaint as fully as we

11 can. Also, I would be remiss if I didn't thank

12 you for your service to the state as a law

13 enforcement --

14 MR. STOLLER: Yes, sir.

15 CHAIRMAN CASKEY: -- officer.

16 MR. STOLLER: Yes, sir.

17 CHAIRMAN CASKEY: I think most of us served at some

18 point in a solicitor's office ourselves --

19 MR. STOLLER: Yes, sir.

20 CHAIRMAN CASKEY: -- and we have a very keen

21 understanding of what goes on and the sacrifice

22 that's made.

23 MR. STOLLER: Yes, sir.

24 CHAIRMAN CASKEY: Certainly appreciate that.

25 MR. STOLLER: Well, I appreciate that sentiment. And

1 I will add this, as a law enforcement officer it
2 is -- and I don't -- I know a lot of people are
3 going to take this as a smite but it would be
4 helpful if we had a court that backed us up when
5 we turn cases into.

6 CHAIRMAN CASKEY: Yes, sir. I thank you. Thank you,
7 again, for being here and for your service. So,
8 let me just note for the record, that we will
9 have entered the complaint of Mr. Stoller and
10 Ms. Ford into the record. And, at this point,
11 we would also call forward Mr. Miller.
12 Representative Jordan would like us all to take
13 a break so at his request, we will stand at ease
14 for a few minutes. Thank you.

15 (EXHIBIT NO. 20 MARKED FOR
16 IDENTIFICATION PURPOSES (3 pages)
17 Complaint of Ms. Ford)

18 (EXHIBIT NO. 21 MARKED FOR
19 IDENTIFICATION PURPOSES (4 pages)
20 Complaint of Mr. Stoller)

21 (Off the record)

22 CHAIRMAN CASKEY: Thank you, ladies and gentlemen.
23 We are back on the record and will proceed with
24 the screening of Mr. David Miller, a candidate
25 for Seat 2, Second Judicial Circuit, Circuit

1 Court. Mr. Miller, you have heard the testimony
2 from the complainants here. Let me just ask you
3 first: Do you have any objection to entering
4 your response to the -- the written response to
5 the complaint that you submitted to the
6 Commission, do you have any problem with
7 entering that on the record?

8 MR. MILLER: I do not, sir, and that would be the sum
9 of my response to the complaint, subject to any
10 questions that the Committee might have.

11 CHAIRMAN CASKEY: Okay. We will go ahead and enter
12 that onto the record then.

13 (EXHIBIT NO. 22 MARKED FOR
14 IDENTIFICATION PURPOSES (4 pages)
15 Miller Response)

16 CHAIRMAN CASKEY: It's on the laptops -- all right --
17 as well. Okay. I appreciate that. Are there
18 any questions or comments for Mr. Miller with
19 respect to the concerns articulated by the
20 complainants from members of the Commission?

21 SENATOR RANKIN: Mr. Chairman.

22 CHAIRMAN CASKEY: Yes, sir. Senator Rankin.

23 EXAMINATION

24 BY SENATOR RANKIN:

25 Q. Mr. Miller, Luke Rankin. Nice to see you here again

1 in the difficult situation for everyone involved
2 here. I -- I just want to -- not to effectively
3 tease out your responses, but there's some press here
4 or FITSNews. There may be other members of the press
5 here. Obviously you got folks that have made
6 statements that you've seen in writing, and you don't
7 object to the written response that you've made. My
8 invitation to you is not to read this, but as best
9 you can because this won't be published, your
10 response will not included in any record until and if
11 there's a decision by this Commission, which might
12 not happen until December or January.

13 A. Yes, sir.

14 Q. So again, not to offer you a lob of a pitch because
15 I'm not doing that, but I would suggest to you that
16 if you would like to say something in response
17 generally to these -- to the complaint that had been
18 made against you, that you -- if you would like,
19 speak to that today.

20 A. Senator, I will -- I thank you and I'll keep it very
21 brief. The first time that I ever met Ms. Ford was
22 actually into the process, as Mr. Stoller indicated,
23 and when I spoke with her, she informed me that she
24 represented Dallas Stoller and her family, and she
25 represented Chloe Bess and her family. And Senator,

1 as you are aware, under our rules, victims are
2 defined as, in the case of minor children, also their
3 parents. So the Stollers -- the whole Stoller family
4 -- father, mother, and Dallas Stoller -- were victims
5 in the case. When Ms. Ford told me that she was
6 representing them, I told everyone from our office we
7 cannot talk to these victims except through Ms. Ford.
8 All of our communications with Ms. Ford were to her
9 to set up every meeting, every discussion, every Zoom
10 call, every hearing. Every single bit of
11 communication we had was to Ms. Ford. It was never
12 directly to the victims. Even when, as Mr. Stoller
13 indicated, I spoke to his daughter, which was in 2019
14 going into the start of COVID -- because we actually
15 got the Zoom call set up so that we could do that --
16 Ms. Ford was there for that. She was on every single
17 call. And so I realized, particularly from Ms. --
18 listening to Mr. Stoller's testimony here today, I
19 had an expectation that what I told and what my staff
20 told Ms. Ford was going to be relayed to the victims,
21 her clients, and it's very clear that was not done
22 and I apologize for that. I did not ever address
23 that with her because I didn't think that it was
24 something that needed to be addressed. I made the
25 assumption that I shouldn't have made that what we

1 talked about was being conveyed to the victims and
2 the victims' families in the case. So I would first
3 say that. And then, just for the sake of clarity so
4 that -- because there was a lot of questioning back
5 and forth about it, Bowen Turner was accused in
6 Bamberg County of a crime. That is a county over
7 which I was responsible as the prosecutor. He bonded
8 out. There were conditions on his bond. His
9 attorneys came back and his attorneys asked for the
10 electronic monitoring device, that he was supposed to
11 wear as a condition of bond, to be removed. I was
12 not the prosecutor in the case at that time, it was
13 Michael Emmer. Mr. Emmer is a -- is another attorney
14 that was in our office. The judge who heard that
15 motion to have the ankle monitor removed, removed the
16 ankle monitor. Forty-one days later, Bowen Turner
17 got charged in Orangeburg County. That's not one of
18 our counties in the Second Circuit. It immediately
19 got conflicted to our office. Michael Emmer went to
20 Orangeburg for the bond hearing, and the judge for
21 the bond hearing said that Bowen Turner was to stay
22 in jail without bond, or stay incarcerated without
23 bond, but he was only 16. So he went to DJJ. At
24 some point, Senator Hutto made a motion for a bond in
25 front of Judge Casey Manning. That bond hearing was

1 held and ultimately Judge Manning said, "I'm not
2 gonna grant a bond right now. Y'all -- I'm
3 dismissing it without prejudice" or "denying it
4 without prejudice" is I believe the way he put it.
5 All of that was Michael Emmer leading up to that.
6 The first time I ever became involved in the case was
7 a bond reconsideration hearing in Dorchester County,
8 and why are we bouncing around all these place -- all
9 of the circuit court judges in the First Circuit had
10 recused themselves. So we found out that Judge
11 McFaddin was going to be in Dorchester County on the
12 day before Bowen Turner's birthday, and that -- or
13 maybe it was the day of his birthday, I don't recall
14 which one. But that was what Senator Hutto was
15 arguing was the change in circumstance. I've got a
16 16 year old who's being held in DJJ, and today he's
17 going to go to the big boy jail at the Orangeburg-
18 Calhoun Detention Center. And so we went to
19 Dorchester. Everybody did. We notified everyone --
20 or we notified -- we notified everyone for that, and
21 when we got there, that's when I met Sarah Ford. And
22 we did, we vehemently argued against him getting a
23 bond. We argued he should not have any bond because
24 he was out on bond for a prior violent offense
25 whenever he got this charge. Judge McFaddin granted

1 a bond with a number of conditions, including a
2 condition, at our request after talking with the
3 family, that the Defendant had to stay at his
4 grandmother's house because his parent's house was
5 physically close to Chloe Bess's house, the
6 Orangeburg victim. And so that was how it was left.
7 This provision that keeps being talked about, about
8 the -- if the Defendant is observed violating any
9 term of condition of this order, I wrote that. I
10 wrote this order. I wrote it for Judge McFaddin in
11 the Dorchester County courthouse, and Judge McFaddin
12 penned his changes that he wanted on the order before
13 he signed it, which you notice on the last page. But
14 the significance was, when we left the courthouse
15 that day, everybody kind of knew where we were and
16 what was going on, and subsequently somehow -- and I
17 don't know how, but somehow, the Defense became aware
18 of the fact that Ms. Bess had moved. She had moved
19 to Florida, and so they made a request: "Can he
20 please be allowed to move from his grandmother's
21 house to his parent's house to be on the electronic
22 monitor. Still on the electronic monitor, still all
23 the same conditions. We just want him to move
24 essentially three miles." And that is the hearing
25 that Mr. Stoller keeps referring to as the Lee County

1 hearing. That was the Lee County hearing. And yes,
2 at that hearing, the judge asked the question, Does
3 the State object to the modification? We didn't care
4 which one of those two places that he lived. There
5 was nothing substantively changing about it, and I
6 said, We don't have an objection to where he lives,
7 Judge. And that's -- that has now been turned into,
8 Oh, well he never cared about whether or not he got a
9 bond. He never cared about whether any bond
10 conditions were being enforced. So -- but just
11 procedurally, that's how everything progressed, the -
12 - in the order of the hearings and the locations of
13 the hearings and the dates of the hearings. And then
14 ultimately, in 2022, in January of 2022, that was
15 when we were told that there had been these
16 violations of the bond conditions. And when we were
17 told there were violations of the bond conditions, we
18 asked SLED to get the materials. SLED actually
19 turned the materials over to us March the 22nd of
20 2022, is when we got that information. March the
21 25th, the bond revocation motion was scheduled, and
22 we had -- we knew we had one of two dates: Either a
23 Monday or a Friday during this term when we would
24 have Judge Dennis there, who again, we had to find a
25 First Circuit judge -- or a judge with jurisdiction

1 in the First Circuit who had not recused himself. So
2 that's why we ended up in front of Judge Dennis. For
3 scheduling reasons, we couldn't get it done on the
4 Monday of that term. So we did it on the Friday, and
5 the Friday of that term was April the 8th of 2022.

6 **Q. And I'm curious, again, forgive me, but the normal**
7 **interaction with you and victim's families, when they**
8 **don't have an advocate or again, in this case, an**
9 **attorney who is representing them as an advocate,**
10 **what is the normal procedure?**

11 A. The normal procedure -- we have Victim Advocates in
12 our office. The normal procedure is for us to
13 contact a Victim Advocate in our office and say, We
14 need to speak to this victim about this because we
15 need to explain what's going on, or we need to speak
16 to the -- or we need to let the victim know this is
17 scheduled or that is coming up. And we have multiple
18 Victim Advocates in the Second Circuit. We have one
19 in particular for Barnwell and Bamberg, but they can
20 be supplemented by people from Aiken at any point in
21 time. And for that matter, I don't have any question
22 in my mind that if we ask SLED's Victim Advocate --
23 because these are all SLED cases, if we had asked
24 SLED's Victim Advocate to notify the victims of
25 anything, then they would have done that as well.

1 But again, this wasn't -- this wasn't one of those
2 cases and in fact, our concern was, you know,
3 ethically, under 4.2, these are now represented
4 persons. We're talking with somebody that we know to
5 be represented, and so obviously, my obligation
6 ethically is not just to make sure I don't do it, but
7 nobody that worked for me does it either.

8 **Q. And I'm curious on that to the degree -- and not**
9 **quibbling or trying to pick at this, but generally**
10 **speaking or in -- if you dealt with South Carolina**
11 **Victim Assistance Network before, Ms. Ford, is that**
12 **standard that both sides of the victim and prosecutor**
13 **side, they know not to and don't contact the families**
14 **or the victims except through them? You follow my**
15 **question?**

16 **A.** Yeah. I do and I don't -- I don't know the what -- I
17 don't know what is normal. I do know that in this
18 particular case, Ms. Ford informed me, when she said
19 that she was representing them, that all the
20 communications were to go through her. And I didn't
21 have -- and certainly I didn't have a problem with
22 that or I wasn't concerned about that at the time.
23 You spoke earlier about representing victims in cases
24 in the past, and we have that come up. It's not
25 completely unusual and out of professional courtesy,

1 if nothing else, we're always going to let the
2 attorney know, you know, The victim has given us an
3 email address. Can we copy you on the emails. And
4 if the attorney goes, No, I'd rather you send the
5 emails to me first so I can -- you know, so I can
6 print them for what they're gonna get, or -- the
7 we're gonna do that. We try to be as cooperative
8 with all of the attorneys as we can. And so I would
9 -- I don't know that it was -- I don't know that it
10 was unusual because I've never dealt with Ms. Ford
11 before that day in Dorchester County. I've never
12 seen her. To the best of my knowledge, I'd never
13 spoken to her before that day in Dorchester County.
14 And despite how the end of the process of the plea,
15 throughout, all the way up until the week before the
16 plea, I thought we were getting along great. I mean,
17 we had email communications back and forth, she had
18 my cell number, she had my Senior Assistant
19 Solicitor's cell phone number. She could call us,
20 we'd fire text messages back and forth to each other
21 about what was happening. And there was a very
22 specific time after March the 25th -- when we filed
23 our motion, there was a very specific time whenever I
24 got a call from Senator Hutto and he said, Hey, let's
25 try to work this thing out instead of going forward

1 with the plea. And I immediately sent an email and
2 said -- and in the email said, I got a call from
3 Senator Hutto this morning, you know, he wants to try
4 to work something out.

5 **Q. That email to who?**

6 A. That was email -- that was an email from me to Sarah
7 Ford. And I said, If we work something out, I need
8 to be able to meet with the victims pretty quickly
9 because I'm gonna have to come up with the offer and
10 gonna have to shape everything, make sure that we've
11 got all of our bases covered. And at that point in
12 time, the response that I got back was, Will this
13 offer encompass both cases? And I -- that's another
14 thing for clarity. At the time that Bowen Turner was
15 charged in Bamberg, there was no other case pending
16 against him. There had been a case. It was a Family
17 Court case. It was out of Colleton. That's all I
18 knew about it. It had been opened and it had been
19 closed, and so that case had been opened and closed
20 and it was in Family Court. I've never prosecuted a
21 case in Family Court in my life. Matter of fact,
22 I've only been in Family Court probably three or four
23 times that I know of. And so that case that was over
24 in Colleton was not an issue as far as what we needed
25 to get resolved, but early that -- early in that

1 process, the week before all of this went on, I made
2 it clear that the Stoller case was not a part of any
3 plea agreement, that I did not feel that ethically I
4 could go forward prosecuting a case, with the
5 evidentiary issues that I knew to exist, without
6 Dallas Stoller being available to testify. And I
7 told Sarah Ford that as early as March the 30th. I
8 made it clear that this does not -- this is not the
9 Stoller case. These are two separate things. And so
10 when we met with this -- when we met with Ms. Bess's
11 mother, then -- and I talked to her about the plea.
12 After I met with her, that's when I communicated the
13 plea to defense counsel, the plea offer to the
14 defense counsel. And it was the next day. It was
15 April the 6th that I actually met with Mr. Stoller
16 and his family, and it was by Zoom.

17 SENATOR SABB: Mr. Chairman.

18 CHAIRMAN CASKEY: Senator Sabb.

19 EXAMINATION

20 BY SENATOR SABB:

21 Q. I want to thank Chairman Rankin for really asking you
22 to consider having a conversation. For me, it was
23 very illuminating and I've got a very -- I think
24 better understanding of procedurally how things went.
25 One question: In embracing all that's happening,

1 particularly the dates, and for me, I don't need to
2 have dates in front of me. When a lawyer appears
3 before a tribunal, I accept what they tell me as an
4 officer of the Court.

5 A. Yes, sir.

6 Q. And that's what I've done with regard to what you've
7 shared here today, but I'm curious, and it's a two-
8 part question, as I understand it, on the Zoom call
9 that you had with the Stoller family and others, the
10 first question -- and I want to ask them both
11 together. So the first question is: Did you make
12 the statement that, I'm not gonna waste the jurors's
13 time or my time with a case that I know I can't win,
14 and if, in fact, you did make that statement, do you
15 have any regrets as to the impact of it given what
16 Mr. Stoller concluded and shared with us in his
17 testimony today?

18 A. Senator, first, I do not specifically recall using
19 those exact words, and I don't -- and honestly, when
20 Mr. Stoller was up here saying it, I think he said a
21 case that I -- I said that I didn't -- wasn't gonna
22 waste anyone's time with a case that I wasn't going
23 to win. And certainly, I don't recall that phrasing,
24 but yes, I do absolutely regret any comment to him
25 that made him feel that way. And in fact, one of my

1 biggest regrets about this case as a whole is I think
2 that it is the job of an attorney, in pretty much any
3 capacity, to measure the responses and to just make
4 sure that the expectations are measured for the
5 people that you are working with. And in a perfect
6 world, I would have loved to have been able to spend
7 much more time with him and with the family, and I
8 will make -- just so there's no confusion, this 6 --
9 April the 6th call, Zoom call, was strictly with the
10 Stoller family and Ms. Ford. There weren't any other
11 outsiders that were there. But I was not -- I didn't
12 do a good job of managing their expectations going
13 along, and we ended up in a situation where, because
14 of time constraints, I was trying to get everything
15 put in ahead of time so that we could go and make
16 this plea. And I did refer to this, whenever I was
17 explaining the plea to Ms. Bess, when I was
18 explaining the plea to the Stoller family, I did tell
19 them, We don't have sentence sheets. I don't know if
20 this is gonna be a plea. It's a bond revocation
21 hearing. We know that. That's what we're going
22 there for is the -- is this bond revocation hearing,
23 but it may turn into a plea. And I was -- I thought
24 I was very clear about that, that that was a
25 possibility because the plea offer was out there.

1 But obviously I would have liked for there to be a
2 different lead up, and part of that -- well, it
3 doesn't matter what the excuse was. That's my
4 responsibility.

5 SENATOR SABB: That's all I have, Mr. Chairman.

6 Thank you, sir.

7 MR. MILLER: Thank you.

8 CHAIRMAN CASKEY: Mr. Strom.

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

10 EXAMINATION

11 BY MR. STROM:

12 Q. Mr. Miller, I think I've known you since you clerked
13 for Judge Peeples.

14 A. Yes, sir.

15 Q. And you're better than this. You've always been a
16 tough prosecutor. I'm looking back through your file
17 and I see where two sheriffs have written letters,
18 and that's after all this stuff has been public.
19 Strom Thurmond, Jr., a former solicitor, wrote a
20 letter recommending you. You know, you have created
21 an issue that's an embarrassment to our Judiciary and
22 our court system. People -- you know, and you're
23 better than this. You have a state senator
24 representing somebody, you didn't do a good job
25 communicating with the victims like you should, and

1 there's obviously some temperament issues here; and I
2 think we've talked about that before when you've run
3 -- you know, you can have a little bit of a temper
4 and I think, in your questions, you were asked about
5 how you're gonna address your temper.

6 A. Yes, sir.

7 Q. And you know, I was gonna ask you what you would do
8 differently, and you answered a lot of that. But I
9 want to tell you, I'm mad at you for the way this
10 thing has happened because you've embarrassed our
11 system. And I don't know whether you're gonna get
12 voted out of this today, I don't know whether you'll
13 get elected judge, but I'll tell you this,
14 temperament is a big deal with this Commission.

15 A. Yes, sir.

16 Q. And if you become a judge and you have this issue
17 going down the road, I can tell you every single
18 person sitting around here, we will vote you out the
19 next time you come up.

20 A. Understood.

21 Q. And this will be on the record the next time you come
22 up.

23 A. Yes, sir.

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

25 SENATOR RANKIN: Mr. Chairman.

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RE-EXAMINATION

BY SENATOR RANKIN:

Q. I'm not quibbling or disagreeing at all with that because again, I think he speaks for all of us in terms of how we view any, any brush with temperament in --

A. Yes, sir.

Q. -- execution of the offices for which you are seeking, and -- but I want to just harken back to the exchange on a very fine point on your -- you said you, to Senator Sabb, would love to have been able to prosecute this case for the Stoller family. One of the comments in here, which we might get into in a little while if I hush, but effectively assails your bias against folks just like Mr. Turner, and that you would be so harsh on the defense that if this is, to me -- and that has been a kind of a theme that we read about you. You've got incredible ballot-box-survey comments, but one of which, in fact, makes the point that, again to Mr. Stoller, who is kind of in the fraternity of law enforcement and would get the best of the solicitors, whether it's his own or another area's, but within that fraternity. So your point about would love to have prosecuted, help me understand why you would have loved that. What does

1 **that mean?**

2 A. Why I would have loved to have been able to prosecute
3 the case? I felt like that the -- I felt like the
4 Dallas Stoller case was the stronger of the two
5 cases, that if I was going to go to trial in the
6 case, that I would have tried the Dallas Stoller case
7 first. As it relates to the -- this belief that I am
8 too harsh -- I don't -- I don't know what the word
9 would be or that I'm too aggressive towards
10 defendants in some cases, all I can say about that is
11 that I'm an advocate. I am an advocate for the State
12 of South Carolina when I am a prosecutor. In the
13 decade before I was a prosecutor, I was an advocate
14 for my criminal defense clients, I was an advocate
15 for my civil clients; and I was an advocate -- I was
16 always a strong advocate for them. And so, yes, when
17 I was talking to the Stollers, and in addressing
18 Senator Sabb's question, if I did -- I told Mr.
19 Stoller, look, I wanted to try this case. This is
20 the case I wanted to try. And there were a lot of
21 reasons for it and I've talked about some of the
22 reasons with them, that I would have preferred to try
23 that case, but unfortunately, Ms. Stoller passed, and
24 so I did not think that that was ethically doable
25 anymore. I did not think that I could overcome the

1 evidentiary issues that we would have without her
2 testimony being available. I continue to feel that
3 way. I know that my boss, Solicitor Weeks, is --
4 talked to the family about reexamining the case. I
5 can't tell you what's going on with that because I
6 don't know, but I wanted to get some level of closure
7 for this family, for the Stoller family and for the
8 Bess family. But I knew, when I was talking to the
9 Stoller family, that if we couldn't go forward and
10 there wasn't going to be -- even if it was a guilty
11 plea for concurrent time under the same
12 considerations, if we were not going to -- or with
13 the same sentence, if there wasn't going to be that
14 guilty plea, I knew that there was going to be -- it
15 was gonna be -- it was gonna leave a wound. And I
16 said before I wasn't sure of the exact wording of
17 what was said, but I do specifically recall the
18 conversation between Mr. Stoller and I got -- it got
19 escalated during the course of the meeting. And your
20 point is well taken, Mr. Strom and Senator Rankin.

EXAMINATION

BY CHAIRMAN CASKEY:

23 **Q. Mr. Miller, sometimes I sat in court and watched the**
24 **judge pose a question to counsel to help the counsel**
25 **arrive at his or her point, and I would be less than**

1 candid with you if I told you that I did not feel
2 that same feeling just now after Senator Rankin had
3 pitched you a softball. What I had hoped to hear,
4 your response to that question of why you would have
5 loved to prosecute it, was because you were convinced
6 that justice required prosecution of that man, but
7 that you were unable to proceed because of the
8 ethical considerations that you clarified here. And
9 so I would like to have heard more in terms of
10 commitment to your ideas of pursuing justice because
11 you had analyzed the case, but had recognized the
12 limitations under our professional rules of conduct.
13 But, that notwithstanding, I have another set of
14 concerns that I'd like to talk with you about because
15 again, we are charged to evaluate the candidate along
16 the lines of the constitutional and statutory
17 evaluate of criteria. And the first relates to --
18 well, let me start with the Victim Advocate in your
19 office, I think you talked with Senator Rankin
20 initially about that. Why was your Victim Advocate
21 not reaching out to the decedent or her family
22 immediately when you took possession of the case?

23 A. Because at that point in time, Sarah Ford was there.
24 I -- and I don't know prior to that hearing, I assume
25 that it was our Victim Advocate in our -- our Victim

1 Advocate's office or maybe it was the SLED Victim
2 Advocate, who was telling people, Here's where the
3 hearing was. We were actually talking to the SLED
4 agent that was the lead agent on the case and
5 explaining to them, Hey, look, this is what's going
6 on, and this is what's happening. I don't know how -
7 - I don't know which office, whether it was our
8 Victim Advocate or the other, but even in that
9 situation, that Victim Advocate is an employee of our
10 office and is under our control. Under the rule,
11 they can't talk to somebody who is represented by
12 counsel anymore than I can, and so ---

13 **Q. So when Ms. Ford communicated to you that she was**
14 **going to represent the victim and the family, how was**
15 **that communication made? Was that in writing?**

16 A. It was verbally. She was -- I know that it was
17 verbally. It may have been followed up by a letter.
18 I don't recall whether or not that happened.

19 **Q. How did you notify the other people in your office**
20 **that they were now restricted from communication with**
21 **the victim because they were represented by counsel?**

22 A. We have a very small office. So at that hearing that
23 was in Dorchester County, it was myself and Michael
24 Emmer and I believe our Victim Advocate was there.
25 If she wasn't there, then we just told her as soon as

1 it was over with, but we had -- that's three-fourths
2 of our office at that point in time. So it was not a
3 very difficult thing to get the word out, Hey, these
4 people are represented by an attorney. Everything
5 has to go through the attorney.

6 **Q. And did you make that communication to people in your**
7 **office?**

8 A. Oh, yes, sir.

9 **Q. And you did that verbally or in writing?**

10 A. Verbally because we were all there.

11 **Q. Is it your ordinary practice to make notifications at**
12 **that time only orally?**

13 A. I would say yes because it's just not -- it's not
14 something that happens very frequently. So I
15 believe, yes, I would say normally it's just done
16 verbally.

17 **Q. I thought I heard in your testimony that there were**
18 **several attempts or actual communications between**
19 **yourself and Mrs. Ford. Is that accurate?**

20 A. There were quite a few. Yes, sir.

21 **Q. And those accurate -- those communications, they were**
22 **to communicate times for hearings and what else?**

23 A. Discussions about what was going on as far as plea
24 offers. There was discussions -- there was a
25 discussion about the fact that Senator Hutto wanted

1 to try to get the case resolved. I explained that
2 I'd be making a plea offer. She asked from me what
3 was the plea offer going to be, what was I proposing.
4 I sent that to her. She responded and said, Can you
5 explain why you were doing this? I responded to
6 that. She said, Okay. These are the people that
7 want to meet, and so we did, the same -- actually, I
8 think it was the same day we ended up meeting with
9 them. There were numerous conversations that went
10 back and forth about various things. The whole Lee
11 County bond reconsideration thing, whenever I first
12 got contacted about it, it was from defense counsel
13 who said, Hey, this is what we understand. Can he
14 move back in with his parents? And I said, I don't
15 know. You know --

16 Q. I'm sorry to interrupt, sir, but that issue is less
17 pressing in my mind than the communication with
18 respect to the plea offer.

19 A. Okay.

20 Q. If I understand the time line correctly, you're
21 telling us now, under oath, that you communicated to
22 Ms. Ford, as the attorney for the family, that there
23 would be a plea offer extended and, I presume, that
24 you actually included the contents of the offer, what
25 the offer was.

1 A. Word for word.

2 **Q. And then subsequently explained your reasoning for**
3 **that plea offer, and then you had the meeting; and if**
4 **I have the dates right, that would have been the**
5 **April 6th -- is that the Zoom call meeting?**

6 A. It was April 4th the -- that she got the offer. She
7 inquired about whether -- what the rationale for the
8 offer was. On April 5th, I sent the email saying,
9 Here's my rationale for the offer. She had
10 indicated, when she asked for the rationale for the
11 offer, that Ms. Bess wanted to talk, and so when I
12 sent that to her, I said, just for clarity, I -- and
13 -- my first statement was, I'll talk to anybody who
14 wants to talk, but just for clarity, when you say Ms.
15 Bess, do you mean Chloe or do you mean her mom? She
16 said, I mean her mom. And so we talked at five
17 o'clock -- at four o'clock that afternoon.

18 **Q. And this was before the Zoom meeting with the Stoller**
19 **family?**

20 A. It was before the Zoom meeting with the Stoller
21 family.

22 **Q. During the Zoom meeting with the Stoller family, did**
23 **you communicate or discuss the plea offer?**

24 A. I don't know if we discussed the plea offer itself,
25 but the point of the call, the point of the

1 discussion was to talk about why we couldn't go
2 forward with the Stoller case, and because we
3 couldn't go forward with that case, that -- and it's
4 another distinction that --- without much of a
5 difference, but I think it's significant. I
6 specifically said on that Zoom call that I would not
7 be dismissing the case, I wouldn't be dismissing the
8 indictment, until after the plea on Friday. I said,
9 I'm not gonna dismiss it until after the plea on
10 Friday, because I didn't want there to be any
11 argument that Mr. Stoller couldn't talk to the Court
12 because there wasn't an open case, it wasn't -- I
13 didn't want that to even be an issue. And so if we
14 go back and look, we'll find out that, in fact, the
15 plea was at ten o'clock in the morning on April the
16 8th of 2022, and that case didn't get dismissed until
17 that afternoon in Bamberg County because I left
18 Orangeburg, and I went to Bamberg, and that's
19 whenever I dismissed the indictment. I did it
20 specifically for that reason, and I told them that
21 was the reason why I was doing it that way.

22 **Q. When -- at the bond revocation turned plea --**

23 **A. Yes, sir.**

24 **Q. -- forgive me if -- I read the transcript earlier and**
25 **I don't recall exactly where the exchange was, there**

1 was some question about a continuance, that Ms. Ford
2 had asked for a continuance to hold the matter over,
3 and you objected to that. I think if I -- I think I
4 recall page 7, page 7. That's the wrong page.

5 SENTATOR SABB: I don't know that he has the
6 transcript.

7 CHAIRMAN CASKEY: That's right.

8 Q. None the less, why -- the ultimate question is and I
9 ask because it's related to the question of
10 temperament of professional ---

11 A. Thank you.

12 Q. Knowing that Ms. Ford had communicated to you
13 concerns, issues, a desire to not go forward with the
14 case, given the gravity of the underlying crimes and
15 the emotional residence accompanying that, when the
16 victims articulated a desire to not go forward with
17 the plea then, you are given the opportunity by the
18 judge to consent to a continuance. You didn't do
19 that, and I'm curious why.

20 A. One of the things that I was very concerned about was
21 the possibility of the bond revocation motion not
22 being granted. If that bond didn't get revoked, then
23 there was going to be an issue that we were gonna
24 have to deal with -- that we were gonna have to deal
25 with going down the road as far as how to get this

1 back before the Court. And there was a point in time
2 when there were concerns expressed about the fact
3 that Senator Hutto had legislative protection. Early
4 on in the case, there was a lot -- there was some
5 concerns about that. We were in a position where we
6 had two things that we were fighting against. The
7 first thing that we were fighting against was we
8 could only make him come to court on Monday and
9 Friday. Now, he never -- and to his credit, he never
10 said, I can't come to court. But we knew that we had
11 to schedule our hearings either on a Monday or a
12 Friday, and also we had to schedule any hearings in
13 front a judge who wasn't a judge from the First
14 Circuit. And so at that point, I felt like if we did
15 not -- if we continued, I did not believe that it was
16 a request for a continuance to, Okay, we're gonna
17 continue all of this, and we'll reschedule it for
18 somewhere down the road and we'll come back later. I
19 believed that what was being requested was, I want to
20 continue this plea so we can argue about this bond
21 revocation motion, which we had filed. We were
22 completely ready to argue the motion, but the Judge
23 had already said the plea makes the motion moot. So
24 I was in that moment -- because I wasn't anticipating
25 it at the time, but in that moment right there, I was

1 thinking to myself, If we continue this, we're
2 continuing everything, and we could end up down the
3 road four, six months, however long. So I was trying
4 to get a resolution to the case.

5 Q. I'm struggling to reconcile that sentiment with the
6 reality that there were -- if you were in court on
7 Friday, April 8th, that there was gonna be a Monday,
8 April 11th and a Friday, April 15th and a Monday,
9 April 18th and so on and so forth, where these things
10 could have been accomplished. And I can appreciate
11 the difficulty in scheduling, but clearly this case
12 has taken you from Lee to Dorchester to Bamberg to
13 Orangeburg --

14 A. Yes.

15 Q. -- so I understand that. I guess the last question -
16 - and I see Mr. Rutherford has some questions that he
17 wants to explore with you -- I'd thought I heard Mr.
18 Stoller say that at some point, this case -- after
19 consideration by you, that there was -- it was passed
20 to -- back to Solicitor David Pascoe for
21 consideration of prosecution. Is that your
22 understanding as well?

23 A. No, sir, that's not what happened. And I don't -- I
24 don't know that Mr. Stoller said that or that ---

25 Q. Could be my faulty memory.

1 A. And I -- certainly, I have a faulty memory as well
2 sometimes, but no, what happened as far as the
3 Stoller case goes -- as far as the Stoller case goes,
4 the -- after it was dismissed, the Stoller family met
5 with Solicitor Weeks and they came in and talked to
6 him. I wasn't present for a meeting or part of the
7 meeting, but I -- what I understood came out of the
8 meeting was that Solicitor Weeks is reinvestigating
9 or re-looking at the case to make sure that nothing
10 was missed, and that's all that I know about that.

11 **Q. Okay.**

12 A. It's still pending a review as far as I know.

13 CHAIRMAN CASKEY: Thank you, sir. Representative
14 Rutherford, you still have a question?

15 REPRESENTATIVE RUTHERFORD: Well, not a question, but
16 a statement. I just disagree with the
17 Chairman's assessment of what happened on page 7
18 in the transcript. I don't believe that Mr.
19 Miller said that he wanted to go on despite the
20 objection of Mrs. Ford. I think he was simply
21 saying that he was going to go on with the plea
22 because the plea would trump the motion to
23 revoke bond, and the Judge had already said it
24 was moot and did he want to proceed despite the
25 fact that Ms. Ford's motion was not filed

1 timely. And you make mention of the fact that
2 there were other Fridays and Mondays to come,
3 but that is not in the record that Mr. Hutto or
4 the Judge would have been available on those
5 Mondays and Fridays because as he stated, you're
6 talking about a judge outside of the First
7 Circuit and a defendant who is, at that point,
8 ready to plead guilty with his lawyer and the
9 State. So I just -- I don't agree with your
10 assertion that he did anything except say that
11 they were ready to proceed and take a guilty
12 plea that day because the Court noted that the
13 motion regarding the victims by Ms. Ford was not
14 filed in a timely manner. So it's not a
15 question to Mr. Miller, but just a disagreement
16 as to how the Chairman posits his opinion on
17 what happened on transcript on page 7.

18 CHAIRMAN CASKEY: Yes, sir. I appreciate that.

19 Thankfully I've gotten rather used to the fact
20 that we don't always agree.

21 REPRESENTATIVE RUTHERFORD: Yes, sir.

22 CHAIRMAN CASKEY: Mr. Safran.

23 EXAMINATION

24 BY MR. SAFRAN:

25 **Q. Thank you, Mr. Chairman. I'm kind of trying to wrap**

1 my arms something here. You just said that you were
2 concerned about the revocation being granted as a
3 reason to take -- go forward with the plea. Is that
4 -- am I correct on that?

5 A. No, sir. I was concerned that the bond revocation
6 would not be ---

7 Q. No. I mean --

8 A. --- be granted.

9 Q. -- you were -- excuse me. You were concerned whether
10 or not it would be granted.

11 A. Correct.

12 Q. So you thought that there was a risk or a real risk
13 that it would not happen.

14 A. Right. And I also thought that that was a real risk,
15 that if the Judge said, Okay. We're continuing this
16 matter, it just wouldn't get heard at all, which was
17 the -- which was one of the things that -- the only
18 thing that it appeared to me at the -- at the hearing
19 that day, the only thing that it appeared to me was
20 the objection for Ms. Ford and for the people that
21 were assembled was for Bowen Turner to walk out of
22 that courtroom in handcuffs because his bond had been
23 revoked or because he had pled and he had gotten some
24 kind of incarcerative sentence or whatever it was
25 going to be.

1 Q. Well, let me ask you this: Could you blame them for
2 having that objection?

3 A. I don't blame them for having that objection.

4 Q. The other question is this: I'm sitting here and I
5 haven't done a criminal case in more years than I can
6 count.

7 A. Right.

8 Q. So if I'm saying something that proves to be foolish,
9 I'll take responsibility for it.

10 A. Sure.

11 Q. But, you know, to kind of echo, you know, what Mr.
12 Stoller said, you've got all this data showing that
13 he was doing exactly the opposite of what he'd been
14 told not to do. Okay.

15 A. Right.

16 Q. I guess my question was is that where were your --
17 was your concern coming in terms of the revocation
18 not getting granted because, you know, I'm sitting
19 here. You got a pile of stuff there that shows he's
20 been, God knows, everywhere, and you know, I
21 understand what Mr. Rutherford said, Representative
22 Rutherford, about nobody was there laying eyeballs.
23 Well, maybe it -- not at that point, but now you got
24 a stack of stuff from the company that basically has
25 been monitoring him saying that, you know, he was

1 clearly doing wrong.

2 A. Right.

3 Q. And so, you know, again, I'm a little concerned about
4 where that comes from.

5 A. We had -- we had received information from the
6 counselor for Bowen Turner, who had confirmed the
7 statement that had been made, that he had told Bowen
8 Turner and Bowen Turner's father that he needed to be
9 out, he needed to be out of the house, that he needed
10 to go places, and he needed to not be locked up in
11 his house. And that over the course of the times
12 that he was not where he was supposed to be -- and
13 keep in mind, this was about the fifth time we had
14 been told that, Oh, there's some violation of his
15 bond, when SLED had gone out and looked at it and not
16 found anything. And so this happened in January, and
17 we get all these things where he's going all these
18 places and we say immediately, Yes, let's go do this.
19 And the response that we got back from Senator Hutto
20 was, all these places he was always with one of his
21 family members, and that was a part of his bond order
22 was that and when he did leave the house, he couldn't
23 leave the house without being in the presence of
24 either his mother, his father, or his grandmother.
25 He was always with somebody, an adult, whenever he

1 was out. Every single place that he went, he was
2 supervised. All of these -- all of these locations
3 were public places. His father was apparently
4 prepared to testify that the reason that he went to
5 Columbia was because they didn't want to run into
6 somebody in Orangeburg that would get upset about him
7 being out with his dad. There was a driving range
8 that he went to, and according to what I was told,
9 his dad was gonna say that he was sitting at the
10 driving range watching Bowen Turner hit golf balls
11 while he was talking to him. I felt like if you
12 looked at all of the hours that Bowen Turner was on a
13 GPS monitor and you took all of the hours that he was
14 not where he was supposed to be, it was gonna be a
15 minuscule percentage of time. There's a lot of
16 places. There's probably -- it was a lot of hours,
17 quite frankly, but I felt like someone with Brad
18 Hutto's abilities in courtroom could make an argument
19 to a Circuit Court judge that a Circuit Court judge
20 might go, Yeah, I agree. He has violated, but he
21 hasn't committed any new offenses, he's always been
22 in the presence of a chaperone out -- while all of
23 this was going on. So what I'm gonna do is I'm gonna
24 tighten down. I'm gonna tighten down the conditions
25 on him. And I felt like that was a reasonable

1 possibility of that happening.

2 **Q. Was any of this shared with the Stollers or with, you**
3 **know, the other victim?**

4 A. I did talk to I believe that I -- it was Ms. Bess. I
5 know that the conversation was had at one point, and
6 it was just disregarded about the idea that there
7 might be a way that the judge didn't grant the bond
8 hearing -- or the bond revocation.

9 **Q. Was it a very in depth discussion?**

10 A. It was in depth, you know. And I was -- that was --
11 it was, Why would a judge not grant it, and me
12 saying, Well, this is what I've been told. I got a
13 response from Senator Hutto to my motion, and laid
14 out all of these things and I said, This is what I
15 was told.

16 **Q. Okay. I mean, again, was that something that Ms.**
17 **Ford's -- did you share it with her?**

18 A. I don't know if I sent it directly to her, but I know
19 that she was aware that that was what my concern was.

20 **Q. Well, I think this kind of dovetails back with**
21 **something we -- I think Senator Saab talked to you**
22 **about, Mr. Strom talked to you about these -- I think**
23 **basically what I've encountered in terms of trying to**
24 **convey the legal realities or concerns to clients,**
25 **and yeah, they're not technically your client, but**

1 they're your client in the sense that you're
2 representing the interest of what's happened to
3 somebody and their family from the State standpoint.

4 A. Yes, sir.

5 Q. I'm not saying there's a technical bond, but as a
6 practical matter, they're looking to you to take care
7 of trying to do what's right because of what's
8 happened to them. Okay? We --

9 A. Right.

10 Q. -- agree with that. Okay?

11 A. Yes, sir.

12 Q. And I guess it goes right back again, if I'm
13 listening to Mr. Stoller, you know, he basically
14 perceived a lot of indifference. He basically did
15 not hear a heartfelt type of explanation about, This
16 is terrible. I understand what has happened to you.
17 I can't even begin to truly empathize, because I
18 can't. Okay? Nobody can.

19 A. Right.

20 Q. But the point is where was that recognition that
21 these folks, they were grieving. I mean, they had a
22 need to know and it needed to be conveyed in a way
23 more than what I'm hearing came across, not just from
24 Mr. Stoller, but what you're telling us, that it just
25 was indifferent. Okay? And I think the last thing

1 he said was, Please, you know, my concern with the
2 court system is is it's -- lets us down. Well, isn't
3 this letting us down when somebody who is kind of
4 their representative in the court system gives them
5 the impression they don't care enough to even want to
6 tell them maybe in a way where he is, a seasoned law
7 enforcement officer, would probably get at some
8 point? But when you basically at the beginning give
9 the impression that, I don't care, everything else
10 tunes out. I mean, we know that as a practical
11 matter. It all tunes out.

12 A. Right.

13 Q. So again, look, I'm not trying to pile on here, but
14 it's a real issue; and I guess the concern is is that
15 if you as wearing the solicitor's hat didn't seem to
16 care enough about the human aspect of this, where are
17 you as a judge who's also supposed to recognize the
18 human aspect of this? You understand why there's a
19 concern?

20 A. I absolutely understand why there is a concern, and I
21 would say no one, including Mr. Stoller, knew the way
22 that I was agonizing over the decision. So as far as
23 presentation, as far as the appearance to them, that
24 is reality. What is the appearance to them is the
25 reality of the situation, but I do take some level of

1 objection to the term lackadaisical because that --
2 that's not it was. It was not -- it wasn't a lack of
3 interest.

4 Q. Well, there's a difference between lackadaisical and
5 indifferent, but you know what, the effect's the same
6 thing.

7 A. I understand, and I understand how it came across in
8 this situation.

9 Q. Well, and I think what you just echoed is what we
10 heard here the other day from the -- from Justice
11 Kittredge is that the only way that there's going to
12 be confidence from a public standpoint, much less
13 individuals who you're dealing with who actually have
14 a stake in this whole thing, is for there to be
15 something that is the exact opposite of indifference.
16 It has to be -- we're here to serve you as the
17 public's court, the public's prosecutor, and when you
18 walk -- have somebody walking away, again, who's part
19 of the system himself and who understands how, quote,
20 things work, but having him feel like that to say --

21 A. Yes, sir.

22 Q. -- they just let us down. I mean, there's really no
23 room for that, is there?

24 A. There is not.

25 Q. Okay. Thank you.

1 SENATOR SABB: Mr. Chairman.

2 CHAIRMAN CASKEY: Ms. Blackley, I'm afraid --

3 SENATOR SABB: I yield.

4 CHAIRMAN CASKEY: -- was first up.

5 EXAMINATION

6 BY MS. BLACKLEY:

7 Q. Mr. Miller, are you familiar with the Victim's Bill
8 of Rights?

9 A. I am.

10 Q. So you know all of them?

11 A. I believe so.

12 Q. One that just shoots right at my mind, and I think
13 you heard me earlier, I am a former Victim's Advocate
14 and I'm a former solicitor Victim's Advocate.

15 A. Yes, ma'am.

16 Q. All the way from local to State. I was -- I'm the
17 former Crime Victims Ombudsman. So after hearing my
18 colleague talk with you in regards to the
19 indifference, what comes to mind is, you know, one of
20 the rights is to be treated with dignity and respect.

21 A. Yes, ma'am.

22 Q. And that just bringing a red flag to my mind because
23 outside of -- for me, outside of murder, you know,
24 very high crime of a high emotion would be --

25 A. Yes, ma'am.

1 Q. -- sexual assault. And so there's a way in which we
2 have to work with our crime victim --

3 A. Yes.

4 Q. -- on any cases, and it -- you know, it -- and I,
5 again, worked in a solicitor's office and I worked
6 with my solicitors, but I also would challenge them
7 if I felt like they were violating any victim's
8 rights. And it's concerning and I hope that what has
9 been stated here today that you take in because if
10 you're in the black robe and you are presiding over
11 court and there's an injustice going on with the
12 presentation of a case and the violations of rights
13 of victims are occurring, that -- that that person in
14 that black robe would take charge of that and make
15 sure that doesn't happen. And I want to just make
16 sure you understand that if you were to ascend to
17 that bench, that that would be expected of you. And
18 I will second what Mr. Strom stated. If that doesn't
19 happen and you're back here, that will be a huge
20 problem. It will be my biggest problem.

21 A. Yes, ma'am.

22 Q. I want you to take that wholeheartedly into
23 consideration.

24 A. Absolutely.

25 CHAIRMAN CASKEY: Thank you, ma'am. Senator Saab?

1 SENATOR SABB: I'm good.

2 CHAIRMAN CASKEY: Okay. Is any other members of the
3 Commission have anything to ask at this stage
4 about the complaint? Plural, I apologize.
5 Okay. With that in mind, let's take a brief
6 recess. We've been going about another hour or
7 so, and so we'll reconvene in about five minutes
8 or so. Thank you.

9 (Off the record)

10 CHAIRMAN CASKEY: Ladies and gentlemen, we will go
11 back on the record and continue with our
12 screening of Mr. David Miller, who is an
13 applicant for Seat 2, Second Judicial Circuit
14 Court seat. We have dealt with the complaints in
15 this matter. At this point, it may be bit of a
16 non sequitur, but we would welcome any reopening
17 remarks you may have as to the balance of your
18 candidacy. And if you want to forego that, we
19 can go straight to questions from staff.

20 MR. MILLER: I would appreciate the opportunity to go
21 straight forward.

22 CHAIRMAN CASKEY: Okay. Also, thank you for
23 reminding me, Senator. If you'd like to
24 introduce your wife to the panel, we'd be happy
25 to meet her.

1 MR. MILLER: My guest and coworker, not my wife.

2 CHAIRMAN CASKEY: All right. I like it when I do
3 that. Sorry, no pressure.

4 MR. MILLER: This is senior assistant solicitor Lea
5 Staggs, from the Second Judicial Circuit. She
6 is one of my coworkers and friends and,
7 obviously, somebody I lean on a lot for a lot of
8 help, so.

9 CHAIRMAN CASKEY: I have tried all day to not
10 intentionally infer a relationship, but I was --
11 power of suggestion had gotten me. So I
12 apologize and, certainly, didn't mean any
13 offense. Okay. At this point, then, I would
14 recognize Mr. Triplett for some questions.

15 WHEREUPON:

16 DAVID MILLER, being duly sworn and
17 cautioned to speak the truth, the whole truth
18 and nothing but the truth, testifies as follows:

19 EXAMINATION

20 BY MR. TRIPLETT:

21 **Q. Good evening, Mr. Miller. How are you?**

22 **A. I am well, thank you, sir.**

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

1 David Miller meets the constitutional and statutory
2 requirements for this position regarding age,
3 residence and years of service. Mr. Miller, why do
4 you want to be a circuit court judge?

5 A. I want to be a circuit court judge because I believe
6 it's the next step in my legal career. I want to
7 help. I want to be somebody who helps the system.
8 We talked about that a little bit here earlier today
9 about the necessity for people having confidence in
10 the system and it doing the right thing. And I think
11 I have the experience to make those kinds of
12 decisions and to do the right thing and have people
13 understand that I'm doing the right thing for the
14 right reason and to give them that confidence in the
15 system.

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

20 A. Well, as I mentioned before, I do have a bit of
21 private practice experience. For almost a decade, I
22 was in private practice. I was a -- kind of a do-
23 everything attorney whenever I was in Aiken. You
24 kind of had to be. But I did criminal defense,
25 represented -- did not represent insurance companies,

1 but represented defendants and plaintiffs in civil
2 cases; had a lot of experience and give experience
3 there. Prior to that, I was a law clerk for Rodney
4 Peeples, which anybody who knew Judge Peeples will
5 tell you it gave me a great deal of civil practice
6 experience in a very short period of time, and then
7 going to the solicitor's office and working my way up
8 there. I've been on both sides of the courtroom in
9 civil and in criminal cases and I understand some of
10 the difficulties that the people that are out there
11 are having to deal with. And I think that that is
12 one of my -- one of my better attributes, as far as
13 my experience. It is being understanding of what --
14 what lawyers have to do sometimes to be in three
15 counties at once, or, you know, dealing with
16 difficult clients and those types of things.

17 Q. Okay. Mr. Miller, the Commission received 295 ballot
18 box surveys regarding you with 64 additional
19 comments, 50 of which were complimentary. The ballot
20 box survey, for example, contain the following
21 positive comments: David is very knowledgeable of the
22 law and can explain his reasoning for his decisions.
23 He is stern, but in a kind way. He will be a
24 terrific judge. Mr. Miller is an excellent
25 candidate. I've dealt with him as both a prosecutor

1 and a defense attorney and found him to be fair,
2 impartial, understanding and amicable. He possesses
3 a character we desire in jurists. And lastly, David
4 Miller is one of the most qualified candidates for
5 the bench I can think of. His years of service to
6 the practice of law have been a credit to South
7 Carolinians. His breadth of -- excuse me -- His
8 breadth of knowledge is truly extraordinary. In
9 addition, he is a loyal and dependable person that
10 never hesitates to help fellow lawyers or friends in
11 need. He is a very kind person who would be an
12 excellent judge. He would be fair and courteous to
13 all those appearing before him despite which side of
14 the case they would be representing. Fourteen of the
15 comments expressed concerns. Several comments
16 expressed concerns with your demeanor and temperament
17 in the courtroom. What response would you offer to
18 these concerns?

19 A. I am aware that I am -- I'm certainly passionate
20 about the positions that I take in the courtroom. I
21 think that it's pretty much a -- it is a testament to
22 the fact that I have the friends that I do, because
23 of the fact that I realize that. And very often --
24 two things, very often, you know, make sure that I
25 haven't offended somebody, make sure that by going to

1 them and saying, you know, Hey, look, that was --
2 that was a little bit more than I anticipated it
3 being. And also, you know, making sure that it
4 doesn't -- that whatever goes on in the courtroom
5 stays in the courtroom, as far as that goes, not
6 letting it affect my relationships with people as it
7 relates to other clients and those types of things.
8 But I do think it's fair to point out, in that
9 regard, that there are times whenever, because of my
10 position as the end of the line, before you get to
11 the solicitor making decisions, that they are going
12 to be disagreements about cases. There's going to
13 disagreements about what needs to be done. And I
14 know that there -- a lot of times, when I'm really
15 trying hard to find some kind of reasonable
16 compromise and working to try to find some way to
17 help a lawyer with their client or to help a victim
18 get some kind of relief, that maybe the circumstances
19 don't necessarily normally look like that, and
20 sometimes you've just got to draw the line in the
21 sand. And that can be interpreted poorly. So I try
22 -- I try to make sure that that doesn't carry on.
23 Obviously, though, on the bench, you're not an
24 advocate. You're not an advocate for either side.
25 And so that is one of the -- one of the reasons why I

1 feel like I would have a better control over -- over,
2 you know, anything that was going on in front of me.
3 I mean, I'm not advocating for either side, in that
4 position. Whereas, as a deputy solicitor, I have to
5 advocate for the State.

6 **Q. There were 31 positive comments regarding your**
7 **ethical fitness, character and reputation, but seven**
8 **comments expressed concerns that you tend to shift**
9 **favoritism or bias. What response would you have for**
10 **those concerns?**

11 A. Well, again, it goes back to being, in a criminal
12 courtroom as the deputy solicitor, I'm the one who
13 sets the order that things get done in. And if
14 there's that attorney who's got to be in multiple
15 places at one time and they come into the courtroom,
16 they're going to the front of the line. If there is
17 a situation where there might be somebody who has a
18 hearing that they need to get to or if there is
19 somebody who needs to talk to the judge, or even, you
20 know, attorneys that come in and they need to try to
21 get in a minor settlement hearing, something along
22 those lines that doesn't have to do with us. My
23 position has always been -- and I think it's pretty
24 well uniform throughout the state, my position has
25 always been you've got to be there anyway. Get those

1 people in and get those people out. And to somebody
2 that doesn't regularly work with us, I can see how
3 that would be perceived as favoritism towards private
4 attorneys. But one of the things that we're very,
5 very proud of, and we've said over and over again, we
6 don't give different deals to private lawyers than we
7 do to public defenders. We don't give different
8 deals to lawyer legislators than we do to non-lawyer
9 legislators -- or non-legislator lawyers. I'm sorry.
10 There's not -- the offer is based on your client and
11 the crime. That is one of the things that we take
12 pride in. And it's -- sometimes, there might be
13 differences in the cases that, you know, aren't very
14 obvious to the outside, but there -- there's not any
15 kind of intentional favoritism; and in fact, it's
16 very much discouraged. Any kind of favoritism or
17 bias towards, or giving better deals or anything like
18 that for private attorneys in general is just
19 completely frowned upon by our office.

20 **Q. There were 28 positive comments regarding your**
21 **professional and academic ability and experience, but**
22 **one comment expressed concerns with your ability to**
23 **understand complicated matters. How would you**
24 **respond to that concern?**

25 **A. I really don't know how to respond to that without**

1 knowing what -- what the basis for the comment was.
2 We've dealt with some pretty complicated stuff. I
3 have personally, both from the prosecution and
4 defense side, handled capital litigation. I've been
5 involved in some pretty complex civil litigation in
6 the past. I was very young at that time, so -- not,
7 you know, as the lead counsel, but I think that I can
8 figure it out and certainly would.

9 Q. Thank you, Mr. Miller. I would note the the Midlands
10 Citizens Committee reported that Mr. Miller is well
11 qualified in the evaluative criteria of professional
12 and academic ability, character, reputation,
13 experience, and judicial temperament, and qualified
14 in the remaining evaluative criteria of
15 constitutional qualifications, ethical fitness,
16 physical health and mental stability. The Midlands
17 Citizens Committee noted that Mr. Miller is very
18 qualified and, with his past experience, will be an
19 asset to the judiciary. There are a few additional
20 items to put on the record. Mr. Miller, are you
21 aware that as a judicial candidate, you're bound by
22 the Code of Judicial Conduct as found in Rule 501 of
23 the South Carolina Appellate Court Rules?

24 A. I am.

25 Q. Since submitting your Letter of Intent, have you

1 contacted any of the members of the Commission about
2 your candidacy?

3 A. No.

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 pending the outcome of your
7 screening?

8 A. I have not.

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

12 A. I am.

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

17 A. I have not.

18 Q. Have you reviewed and do you understand that
19 Commission's guideline on pledging in South Carolina
20 Code Section 2-19-70(E)?

21 A. I do.

22 MR. TRIPPLET: Mr. Chairman, I would note for the
23 record that any concerns raised during the
24 investigation by staff regarding this candidate
25 were incorporated into the questioning of the

1 candidate today. Mr. Chairman, I have no
2 further questions.

3 CHAIRMAN CASKEY: Thank you, sir. Any members of the
4 Commission have comments or questions for Mr.
5 Miller?

6 SENATOR SABB: Thank you, Mr. Chairman.

7 EXAMINATION

8 BY SENATOR SABB:

9 Q. I'm sort of reminded of how the practice of law was
10 36 years ago when I first started practicing and it's
11 nothing for a person who has a lawyer to be chastised
12 by the judge in public to be challenged in a way that
13 some of us probably thought was a little over the top
14 in public. But yet, we had to stand there as a
15 professional, receive the information and respond to
16 the information appropriately. And so I just want to
17 say that I thought that the questions posited to you
18 were fair. They were assertive. But the manner in
19 which you handled them reminded me of the old days
20 when I was in court and judges challenged me in
21 various ways, and I think we grow from all of our
22 experiences. And so I wanted to compliment you in
23 the manner in which you responded to what you were
24 confronted with here today.

25 A. Thank you, sir.

1 Q. And I also wanted to express my appreciation for your
2 service to our country in the Marine Corps. And so
3 it's clear to me, when I look holistically at your --
4 your record, your contributions to our way of living
5 as contributions to our profession, in my mind, have
6 been impactful in more of a positive way than in a
7 negative way. Although, when we find ourselves in
8 the middle of circumstances like this, I mean, it's a
9 -- it's telling and it's important and it's
10 substantial, but it's not the entire picture. So,
11 you know, for me, I like to look at things
12 holistically. So that's kind of how I approach and I
13 evaluate things. I like listening to the
14 complainant, I like listening to the person who gives
15 the responses and then ultimately, puts me in a
16 position where I can engage in self-evaluation based
17 upon what I call all the evidence, the totality of
18 the circumstances and all with that. And one of the
19 things that I'm going to ask the chairman and this
20 body to consider is I'd love to see the emails that
21 you sent and the emails that were sent to you. So
22 one of the things that I'm going to ask if for both
23 of you lawyers, if the Commission agrees with me, to
24 submit your emails so that I can look at them and
25 evaluate them in the context of the communications.

1 **Would you have any objection to that?**

2 A. I would not.

3 SENATOR SABB: Senator Chairman, at the appropriate
4 time, I would ask that we ask the other young
5 lady, if she doesn't mind, who's kind enough to
6 come and testify before us today, to also share
7 the email communication that has been testified.

8 SENATOR RANKIN: I'll second that, at the appropriate
9 time.

10 CHAIRMAN CASKEY: I think we've -- certainly,
11 something we should consider as a commission. I
12 think it would be appropriate to have a briefing
13 from staff on the attendant legal issues with
14 that. But I think we could come to some
15 resolution rather quickly. Any further
16 questions, Senator Sabb?

17 SENATOR SABB: No. And I just wanted to thank him
18 and thank everybody else for participating in
19 the process.

20 CHAIRMAN CASKEY: All right. Senator Rankin.

21 EXAMINATION

22 BY SENATOR RANKIN:

23 **Q. Thank you. And again, a very unique experience for**
24 **us. We don't often have complaints that go to the**
25 **level of this one and there's always an aggrieved**

1 party that we counter in these complaints, and our
2 job is to decide whether the complaint rises to the
3 level of the nine evaluative criteria, which can be
4 distilled basically in fairness, due process, and I
5 want to say The Golden Rule. And in this case, one
6 of -- I think you had written -- you had prosecuted
7 or handled, did I read 5,000 --

8 A. More than 5,000 that my -- that were cases assigned
9 to me. That doesn't count the ones that I was
10 assisting on.

11 Q. And I'll identify the source later. But perhaps, in
12 the -- well, Strom Thurmond, Jr., who was both
13 solicitor and the U.S. attorney?

14 A. Yes, sir.

15 Q. -- Said that you were the only one who has both
16 prosecuted and defended capital murder cases to
17 verdict; is that correct?

18 A. It was a -- the defense of the capital case was
19 actually in a post-conviction setting. However, yes,
20 I have prosecuted and defended -- I've been on both
21 sides. I'll say it that way. Not prosecuted and
22 defended, but prosecuted and provided a defense in
23 the PCR stages of the David Mark Hill case.

24 Q. I don't know you, and I think I said that at the
25 outset. And rarely do we know the applicants to the

1 degree that those who write on their behalfs do. And
2 I can't help but call attention to those who know you
3 best, Strom Thurmond. I know we -- what do y'all
4 call him? Strom?

5 A. Strom.

6 Q. Strom. Anyway, who like a candidate earlier today,
7 James Smith, who's running for a circuit court
8 position, said of David Wilkins, he doesn't suffer
9 fools lightly and he doesn't pay compliments unless
10 warranted. I would -- I would think both your former
11 solicitor, both sheriffs, would probably, if they
12 were sitting here and if this story gets fair and
13 balanced reporting, regardless of the outcome, would
14 say, as I think you have, you had a bad exchange with
15 one of the over 5,000 victims and/or cases that you
16 prosecuted and that you regret. I'm not putting
17 words in your mouth, but I think I've heard that.
18 But you have been awarded countless things by
19 countless prosecutorial groups. And so if -- again,
20 I'm not defending you, but your friends in the
21 profession certainly have. That's not dispositive,
22 necessarily. But I don't want you to leave here
23 thinking that, What in the world do you do in here?
24 And for the world to believe, hey, this guy doesn't
25 know anything about the prosecution of one part of

1 the circuit court's docket, and that is criminal law,
2 which we, more and more find is more in demand than
3 the civil. So --

4 A. Yes, sir.

5 Q. -- anyway, I'm -- that is not a defense of you,
6 necessarily, other than you've got great attributes
7 based on people that know you better than I'll ever
8 know you, and for that, I would suggest to you that
9 is a good thing for you. I don't know whether we're
10 finished, but I do want to invite you to tell us what
11 you've learned from this. Again, regardless of this
12 -- the outcome of this vote whether you're found
13 qualified or whether you're nominated, what, as a
14 life lesson, do take from this? And again, if you
15 were fortunate enough to ascend to a position of
16 holding others accountable and judging others, what
17 is your takeaway from this?

18 A. I think that the first takeaway is sometimes --
19 sometimes, it is best to slow down to -- to step back
20 and try to give things some air, try to give some
21 room to breathe so that -- you're not always going to
22 agree. Not everybody's not always to agree. But if
23 I had anything to do over again with this, it would
24 be taking more time to try to make -- well,
25 specifically, Mr. Stoller and the Stoller family

1 understand the reasons -- the reasons that I didn't
2 feel like I could go forward with that case. It
3 turned out not to be a good conversation. And
4 frankly, I reacted poorly to it. But that is one of
5 those things that sometimes experience is the best
6 teacher. I would say that faced with the --
7 confronted with a similar situation in the future, I
8 would handle it -- I would handle it differently. I
9 would be more active and more insistent -- and this
10 is not an excuse. And I want to make sure that I'm
11 clear about that. But the majority of the time that
12 this case was pending was during COVID and there was
13 so much uncertainty about how we were going to have
14 court, where we were going to have court, how we were
15 supposed to let victims talk and address and that
16 sort of thing. And so, you know, the first time that
17 we -- that I specifically reached out to Ms. Ford
18 about talking to with Dallas Stoller, it -- I was
19 just -- I was just struck, because I was going
20 through the emails the other day -- about -- I think
21 it was in April or maybe May of 2020, and we were
22 like, Well, we don't know how long this is going to
23 last, but whenever he gets back to normal again -- we
24 had no concept that it was going to be two years
25 before it was back to normal. And you know, I think

1 about that and I think about all of the things that I
2 didn't know and all of the things that I wish I had
3 known at that time. But at the end of the day, I
4 just need to -- I need to make sure that I am more
5 cognizant when I -- when I am dealing with
6 particularly these types of cases. As Ms. Blackley
7 said, this is -- these are the types of cases that
8 understandably are going to have people really,
9 really upset. And I think that slowing down the
10 process so there was more time for the information to
11 be absorbed would've been a lot -- would've been a
12 lot of help in the case. And also, making sure that
13 that information was getting to them.

14 CHAIRMAN CASKEY: Thank you, sir. Any other
15 questions?

16 SENATOR SABB: Mr. Chairman, I would ask, before we
17 adjourn the hearing, that we ask Ms. Ford
18 whether or not she's got any objections to
19 turning over the emails that pertain to the
20 subject matter of that.

21 CHAIRMAN CASKEY: I don't see a problem with that.
22 Ms. Ford, if you'd come forward just so that we
23 can make sure you have an opportunity to add
24 what's recorded. You are still under oath and
25 the question is whether or not you have any

1 objection to the entry of emails between
2 yourself, Mr. Miller, any other relevant parties
3 having that entered into the record.

4 MS. FORD: I have no objection to that. I have every
5 email that we've ever exchanged present here
6 with me today. I would like to go through,
7 because there is an unnamed victim in which I
8 had represented that was a part of the entire
9 Bowen Turner universe, so to speak. I want to
10 make sure that her confidential information is
11 not in those emails. So if you all would give
12 me the opportunity to go through that, I would
13 appreciate that. I would also like the
14 opportunity and would certainly request -- a
15 number of things were brought up here today that
16 I would certainly like to respond to and I think
17 to be more --

18 CHAIRMAN CASKEY: Yes, ma'am, I --

19 MS. FORD: And maybe this is not the venue, but --

20 CHAIRMAN CASKEY: It's not. It's not. I appreciate
21 that sentiment. The question though was simply
22 whether or not you would have any objection to
23 entering those emails. I'm hearing yes,
24 pursuant to -- or provided that you have the
25 opportunity to redact that relevant information.

1 MS. FORD: Provided -- yes, sir, provided that I have
2 the opportunity to go through that confidential
3 information and --

4 CHAIRMAN CASKEY: The other question I need to ask,
5 though, is to the extent there is any
6 attorney/client privileged matters in that --

7 MS. FORD: Correct.

8 CHAIRMAN CASKEY: -- whether or not you would waive
9 that privilege; or if you can waive that --

10 MS. FORD: I don't have the ability to waive that
11 privilege. I would have to discuss that with my
12 clients, of course.

13 CHAIRMAN CASKEY: Okay. If you would, please, take
14 the opportunity to do that now-ish. We are
15 going to adjourn this hearing and we're going to
16 go into an executive session for a legal
17 briefing --

18 SENATOR TALLEY: Mr. Chairman, Mr. Chairman, before
19 you do that, can I ask her one question? She --
20 she presented first, we then heard from Mr.
21 Stoller, we then heard from Mr. Miller. And
22 quite frankly, there's just -- there's just
23 something I've been sitting over here trying to
24 figure out this entire time. And if I'm not
25 proper in doing that now, just tell me, but --

1 CHAIRMAN CASKEY: I certainly understand, because I
2 carry a lot of those questions as well with me,
3 Senator Talley. Unfortunately, I am advised --
4 advisedly, that our rules don't allow for that.
5 It's a one-shot presentation. The Commission
6 would have some options for requesting
7 additional information and we can talk about
8 that because that --

9 SENATOR TALLEY: Is it proper for me to state that
10 publicly what my concern is and they can address
11 it at a later time?

12 CHAIRMAN CASKEY: I don't see a problem with that,
13 provided that it doesn't take too terribly long
14 given --

15 SENATOR TALLEY: It won't take long.

16 CHAIRMAN CASKEY: -- the late hour.

17 SENATOR TALLEY: It won't take long at all. And I'll
18 address this to the Commission and certainly
19 don't mind others hearing. One of my big
20 concerns about what I was hearing as these
21 complaints were presented, was a lack of
22 communication. I'm trying to understand where
23 that was coming from. If I understood Mr.
24 Stoller's testimony correctly, he said he did
25 not learn of a plea offer until he was in the

1 courtroom and it was put on the record. We then
2 heard from Mr. Miller that he had a conversation
3 with Ms. Ford in which they discussed a plea
4 offer, I realize, with another family, if I had
5 gotten the dates right, about four days before
6 the plea hearing. I would like clarification on
7 who knew what when. I get the whole temperament
8 discussion that we've had, and that's something
9 this Commission can consider. Maybe these
10 emails, which I think are proper, vet that out
11 some. But I heard Mr. Stoller loud and clear
12 when he said he didn't know there was a plea
13 offer that had been made until he got in the
14 courtroom. There's been other testimony about
15 when that was actually disclosed.

16 CHAIRMAN CASKEY: I think I understand your concern,
17 Senator. Ms. Ford, thank you for your
18 assistance. Given that Mr. Miller has not left
19 and we have not concluded this screening
20 process, I think, if Mr. Miller would come back
21 to the podium, Senator Talley, you would have an
22 opportunity to ask him whatever it is that you
23 want to ask him.

24 SENATOR TALLEY: I don't have any question for him.
25 I heard what he said. He said, I believe, April

1 4th --

2 MR. MILLER: April 4th was the email with the
3 completed this is what we intend to offer.

4 EXAMINATION

5 BY SENATOR TALLEY:

6 Q. Right. And then there was a Zoom call or a meeting -
7 -

8 A. April 5th at 4:00 o'clock.

9 Q. Right. And all of that predated the Zoom call with
10 Mr. Stoller.

11 A. Mr. Stoller -- the Zoom call with the Stollers was
12 April 6.

13 Q. Okay. All right. That's what I thought I heard. I
14 just want to be clear.

15 CHAIRMAN CASKEY: Thank you, Mr. Miller. Appreciate
16 your time being here. Thank you for your
17 service to our country and our state. This will
18 conclude this portion of our screening process.
19 I do want to take the opportunity to remind you
20 that pursuant to the Commission's evaluative
21 criteria, the Commission expects candidates to
22 follow the spirit as well as the letter of the
23 ethics laws, and we will view violations or the
24 appearance of impropriety as serious and
25 potentially deserving of heavy weight in the

1 screening deliberation. On that note and, as
2 you know, the record will remain open until the
3 formal release of the report of qualifications
4 and you may be called back at such time if the
5 need arises. I thank you for offering for
6 service on the bench and wish you all the best.
7 Again, apologies for the mix-up in
8 identification of the relationship.
9 Unfortunately, I'm still learning as well. So
10 wish you a great night.

11 MR. MILLER: Thank you very much, sir.

12 CHAIRMAN CASKEY: Thank you. On motion of
13 Representative Jordan, seconded by Senator
14 Rankin, the pending question is it going into
15 executive session. All in favor, signify by
16 saying, Aye.

17 (ALL RESPOND)

18 CHAIRMAN CASKEY: All opposed, nay.

19 (NO RESPONSE)

20 CHAIRMAN CASKEY: The aye's have it. We will go into
21 executive session at this point for a legal
22 briefing. I would kindly ask that everyone who
23 is not a lawyer on the Commission or a member of
24 the Commission to step out.

25 Executive Session was held from 5:36 to 6:06 pm.

1 (Off the record)

2 CHAIRMAN CASKEY: Ladies and gentlemen, thank you.

3 We are back on the record as we come out of
4 Executive Session. I'd like to state for the
5 record that while we were in Executive Session,
6 no decisions were made and no votes were taken.
7 During the executive session, we had a legal
8 briefing. We are at the phase now where I'm
9 going to ask staff to coordinate with the
10 parties. I was going to meet with Mr. Miller
11 and Ms. Ford to obtain those emails, of course
12 redacted to protect the identities of any
13 sensitive, particularly sensitive information.
14 And with not further business before the
15 Commission tonight, we will stand adjourned and
16 we will reconvene tomorrow morning at 9:00 am.
17 So thank you all for all your hard work today.
18 (There being no further questions, the hearings
19 concluded at 6:07 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 8TH
 DAY OF NOVEMBER 2023, THAT THE WITNESS WAS FIRST DULY
 SWORN BY ME AND THAT THE FOREGOING 267 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.

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IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL THIS
 15TH DAY OF NOVEMBER 2023.



KATHRYN B. BOSTROM, COURT REPORTER

MY COMMISSION EXPIRES AUGUST 23, 2032

<hr/> 1 <hr/>	15th 230:8	<hr/> 2 <hr/>	20 210:5 227:16	214:7
1 8:7 50:21 51:23 83:11 84:16	16 74:15 118:7,24 119:4,15 129:22 133:9,11 206:23 207:16	2 8:10 202:25 243:13	2023 124:15	31 249:6
10 84:12 124:12 140:23	16-years-old 187:21	2,000 90:3	21 202:18	32 118:7 120:6
100 66:20 69:4	17 14:10 133:15 144:22 162:20	2- 92:10	22 59:18 76:6 203:13	33 81:21
11 84:6,15 94:25	1700 106:12	2-19-70 11:14 23:8 42:24 61:13 91:24 122:12 139:20 252:9	22nd 209:19	34 9:7
11/12 169:8	174 40:7	2-19-70(e) 12:1 23:19 43:11 61:25 122:23 140:6 252:20	24 195:23 199:15	36 253:10
11:00 200:10	18 72:1 116:11 137:9 144:21	20 84:13 95:13 202:15	24/7 161:6	37 55:22
11:56 114:17	1800 106:11	2007 72:18	25 140:24	38 117:7
11th 230:8	18th 230:9	2009 39:25	25th 209:21 212:22	39 106:9 120:11
12 8:8 18:6 20:11 21:24 84:19 87:18 89:24 94:25 154:19	19 19:3 24:15 144:24	2011 24:10,16 93:13	262 88:7	<hr/> 4 <hr/>
12,000 93:14	19-70(e) 92:11	2014 141:25	27 55:7	4 8:11 14:12 202:19 203:14
120 33:13,21	194 120:10	2018 108:25	28 9:8 40:8 250:20	4.2 211:3
13 116:10	199 10:9	2019 17:24 24:17 26:7 205:13	29 88:9	40 28:18 103:21
14 10:10 116:13 153:11	1990 45:24	2020 259:21	295 246:17	42 88:8
15 20:11 37:24 51:20 52:1 133:8 140:25	1996 30:5	2021 41:22 153:11	2:05 114:17	44 129:22
159 137:9	1997 62:17	2022 153:12 209:14,	<hr/> 3 <hr/>	45 182:7
	1st 130:10,12,17		3 14:9 202:16	4:00 265:8
			30 18:4 32:3 124:11	4th 226:6 265:1,2
			30,000 30:19	<hr/> 5 <hr/>
			30th	5 37:23 84:20

133:12		98	academic	41:8 75:6
5,000	<hr/> 7 <hr/>	19:2	10:24 22:13	accused
256:7,8 257:15		9:00	42:7 60:16 91:5	103:25 127:17
50	7	267:16	121:17 139:2	138:2 150:18
140:24 160:8	51:19 116:14		250:21 251:12	206:5
246:19	133:16 144:25	<hr/> A <hr/>	accept	acknowledge
501	228:4 231:17		41:25 46:11	20:5 49:11
11:2 22:21	232:17	a.m.	90:9 96:13	acknowledgmen
42:12 60:23	700	21:5 198:9	126:22 155:12	t
91:10 121:25	93:16	Abandoned	215:3	136:8 165:10
139:9 251:22	73	59:24	acceptable	act
56	56:12	abide	138:9	30:20 59:24
129:22	7:00	107:5	acceptance	80:7 106:12
584	21:5,7 198:4,9	abiding	157:13	acting
56:10	199:5,9,22,23,	54:23	accepting	136:16 174:9
59	25	abilities	189:3	action
47:1	7:30	236:18	access	124:7 136:23
5:36	21:7	ability	197:22	137:4 148:10
266:25		10:24 22:13	accident	actions
5th	<hr/> 8 <hr/>	41:5 42:8 58:25	34:7	20:13 27:24
226:8 265:8	8	60:16 74:1 91:5	accolades	125:18
	51:22 119:5	96:15 108:16	49:2	active
<hr/> 6 <hr/>	80	109:3,9 121:17	accommodate	259:9
6	31:9,12 56:11	139:2 250:21,22	52:22	actively
14:13 38:1,2	800	251:12 262:10	accompanying	41:2 58:16
216:8 265:12	93:16	abreast	228:15	activities
60	8:00	20:2	accomplish	196:24
160:8	102:11	absolutely	141:7	activity
64	8th	27:13 28:8	accomplished	79:24 101:3
246:18	210:5 227:16	85:15 108:15	111:1 230:10	actual
6:06	230:7	109:11 116:9	accord	224:18
266:25		146:14 148:14	193:5	ad
6:07	<hr/> 9 <hr/>	154:10,14 168:8	accountable	137:2,7 160:11
267:19	9	172:23 187:9	258:16	add
6th	51:25	215:24 239:20	accounts	18:21 49:8
214:15 216:9	9/11	242:24	70:3	55:10 72:15
226:5	55:21	absorbed	accurate	78:7 158:21
	91	260:11	224:19,21	202:1 260:23
	45:24	abstract	accusations	adding
		112:14	89:9	18:20
		abused	accuse	addition
		104:8		

<p>19:16 56:15,16 247:9</p> <p>additional 10:10 19:3 40:8 56:11 88:8 120:11 137:10 191:15 246:18 251:19 263:7</p> <p>address 78:24 89:12 95:23 96:7 106:21 113:6 205:22 212:3 218:5 259:15 263:10,18</p> <p>addressed 154:25 205:24</p> <p>addressing 220:17</p> <p>adds 18:17,18</p> <p>adequate 90:2 190:2</p> <p>adherence 19:12</p> <p>adjourn 260:17 262:15</p> <p>adjourned 267:15</p> <p>adjudicate 79:16 80:13 129:19</p> <p>adjudicating 59:11</p> <p>adjudicator 80:13</p> <p>administer 68:12 90:15 96:9 127:5,8</p> <p>administrative 55:5 57:7 67:9 87:10 89:21</p>	<p>168:3</p> <p>administratively 105:4</p> <p>administrator 41:23 136:19,25 137:6</p> <p>admired 78:14 111:1,6</p> <p>admission 148:22</p> <p>admitted 189:2</p> <p>adult 235:25</p> <p>advance 20:1 32:12 33:3 158:20 185:1</p> <p>advantageous 65:21</p> <p>adversarial 19:8 90:14</p> <p>adversary 45:12</p> <p>advertised 153:7 157:10 181:16 185:6,16</p> <p>advised 263:3</p> <p>advisedly 263:4</p> <p>advocate 98:16,18,21 138:6 147:11 162:2,4 163:19 166:1 168:11 169:21 210:8,9, 13,22,24 220:11,13,14, 15,16 222:18, 20,25 223:2,8,9, 24 241:13,14 248:24 249:5</p>	<p>Advocate's 223:1</p> <p>advocates 168:10 169:14 210:11,18</p> <p>advocating 73:24 98:4 249:3</p> <p>afar 45:25</p> <p>affairs 107:16</p> <p>affect 40:19 60:8 248:6</p> <p>affects 136:2</p> <p>affiants 145:14,16</p> <p>affidavit 149:18 164:18 165:3</p> <p>affidavits 8:24 15:1 38:14 52:14 85:8 117:2 134:4 145:12,15 148:2</p> <p>affirmative 61:6</p> <p>afforded 54:22 55:10</p> <p>Afghanistan 72:17 73:16 74:22</p> <p>afraid 169:24 241:2</p> <p>afternoon 115:4,5 132:5 134:13,15 143:12 152:2 226:17 227:17</p>	<p>age 9:8 10:5 16:10 32:17 39:12 54:14 86:19 118:1 135:7 245:2</p> <p>agenda 7:5</p> <p>agent 154:16 169:5 223:4</p> <p>aggravated 189:16</p> <p>aggressive 220:9</p> <p>aggrieved 255:25</p> <p>agonizing 239:22</p> <p>agree 25:1 34:18 62:23 66:21 102:24 188:25 192:18 232:9,20 236:20 238:10 258:22</p> <p>agreed 137:1</p> <p>agreement 191:4 214:3</p> <p>agrees 254:23</p> <p>ahead 67:22 77:8 186:9 203:11 216:15</p> <p>aide 73:6 180:11</p> <p>Aiken 170:12,15 210:20 245:23</p>	<p>air 58:2 258:20</p> <p>aisle 17:23 18:8 25:12 45:17 59:20 71:18 73:23 111:14</p> <p>alike 17:11 20:4</p> <p>alive 174:6</p> <p>allegation 138:18</p> <p>allegations 146:3</p> <p>alleged 58:3</p> <p>allegiances 59:19</p> <p>allocation 140:19 142:17</p> <p>allowed 150:3 158:9,14 159:5 180:2 181:24 185:12 187:5 198:13 200:5 208:20</p> <p>allowing 7:9</p> <p>Ambassador 71:2 72:16 73:7 74:7,8,14 77:22</p> <p>amendment 51:24 74:19 84:17 133:3,5</p> <p>amendments 51:16 76:1 133:13</p> <p>Americans 82:13</p> <p>amicable 247:2</p>
--	---	--	--	---

amount 24:15 56:16 75:18 103:17	anyone's 215:22	145:9 149:11 215:2	265:2,8,12	21:17 166:3
amounts 40:11 158:13	anytime 198:23	Appellate 11:3 22:22 42:13 60:23 91:11 121:25 139:9 251:23	arbiter 64:23	arrest 32:4 33:13
Amy 169:14	apologetic 153:13	applicant 132:7 143:15,22 243:13	archived 69:18	arrested 160:3
analysis 63:12	apologies 266:7	applicants 256:25	arduous 12:13	arresting 176:5
analyzed 222:11	apologize 61:4 82:3 97:14, 15,19 192:24 205:22 243:4 244:12	application 8:19 14:21 38:9 39:19 52:9 85:3 112:7 116:22 133:24 145:7	area 25:24 26:15 28:6 35:1 49:7 55:6 66:4 112:10 140:20	arrival 82:9
and/or 257:15	Apology 151:19	apply 79:8	area's 219:23	arrive 221:25
Anderson 30:21	appalling 170:5,7,9	appointments 105:23	areas 22:1 28:7 41:18 42:5,7 87:19 135:20 200:6	articles 8:21 14:23 38:11 52:11 85:5 116:24 134:1 145:9
Andy 54:4	apparently 236:3	appreciation 15:19,22 53:12 128:23 254:1	argue 177:19 229:20, 22	articulate 113:1
angry 154:13	appearance 12:22 32:4,6 33:14 36:8 50:7 82:20 95:9,10 113:17 131:3 143:2 239:23,24 265:24	appreciative 85:24	argued 200:3 207:22,23	articulated 203:19 228:16
ankle 206:15,16	appearances 27:3 32:3	apprehensive 147:23	arguing 207:15	ascend 40:19 79:3 242:16 258:15
Anna 9:6,10	appeared 110:2 155:22 233:18,19	approach 78:15 105:13 153:22 181:19 254:12	argument 160:22 199:18 227:11 236:18	ascended 71:7
announced 181:9	appearing 138:2 247:13	approached 126:15	arguments 110:7	Ashley 124:7
anonymity 78:1	appears 8:21 14:24 38:11 52:11 85:5 116:24 134:2 140:23	appropriately 253:16	arise 83:1 113:23	aspect 239:16,18
anonymous 128:13 187:14		April 33:6 153:12 210:5 214:15 216:9 226:5,6,8 227:15 230:7,8, 9 259:21 264:25	arises 13:3 36:14 50:13 131:9 143:8 266:5	aspirational 88:2
Ansley 15:9,10 36:15			arms 109:18 233:1	aspire 98:1
answering 62:22 107:9 190:13			Army 88:25 89:21	assails 219:14
answers 43:25 60:6 124:19 149:23			arose	assault 57:25 153:25 171:15 182:5 186:13,14 188:20,24 189:16,17 192:1

242:1 assaulted 150:15 166:7 assaults 150:19 assembled 233:21 assembly 11:16,19 23:10, 13 43:1,5 59:6, 17 61:15,18 80:24 92:1,4,5 111:23 122:14, 17 139:22,25 146:20 252:11, 14 assertion 232:10 assertive 253:18 assess 79:2 assessment 231:17 asset 40:12 60:19 135:15 136:3 251:19 assigned 165:20 168:2 171:13,18 256:8 assist 16:13 39:16 54:19 86:21 118:4 135:12 245:18 assistance 168:9 211:11 264:18 assistant 86:25 93:13 127:6 166:10	212:18 244:4 assisting 135:21 256:10 associate 87:1 association 71:14 assortment 88:16 assume 156:9 175:10 189:19 195:18 222:24 assuming 72:12 191:21 192:5 assumption 205:25 assure 107:12 astute 167:25 attempt 16:24 attempted 89:5 attempting 11:20 23:14 43:6 61:20 92:6 122:18 140:1 252:15 attempts 224:18 attend 100:13 101:2 124:18 157:6 attendant 255:13 attended 124:12 attention	28:16 76:19 94:13 184:10 257:2 attest 167:19 attitude 152:14 178:1 attorney 87:1 111:8 126:14,24 136:20 149:16 150:6 154:17,18 163:1,12 165:11 171:21 174:10 175:6 200:6 206:13 210:9 212:2,4 216:2 224:4,5 225:22 245:23 247:1 249:14 256:13 attorney/client 262:6 attorneys 88:22 90:8 150:13,20 152:8 188:16 206:9 212:8 249:20 250:4,18 attribute 135:14 attributes 246:12 258:6 atypical 77:8 autonomy 103:20,22 avenues 10:15 awaiting 82:8 awarded 257:18	aware 7:24 11:1,17,19 22:19 23:13,16 42:10 43:6 60:21 61:20 91:8 92:5 121:23 122:17, 20,24 139:7 140:1 144:16 174:24 180:9 205:1 208:17 237:19 247:19 251:21 252:15 awesome 131:17 aye 114:9 266:16 aye's 266:20 eyes 114:10,11 <hr/> B <hr/> back 13:2 21:2 22:18 24:10,16 25:4 26:7 32:11 36:13 45:22,23 46:2 49:13 50:13 55:17,21 62:21 69:10,14 71:15 72:1 74:24 79:18 80:4 82:8,25 87:2 101:16 103:21 106:15 108:25 113:23 114:15,20 120:5 126:7 127:22 131:8 132:5 143:7,19 154:13 162:9 173:20	182:1 185:20 187:20 192:23 194:21 195:10 196:9,18 202:23 206:4,9 212:17, 20 213:12 217:16 219:9 225:10,14 227:14 229:1,18 230:20 235:19 237:20 238:12 242:19 243:11 249:11 258:19 259:23,25 264:20 266:4 267:3 backed 202:4 background 9:18 25:23 40:18 44:24 56:3 65:6 88:11 131:13 backing 158:23 backlog 63:8 64:5 93:8, 19 96:6,7,10 103:1 108:7 backlogs 66:4 bad 69:20 99:10 257:14 badge 178:21 bail 196:21 baked 110:17 balance 90:18 141:8
--	--	---	---	--

<p>145:19 243:17</p> <p>balanced 257:13</p> <p>balances 59:15</p> <p>balancing 80:21 100:14</p> <p>ball 180:23</p> <p>balloon 100:23</p> <p>ballot 8:18 10:9,11 14:20 19:3,4 28:10 38:8 40:8, 9 47:17 52:8 56:11 77:25 85:2 88:8,11 116:21 120:11, 12 133:23 137:9 145:6 246:17,19</p> <p>ballot-box- 219:18</p> <p>balls 74:1 80:14 236:10</p> <p>Bamberg 118:10 166:5,6, 7,8 167:8 169:4, 6 181:2,6 183:1, 7,10,11,12 184:1,7 193:23 206:6 210:19 213:15 227:17, 18 230:12</p> <p>bar 10:13 47:15 53:16 67:21 97:1 107:20 128:14,17 136:21 138:12</p>	<p>Barbara 123:13</p> <p>bargain 191:7</p> <p>bargaining 192:16</p> <p>Barnwell 118:9,10 136:20 210:19</p> <p>barred 125:17</p> <p>base 58:2 72:25</p> <p>based 10:1 16:6,21 18:15 32:16 39:8 49:6 54:10 67:2 69:3 86:14 95:24 96:3 98:24 102:5 105:16 112:6 117:22 135:2 150:24 176:1 244:23 250:10 254:16 258:7</p> <p>bases 213:11</p> <p>basic 55:21</p> <p>basically 39:20 100:16 103:23 104:24 173:20 234:24 237:23 238:13, 14 239:8 256:4</p> <p>basis 99:6 146:11 251:1</p> <p>battery 153:25 186:14 188:21,24 192:1</p>	<p>battle 21:20,23</p> <p>beaming 29:4</p> <p>bear 70:21</p> <p>bearing 158:16</p> <p>beat 127:13</p> <p>beatings 104:22</p> <p>beautiful 35:20,21 49:1 117:7</p> <p>beauty 48:21</p> <p>bed 71:4</p> <p>began 19:13</p> <p>begin 7:4 50:18 238:17</p> <p>beginning 71:6 239:8</p> <p>behalf 11:19,21 23:13, 15 43:5,7 60:5 61:18,21 73:18 92:5,7 98:4 122:17,19 139:25 140:2 153:1 167:22 252:14,16</p> <p>behalfs 257:1</p> <p>behave 119:6</p> <p>behaved 150:7</p>	<p>behavior 88:21 89:1 107:3</p> <p>belief 80:18 81:1 220:7</p> <p>beliefs 80:6</p> <p>believed 229:19</p> <p>believes 98:21 147:25</p> <p>bench 8:16 10:17 14:19 19:17 20:21 34:15 38:6 40:13,20 41:12,21 48:2 50:22 52:6 55:2 56:15 60:19 79:3 83:12 84:25 95:21 97:24 98:11 99:15 103:15 111:8,20 116:19 121:3 130:14 133:22 136:3 142:9 145:4 242:17 247:5 248:23 266:6</p> <p>beneficial 57:8</p> <p>benefit 54:17 150:20</p> <p>Benson 134:25 135:1,9 136:18 138:22 140:8</p> <p>Bert 124:9</p> <p>Bess 151:1 153:9</p>	<p>166:16 182:5 187:16 191:25 192:17 197:4 204:25 208:18 216:17 221:8 226:11,15 237:4</p> <p>Bess's 208:5 214:10</p> <p>bias 219:15 249:9 250:17</p> <p>big 17:1 25:24 55:9 58:9 64:2 73:2 116:4 157:7 207:17 218:14 263:19</p> <p>biggest 216:1 242:20</p> <p>bike 120:24</p> <p>bill 74:19 125:25 159:15 166:9,13 171:4 241:7</p> <p>birthday 207:12,13</p> <p>bit 21:2 25:7 40:2 44:24 46:18 48:6 54:16 57:18 77:8 108:6 111:24 112:20 113:10 158:23 160:18 171:6 183:24 205:10 218:3 243:15 245:8,20 248:2</p> <p>bizarre 73:16</p>
---	--	--	--	--

<p>black 46:7 111:24 112:20 242:10, 14 Blackley 161:20,23 164:1 241:2,6 260:6 blame 234:1,3 blessed 27:4,5 blessing 141:10 blood 48:11 blow 131:18 Bob 18:13 bodes 141:17 body 28:25 30:9 57:7 108:20 147:17 254:20 bolts 68:11 124:6 bond 58:12 63:11,19 64:13,16,17 65:5 93:25 94:3, 22,23,25 96:1 150:4 152:17 153:7 156:3,13, 18 157:10 158:22 159:1,15 160:9,12,16,19 181:2,4,5,18,22, 24 182:10,12 183:2,12,25 184:19 185:5, 14,15,18 187:17</p>	<p>190:1,4 191:23 193:17,19,21, 22,24,25 194:2, 4,11 196:3,4,5, 16,23 197:20 206:8,11,20,21, 22,23,24,25 207:2,7,23,24 208:1 209:9,16, 17,21 216:20,22 225:11 227:22 228:21,22 229:20 231:23 233:5,22 235:15,21 237:7,8 238:5 bonded 206:7 bonding 197:7 bonds 63:6,24 64:11, 25 94:10 bondsman 196:22 Bonnie 117:8 book 18:13,14,16 129:23 bores 68:10 born 40:25 169:4 boss 166:12 195:11 221:3 bothered 152:17 162:22 Boulevard 199:16</p>	<p>bouncing 207:8 bound 11:1 22:20 42:11 60:22 91:9 121:24 139:8 251:21 Bowen 149:19 153:9 167:15 187:21 188:9 197:5 206:5,16,21 207:12 213:14 233:21 235:6,7, 8 236:10,12 261:9 box 8:18 10:9,11 14:20 19:3,4 28:10 38:8 40:8, 9 47:17 52:8 56:11 77:25 85:2 88:8,11 111:24 116:21 120:11,12 133:23 137:9 145:6 246:18,20 boxes 74:20 118:11 boy 169:8 187:22 207:17 Brad 236:17 Bradley 102:10 brag 188:5 breadth 247:7,8 break 36:20 202:13</p>	<p>breathe 258:21 bride 48:25 briefed 129:22,23 briefing 114:16,22 255:12 262:17 266:22 267:8 briefly 35:9 bring 66:2 71:10 136:23 152:12 172:17 bringing 241:22 Brinks 29:22 broad 39:17 87:8 149:7,22 broadly 149:14 brother 85:16 170:10,23 brought 9:3 15:5,8 38:19 46:22 67:18 78:15 100:20 117:6 261:15 brush 219:5 brushing 58:10 Bryan 7:6,11 8:9,12 buckled 121:9 build</p>	<p>26:13 59:4,19 80:25 building 60:1 Buildings 59:24 built 73:14 bunch 57:20 59:25 73:7 130:18 bunches 49:14 Burg 18:13 buried 200:10,11 bury 130:2 business 26:24 100:22 102:3 103:18 108:22,24 267:14 businesslike 100:5,17 busy 17:15 153:6</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>cake 110:17 Calhoun 207:18 call 7:2 48:24 72:18 73:12 74:1 80:14 95:16 96:17 101:24 125:14 145:21 151:12 153:5,7</p>
---	--	---	---	--

<p>154:17 162:18 180:12 184:22 185:4,13 191:20 202:11 205:10, 15,17 212:19,24 213:2 215:8 216:9 226:5,25 227:6 254:17 257:2,4 265:6,9, 11</p> <p>called 13:2 18:13 30:21,22 36:13 50:12 82:25 95:7 113:22 131:8 136:22 143:7 266:4</p> <p>calls 21:21 169:16</p> <p>callus 102:16</p> <p>calm 56:17</p> <p>camera 31:14</p> <p>cameras 30:10</p> <p>Camp 125:4,11,15</p> <p>cams 30:11</p> <p>Canadian 73:7</p> <p>candid 157:15 222:1</p> <p>candidacy 11:7 23:1 42:17 61:2 72:1 77:20 91:17 122:5 139:14 147:13, 16 243:18 252:2</p>	<p>candidate 7:5 11:1 12:6,8 16:21 22:20 23:23,24 35:25 40:11 42:11 48:1 50:18,21 60:21 62:9 83:7, 11 91:9 92:15, 16 121:23 123:3,4 132:3 139:7 146:7 172:15 198:21 199:3 202:24 222:15 246:25 251:21 252:24 253:1 257:6</p> <p>candidate's 117:22,24 135:3,4</p> <p>candidates 12:20 28:11 36:6 47:10 50:5 69:9 78:5 82:18 86:15 113:15 131:1 142:25 147:19 247:4 265:21</p> <p>candidates' 244:24,25</p> <p>candidate's 10:2,3 16:7,8 39:9,10 54:11, 12 86:16</p> <p>candidly 179:24</p> <p>can't 30:9 43:2 46:21 47:2,16 48:18 64:20,23 78:1 81:4 93:17 104:6 105:18,19 108:9 111:25</p>	<p>capabilities 78:21</p> <p>capacities 19:9 103:11 137:22</p> <p>capacity 9:21 102:7 136:16 152:6 216:3</p> <p>capital 121:5 251:4 256:16,18</p> <p>captain 73:6</p> <p>care 100:22 103:2 117:5 152:21 178:12 182:2 209:3 238:6 239:5,9,16</p> <p>cared 209:8,9</p> <p>career 17:13 20:7 45:25 87:17 94:15 104:21,22 108:18 128:24 131:13 141:3 245:6</p> <p>careers 19:14</p> <p>Carlina 43:10</p> <p>Carol 197:4</p> <p>Carolina 9:20 11:3,25 22:22 23:18 42:13 48:11 56:5,8 57:8 61:24 65:15 87:5 91:10,12</p>	<p>100:21 102:22 106:10 121:25 122:22 132:8 135:18 139:9 140:6 143:9 150:9 154:22 211:10 220:12 251:23 252:19</p> <p>Carolina's 87:23</p> <p>Carolinians 82:13 247:7</p> <p>carries 49:7</p> <p>carry 41:5 248:22 263:2</p> <p>case 18:1 19:11 20:6, 19 21:8 27:15, 19,20 28:14,16, 17 30:7,9,24 31:9 32:13,17, 23,24 33:7,11, 17 34:3,5,6,12 39:19,21,23 57:10,12,25 58:1 64:24 67:18 71:17 89:14,15,18 94:22 95:13,16, 17,24,25 96:2,4, 19 102:25 107:25 112:12 113:3 119:24 120:4 126:24 127:16,21,22 130:4 137:1 140:22,25 141:18 146:9 147:15 148:16 149:17,19,20,22 152:15 153:9,</p>	<p>17,19 154:20 156:10,20,23 161:17 162:23 166:3,14,16 167:8,10 168:2, 6,19 171:2,3,18, 25 172:5,18 175:3 179:23 180:25 183:3 186:12,13 191:8,18,20,25 192:5,13,17 205:2,5 206:2, 12 207:6 210:8 211:18 213:15, 16,17,19,21,23 214:2,4,9 215:13,21,22 216:1 219:12 220:3,4,6,19,20, 23 221:4 222:11,22 223:4 225:1 227:2,3,7, 12,16 228:14 229:4 230:4,11, 18 231:3,9 234:5 242:12 247:14 256:5, 18,23 259:2,12 260:12</p> <p>case-specific 17:25</p> <p>caseload 93:14</p> <p>cases 16:20 18:3 20:4, 7,9,11 25:15 27:17,18,23,24 28:18 30:18 31:3,9,23 39:21, 22 44:25 45:10 56:21 57:11,20, 22,23 63:11</p>
---	--	--	--	--

64:9 65:18 67:17 87:14,22 88:14,21 89:19, 20 90:1 93:14, 16,19 94:7 95:12 96:16,17 99:3 110:5 118:23 121:5,6 124:13 128:2 136:12,15,17,18 137:16,25 141:19 148:6,7, 11,19,22,25 149:20 150:13, 14 153:24 154:1,5 191:9 202:5 210:23 211:2,23 213:13 220:5,10 242:4 246:2,9 248:12 250:13 256:8,16 257:15 260:6,7	77:4,14 82:2,10 83:6,10,14,20, 24 84:3,8,22 85:20 86:7 92:18 97:5 99:20 109:13 110:20,23 113:11 114:3,5, 11,19 115:4,6, 12,16,20,24 116:3,6,16 117:9,12,17 123:6 124:22 128:7,10 130:20 131:17,20,23 132:2,5,11,17, 21,25 133:4,19 134:13,24 140:13,18 142:10,13,18 143:11,14,18 144:5,9,14,17 145:2,24 146:15,24 147:5 149:5 150:1 151:7,12,15,18, 25 155:3,7 161:19 164:3 172:11,23 173:1 178:24 179:3 190:12,15 192:20,25 193:10 194:23 195:4,8,15 198:16,20 200:20 201:4, 15,17,20,24 202:6,22 203:11,16,22 214:18 217:8 221:22 228:7 231:13 232:18, 22 241:2,4	242:25 243:2, 10,22 244:2,9 253:3 255:10,20 260:14,21 261:18,20 262:4,8,13 263:1,12,16 264:16 265:15 266:12,18,20 267:2 Castleman 41:24 catch 79:4 categorized 20:12 catering 150:13 caught 75:22 caused 94:19 126:22 causing 95:2 caustic 78:17 cautionary 146:16 cautioned 7:11 13:17 37:4 50:25 83:18 115:10 132:15 144:3 147:2 151:23 244:17 cell 121:10 212:18, 19 cemetery 200:11 Center 197:19 207:18	certify 20:13 cetera 188:16 chair 87:6,7 98:25 105:21 114:2 chairman 7:2,8,14,18,22 8:1,5,13 9:6,9, 14,22,25 12:4,9 13:6,8,10,13,19, 23 14:2,5,16 15:7,10,13,25 22:19 23:21 24:1,4 27:7,8 29:10,14 34:19 35:7,8,24 36:18, 23,25 37:7,12, 16,19 38:4,22 39:7 43:14,18, 19,23 44:15,18, 19,20 45:20 46:11 47:4,6 48:3,4,5 49:10 50:1,16,17,20 51:3,6,8,11,12, 15 52:3,20 53:1, 5,23 54:9 60:10 62:6,11,14 66:11,12,14 70:11 72:9,21, 23 74:4 76:14, 18,22 77:4,12, 14 80:1 81:18 82:2,10 83:4,6, 10,14,20,24 84:3,8,22 85:20 86:7,9 92:13,18, 21 97:4,5 99:20 105:2 109:13 110:20,23 113:11 114:3,5,	11,19 115:4,6, 12,16,20,24 116:3,6,16 117:9,12,17,21 123:1,6 124:22, 25 128:7,10 130:20 131:17, 20,23 132:2,5, 11,17,21,25 133:4,19 134:13,24 135:1 138:22 140:8, 13,18 142:10, 13,18 143:11, 14,18 144:5,9, 14,17 145:2,24 146:15,23,24 147:5,7 149:4,5 150:1 151:7,11, 12,15,18,25 155:3,6,7 161:19 164:3 172:9,11,23 173:1,5 178:24 179:3,10 190:12,15 192:20,24,25 193:9,10 194:23 195:4,8,15 198:16,20 200:20 201:4, 15,17,20,24 202:6,22 203:11,16,21,22 214:17,18,21 217:5,8,9 218:24,25 221:22 228:7 231:13 232:16, 18,22,25 241:1, 2,4 242:25 243:2,10,22 244:2,9 252:22
---	---	---	--	---

253:1,3,6 254:19 255:3, 10,20 260:14, 16,21 261:18,20 262:4,8,13,18 263:1,12,16 264:16 265:15 266:12,18,20 267:2 Chairman's 231:17 Chairman's 46:6 challenge 88:24 111:7 120:21 242:6 challenged 253:12,20 challenges 120:2 challenging 89:5 128:4 chambers 98:7 99:12 chance 44:9 68:14 72:24 73:1,17 121:12 change 68:15 69:17,25 72:10 108:12 109:7 207:15 changed 25:9 127:18 185:21 changing 209:5 chaos 95:3 chaperone 236:22	character 10:24 22:13 42:8 60:16 91:5 120:15 121:21 128:17 137:12 139:2 152:12 172:22 247:3 249:7 251:12 charge 71:8 79:1 118:10 146:20 169:5 188:24 191:8,14 207:25 242:14 charged 95:2 126:20 127:2 191:18 192:4 206:17 213:15 222:15 charges 17:4 153:16 191:6 charging 101:6 102:15,17 Charles 41:24 Charleston 64:2 Charlie 171:22 chastised 253:11 check 8:22 14:25 38:12 52:12 85:6 116:25 134:3 145:10 checks 59:15 cherish 76:6	Chester 30:23 33:22 chief 66:2 67:9 96:8 99:2 103:18 170:17 child 101:3 164:14 188:3 children 101:1 155:15 205:2 chime 48:6 Chloe 153:9 166:16 182:5 187:16 191:25 197:4 204:25 208:5 226:15 chosen 30:13,16 Chris 19:6,8,13,16 Christmas 72:17 73:4,9,16 Christopher 13:16 14:11,14 85:18 church 135:21 200:7 circuit 10:14 16:14 18:11 39:16 40:12 41:17 50:21 54:20 56:19 63:2 64:1, 10 65:24 67:7 83:11,12 86:22 87:13,16 99:11 103:16 110:3 111:20 112:8	113:7 115:2 118:4,24 120:7 132:8 135:13,16 136:4 137:23 141:2,4,17 142:2,8 143:23 147:14 150:8,10 151:5 154:21 166:19,21 167:6 170:14 194:9 195:22 202:25 206:18 207:9 209:25 210:1,18 229:14 232:7 236:19 243:13 244:5 245:4,5, 19 257:7 258:1 circumstance 207:15 circumstances 64:14 67:24 95:25 164:9 248:18 254:8,18 citizen 69:1 Citizen's 22:10 citizens 10:19 42:3 53:15 60:11 63:20 90:25 121:15 138:23 251:10,17 city 73:2 civics 78:13 civil 17:21 18:5,9 19:19 20:4,6,7, 15,16 24:10,14, 15,24 25:15,24	26:6 34:6,25 39:21 41:18 55:4 58:7,19 87:9 111:16,21 112:3,8,19,21 116:5 120:18,23 121:13,22 123:25 124:18 129:7,9 130:1 140:23 141:5 220:15 246:1,5, 9 251:5 258:3 civilian 58:1 civility 78:13 109:23 CJA 57:19,20 65:2 claim 21:24 clamor 96:4 Clarendon 28:5 clarification 163:8 264:6 clarified 222:8 clarify 134:20 clarity 22:7 206:3 213:14 226:12, 14 classes 120:23 CLE 123:19 124:16 129:8 clear 24:7 26:18 112:5 183:20
--	--	--	--	---

195:12 205:21 214:2,8 216:24 254:3 259:11 264:11 265:14	Clemson 100:21 102:22 111:2	closings 40:1	comfortable 19:10 130:3	219:13,19 246:19,21 247:15 249:6,8 250:20 253:4	267:15
clerk 30:21,23 35:2 99:2 141:3 180:11 246:3	clerked 217:12	closure 221:6	comma 137:6,7	commission 7:4,20 8:15 10:9 11:6 12:10,19 13:25 14:17 15:11 19:2 22:8, 25 24:2 35:7 36:5,18 37:14 38:5 40:7 42:16 43:20 44:16 49:9 50:5 51:10 52:5 54:17 55:21 56:10 61:1,5,7 62:12 66:12 76:14 79:1 82:17 84:1, 24 87:6,21 88:7 89:23 90:4 91:16 92:19 98:14 99:1,5,14 104:19 105:3 112:13 113:15 114:14 115:18, 25 116:18 120:10 122:4 123:7 128:7 130:25 132:23 133:20 137:8 139:13 140:14 142:24 144:11 145:3 146:5,18 148:3 151:4,9 155:4 201:7 203:6,20 204:11 218:14 243:3 246:17 252:1 253:4 254:23 255:11 263:5,18 264:9 265:21 266:23,24	Commission's 11:25 122:22 130:24 140:5 142:24 252:19 265:20
clerk's 67:11	CLES 115:22 123:24	coalitions 60:1	commend 35:4 47:14 78:23		Commissioner 87:5 91:13 97:11 98:10
client 31:16 45:1 58:5 97:15 237:25 238:1 248:17 250:10	clients 18:18 21:20 55:9 73:24 147:12 148:1 167:21 205:21 220:14,15 237:24 246:16 248:7 262:12	code 11:2 12:1 22:20 23:19 42:11 60:22 91:9,13 92:10 98:14,15 107:5,7 121:24 122:23 139:8 140:6 251:22 252:20	commendable 47:20 128:19		commissioners 77:15 97:20 98:13,14 99:20 111:22 172:14
clerk's 67:11	CLES 115:22 123:24	coffee 73:8,11	comment 20:20,23,24 21:2,17 22:2,8 28:20 35:9 56:17 88:15 96:23 101:18 139:4 215:24 250:22 251:1		Commission's 12:19 23:18 36:5 43:10 50:4 53:8 61:24 82:17 92:10 113:14
client 31:16 45:1 58:5 97:15 237:25 238:1 248:17 250:10	clients 18:18 21:20 55:9 73:24 147:12 148:1 167:21 205:21 220:14,15 237:24 246:16 248:7 262:12	cognizant 260:5	commented 91:7		commit 107:7
clients 18:18 21:20 55:9 73:24 147:12 148:1 167:21 205:21 220:14,15 237:24 246:16 248:7 262:12	Clifton 109:24 126:18	Cohl 9:23,25 10:8 12:4 117:18,20 123:1 129:5	commenters 89:3 90:9		commitment 79:24 111:3 222:10
clock 34:9	close 26:18 46:1 69:13 107:17 208:5	collateral 44:7,12 46:7,18	comments 10:10,12,17 12:10 19:4,5,17, 18 22:9 24:2 27:9 40:9,10 43:20 47:16 56:12,14,22,23 58:21 62:12 70:21 71:3 73:18 76:15 77:18,22,25 78:20 88:9,12, 17,18,23 89:10 92:19 93:1 97:11 110:20 120:12,13,17 123:7 128:8,14 137:10,13 140:15 142:19 149:11 151:8 161:2,20 203:18		committed 94:23 236:21
closed 213:19	closely 118:13	colleague 241:18			committee 9:15 10:19,22 13:7 15:23 22:10,14 42:4 53:16 60:11,18 91:1,7 121:15, 19,21 138:23 139:4 203:10 251:10,17
closed 213:19	closely 118:13	colleagues 55:2 105:23 193:14 200:24			committing 94:1 95:1 160:4
closed 213:19	closely 118:13	college 41:1			common 18:9 19:24 20:1 32:14 87:15 93:2 104:7 113:8 141:18
closed 213:19	closely 118:13	Colleton 213:17,24			
closed 213:19	closely 118:13	color 79:17			
closed 213:19	closely 118:13	Columbia 236:5			
closed 213:19	closely 118:13	combination 86:23 87:7,8,11			

<p>communicate 99:8 180:23 194:20 224:22 226:23</p> <p>communicated 214:12 223:13 225:21 228:12</p> <p>communicating 180:16 181:11 217:25</p> <p>communication 99:8 171:8 177:24 205:11 223:15,20 224:6 225:17 255:7 263:22</p> <p>communications 205:8 211:20 212:17 224:18, 21 254:25</p> <p>community 19:1 49:3 63:13, 15 64:25 78:4 90:17 94:4 95:3 97:9 120:6 121:1 126:10,11 157:9</p> <p>companies 245:25</p> <p>company 197:7 234:24</p> <p>Comparative 124:8</p> <p>compared 89:24 106:6 109:21 112:19</p> <p>compassionate 106:3</p> <p>compels 185:23</p> <p>compensation 87:1</p>	<p>competence 78:21 80:22 128:18</p> <p>competent 19:6 129:1</p> <p>complainant 254:14</p> <p>complainants 203:2,20</p> <p>complained 168:5</p> <p>complaint 146:12 149:8,12 169:20 189:11 201:10 202:9, 17,20 203:5,9 204:17 243:4 256:2</p> <p>complaints 145:25 147:21, 22,24 243:14 255:24 256:1 263:21</p> <p>complete 153:18</p> <p>completed 15:21 265:3</p> <p>completely 32:7 211:25 229:22 250:19</p> <p>complex 20:6 112:11,13 129:17 251:5</p> <p>compliance 8:20 14:22 38:10 52:10 85:4 116:23 133:25 145:8</p> <p>complicated 250:23 251:2</p> <p>complied 148:21</p>	<p>compliment 73:21 253:22</p> <p>complimentary 56:12,23 88:9 246:19</p> <p>compliments 71:13 257:9</p> <p>complying 150:19</p> <p>comprehensive 147:17</p> <p>compromise 248:16</p> <p>concept 106:23 259:24</p> <p>concern 10:18 20:20,22 22:9 40:20 56:25 58:21 60:6 94:12,16 120:18,19 124:20 137:14, 17 138:11,15 139:5 211:2 234:17 237:19 239:1,14,19,20 250:24 263:10 264:16</p> <p>concerned 75:9 89:4 120:20 157:17, 18 211:22 228:20 233:2,5, 9 235:3</p> <p>concerns 12:5 19:18 23:22 40:17,23 41:13 43:15 56:22 57:3 62:7 88:18,20 89:10, 12 90:6 92:14 93:4 120:3</p>	<p>123:2 137:15 140:9 147:12 150:12 151:3 203:19 222:14 228:13 229:2,5 237:24 247:15, 16,18 249:8,10 250:22 252:23 263:20</p> <p>conclude 142:20 265:18</p> <p>concluded 215:16 264:19 267:19</p> <p>concludes 12:16 50:2 83:2 113:11 114:5</p> <p>conclusion 90:18</p> <p>concurrent 18:6 221:11</p> <p>condescending 90:7</p> <p>condition 206:11 208:2,9</p> <p>conditioned 192:10</p> <p>conditions 158:25 160:16 181:24 206:8 208:1,23 209:10,16,17 236:24</p> <p>condolences 155:12 161:24 164:13</p> <p>conduct 11:2 22:21 42:12 60:22 69:25 89:7 91:10,14 98:15 103:17 107:2,5,</p>	<p>8 121:24 139:8 189:5 222:12 251:22</p> <p>conference 136:14</p> <p>confidence 59:5 80:16,25 129:18 240:12 245:9,14</p> <p>confident 81:8 148:15</p> <p>confidential 261:10 262:2</p> <p>confirmed 192:15 235:6</p> <p>conflict 166:15,16 171:20</p> <p>conflicted 166:17 167:6,11 206:19</p> <p>conflicts 8:23 14:25 38:13 52:13 85:7 117:1 134:3 145:11</p> <p>confronted 253:24 259:7</p> <p>confuse 102:15</p> <p>confused 24:8</p> <p>confusion 216:8</p> <p>conjunction 20:17</p> <p>connected 174:9</p> <p>connections 59:1 72:16</p> <p>connotations</p>
--	---	---	--	--

106:18	contact	104:9 135:15	cooperation	council
consent	11:18 23:12	138:9 149:25	153:24 154:7	48:12
10:3 16:8 39:10	43:4 61:6,17	221:2 229:17,20	cooperative	counsel
54:12 86:17	92:4 122:16	230:1 243:11	212:7	165:4 214:13,14
117:24 135:5	139:24 162:17	continued	coordinate	221:24 223:12,
228:18 244:25	167:22 168:1,13	13:5 36:2 82:15	267:9	21 225:12 251:7
consequences	169:19 170:8	195:17 229:15	coordinated	counseling
47:12 147:24	210:13 211:13	continuing	169:22	200:6
consideration	252:13	142:6 230:2	coordinates	counselor
94:14 230:19,21	contacted	233:15	198:10 199:23,	235:6
242:23	11:6,22 22:25	contractually	24	count
considerations	42:16 61:1	47:6	coordination	127:8 148:18
221:12 222:8	91:16 122:4	contrary	68:6	234:6 256:9
considered	139:13 168:8	150:3	copy	counter
88:20 104:24	225:12 252:1	contributions	212:3	256:1
138:13	contacting	254:4,5	Corps	counties
consistent	11:15 23:9	control	254:2	165:17 206:18
78:7 175:1	42:25 61:14	85:23 96:15	correct	246:15
constantly	91:25 122:13	223:10 249:1	24:19 42:1,2	countless
21:25	139:21 252:10	convention	76:8 84:3,6	257:18,19
constitution	contacts	124:5	115:3 123:14,23	country
63:20 179:18	121:1	conversation	132:10 149:14	62:25 109:17
constitutional	contained	48:17,18,19	151:14 155:24	111:4 113:25
10:4,20 16:9	10:1,11 16:7	64:20 65:25	162:12,14	254:2 265:17
22:16 39:11	19:5 39:8 40:10	153:4 154:16	165:5,15,16	counts
42:5 54:13	54:10 69:19	186:5 187:3	166:4 167:4	169:10 191:15
60:13 79:11	70:25 86:15	188:23 214:22	172:25 174:11,	county
86:17 91:2	88:12 117:22	221:18 237:5	19 182:24	26:10,15 29:24
117:25 121:16	120:13 135:3	259:3 264:2	184:25 193:8	48:12 49:15
135:5 138:25	244:24	conversations	194:4 196:20	63:2,10 64:1
146:6 222:16	contents	225:9	233:4,11 256:17	93:8,9,12 94:8,
245:1 251:15	225:24	convey	262:7	15 101:9
Constitutionally	context	237:24	corrections	102:12,13 103:1
179:21	100:15 129:7	conveyed	7:22,24	118:9 123:16
constraints	254:25	206:1 238:22	correctly	153:8 158:23
216:14	contextualize	convicted	13:11 136:18	159:3 163:1
consume	201:8	64:19	151:13 225:20	165:17 166:5,7,
105:6	continuance	convinced	263:24	18 167:8,25
consumer	107:24 228:1,2,	222:5	cost	168:7,21 169:4,
98:18	18 229:16	cool	104:25	6,18 170:11,13
consumers	continue	109:2	couldn't	181:2,6,15,21
98:4	30:24 33:25		45:4 74:18	183:1,8,10,12

<p>184:1,5,6 193:18,23 194:5 195:22,25 196:4,12,13 197:19 199:17 200:14 206:6,17 207:7,11 208:11,25 209:1 212:11,13 223:23 225:11 227:17</p> <p>couple 20:8 22:17 33:3 41:10 44:2 49:1 57:4 66:25 80:3 83:6 93:1 103:10 128:23 141:14 143:14 164:11 168:2 173:13 174:1 181:5 184:8</p> <p>courses 124:5 129:8</p> <p>court 11:3 16:14 18:2, 9,11 19:21,23, 24,25 27:2,22 30:20 32:16,21 35:2 39:16,24 40:5 41:17 42:13 50:21 54:20 60:23 63:17 65:5,13, 14,17,25 67:7, 23,24 70:4,6 83:12 86:22 87:13,16 91:11 95:8,14,15 96:13 99:11 100:22 103:16 107:23 110:10 111:20 112:8 113:7 115:2</p>	<p>118:4,14 119:9, 10,11 121:25 132:9 135:13,16 136:4 137:16, 21,22,23,24 138:8 139:10 140:21 141:1,2, 4,10,11,12,13, 15,18,21 142:1, 2,8 143:24 147:14 150:8,9, 10 151:6 154:1, 3 158:22 163:11 183:14 186:7 192:22 202:4 203:1 207:9 213:17,20,21,22 215:4 217:22 221:23 227:11 229:1,8,10 230:6 232:12 236:19 239:2,4 240:17 242:11 243:14 245:4,5, 19 251:23 253:20 257:7 259:14</p> <p>court's 258:1</p> <p>courteous 247:12</p> <p>courtesy 17:16 211:25</p> <p>courthouse 184:7 191:22 208:11,14</p> <p>courtroom 80:7 89:11,13 90:2 105:8 119:7 120:16 128:25 129:12 135:24,25 136:6 137:24 163:3</p>	<p>186:2 233:22 236:18 246:8 247:17,20 248:4,5 249:12, 15 264:1,14</p> <p>courts 64:12 100:13 154:6</p> <p>covered 189:24 213:11</p> <p>Covid 93:20 141:22 205:14 259:12</p> <p>coworker 244:1</p> <p>coworkers 244:6</p> <p>cozying 75:7</p> <p>cracker 176:24</p> <p>craft 107:21</p> <p>Crawford 53:25 54:2,4,9 60:10 62:6</p> <p>crazy 106:13</p> <p>created 118:24 217:20</p> <p>credit 52:23 229:9 247:6</p> <p>Creech 124:7</p> <p>crew 131:14</p> <p>crime 64:18 94:1,23 95:2 147:11 148:15 160:4 167:24 169:18</p>	<p>172:4 206:6 241:17,24 242:2 250:11</p> <p>crimes 228:14</p> <p>criminal 17:20,23 18:1,2, 5,9,21 19:21 20:4,17 24:17 30:14,17 32:1 33:9 34:5,12,16, 25 39:20 41:19 55:5 56:25 57:16,18 58:5 65:18 67:5,16, 20 68:3 87:4,9 90:13 93:9,11 95:8 96:8 111:13,15 112:17,18 119:8 123:20 128:25 129:24 130:3 131:12 140:24 141:5,22 167:18 189:5 220:14 234:5 245:24 246:9 249:11 258:1</p> <p>criteria 8:17 10:20,23 12:19 14:20 22:12,15 36:5 38:7 50:4 52:7 60:12,15 82:17 85:1 91:2,4 113:14 116:20 121:16,20 130:25 133:23 138:24 142:24 145:5 146:13 172:16 222:17 251:11,14 256:3 265:21</p>	<p>criticism 68:22</p> <p>criticisms 93:24</p> <p>criticize 58:24</p> <p>criticized 93:23</p> <p>cry 79:7</p> <p>curiosities 172:17</p> <p>curious 45:7 155:19,25 156:25 173:13 210:6 211:8 215:7 228:19</p> <p>current 20:2 69:13</p> <p>Curtis 28:12</p> <p>custody 159:2 160:17 197:18</p> <p>cut 57:21 69:19 96:9</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>dad 48:10 236:7,9</p> <p>Dallas 152:4 153:10 204:24 205:4 214:6 220:4,6 259:18</p> <p>Dallas's 153:15,17 167:7 171:3,15,18 174:13,14 175:6 183:3 191:20</p>
---	--	--	--	--

192:5	245:1 246:21	157:14 175:21	decided	232:7
danger	247:3 256:23	179:22 180:17,	153:16	defendant's
63:13	257:8	18 218:14	decision	166:19
dare	Davis	228:24 246:5,11	64:21 79:14	defendants
80:9	41:24	dealing	81:2,6 96:2	148:19 150:3,11
dash	Davisson	28:18 65:19	108:22 109:3	220:10 246:1
30:11	133:10,14,18	88:21 152:7,13	112:25 113:1,2	defendant's
data	134:11,22	240:13 246:15	158:19 182:2	90:16,20
7:18 13:23	day	260:5	191:21 204:11	defended
37:12 51:8	27:3 33:21	deals	239:22	63:19 256:16,
83:24 115:16	49:19 56:7	250:6,8,17	decision's	20,22
132:21 144:9	59:16 73:10	dealt	158:13 180:5	defender
197:7 234:12	78:16 94:21	22:2 64:4 75:2	decisions	118:25 119:5
date	102:20 108:7	105:22 110:9	16:19 40:19	123:15 127:19
11:11 23:5	131:19 136:6	161:18 211:10	98:23 114:23	130:23
42:21 61:10	158:19 159:7	212:10 243:14	119:24 245:12	defenders
91:20 122:9	175:22 185:2	246:25 251:2	246:22 248:11	250:7
139:18 252:6	186:2 188:17	Dean	267:6	defending
dates	189:13,14	124:15	dedicated	257:20
209:13,22	207:12,13	dearly	67:25	defense
215:1,2 226:4	208:15 212:11,	79:13	Dee	17:23 24:17
264:5	13 214:14 225:8	dearth	10:18 22:10	30:15,17 58:1
daughter	232:12 233:19	129:6	42:3 49:17	67:21 87:1,4
153:10 154:11	240:10 244:9	death	deem	126:14,23
162:19 166:7	259:20 260:3	102:1 107:14	17:18	141:5,22
174:3 180:10	days	153:15	deep	150:13,20 152:8
187:15,21,22	27:3 32:4 33:13	decade	54:23 55:19,25	163:1,5 171:21
188:4,5 200:10	45:8 73:4 182:7	17:22 24:25	112:23,24	188:16 208:17
205:13	184:9 206:16	220:13 245:21	deeper	214:13,14
daughter's	253:19 264:5	decades	108:6	219:16 220:14
165:4	deadline	62:2	defamation	225:12 245:24
daughters	21:18	deceased	57:12	247:1 251:4
179:14	deadlines	153:21 187:15	Defect	256:18,22 258:5
David	21:22	decedent	124:14	defensive
60:4 71:2,12	deaf	222:21	defend	21:1
143:22 144:2,23	188:17	December	180:20	defer
145:1 147:13	deal	130:15 199:15	defendant	194:21
166:12,18,23,24	30:3,25 31:1,6	204:12	64:21 65:9	define
167:5,16,17	33:25 63:25	decide	150:18 158:25	34:16
170:2 194:10	65:18 67:23	80:24 87:22	160:6 167:2,3,	defined
202:24 230:20	105:22 116:4	256:2	11,13 191:3,5,	67:13 205:2
243:12 244:16	135:24 152:10		13 208:3,8	

definition 199:10	Dennis 164:24 165:15	184:20 190:16	differs 199:12	40:4
degree 89:6 180:9 188:21 189:6 211:8 257:1	191:22 209:24 210:2	detention 195:20 197:19 207:18	difficult 75:1 148:5 153:19 204:1 224:3 246:16	disagree 231:16
delay 21:18 22:3	denying 207:3	determining 45:14	difficulties 246:10	disagreeing 219:3
deleterious 47:13	department 176:12,17,22,23 181:8	detest 148:14	difficulty 230:11	disagreement 135:23 232:15
deliberate 195:12	dependable 247:9	developed 129:13	dig 108:5 112:23,24	disagreements 248:12,13
deliberation 266:1	depends 28:17	deviate 105:18	dignity 17:16 47:23 90:12 241:20	disclose 78:1
deliberations 12:24 36:10 50:9 82:22 113:19 131:5 143:4	depth 111:12 237:9,10	device 206:10	digress 109:2	disclosed 264:15
demand 258:2	deputy 119:16 161:5 166:12 168:21 170:17 194:10 249:4,12	devote 21:14	diligence 12:14 41:11,20	discouraged 250:16
demands 20:21 30:11,20 31:1,22 52:21 100:10	describe 44:13 102:16	devotion 55:25 56:8 59:8 64:6 80:5	diligent 41:16 106:22 110:5	Discover 124:11
demeanor 10:14 40:14 56:17 109:22 120:14 137:13 152:13 247:16	desert 73:3	dialed 73:14	diligently 150:11	discovered 159:17 197:17
democracy 59:13	deserve 127:24,25	didn't 24:16 29:20 44:2 47:8 48:5 66:20 69:8 74:13,23 75:5 81:10,16 89:15 102:23 109:6 110:6	direct 95:17	discovery 25:19 30:19 31:24 32:7,9 33:15,21,23 34:13 62:22 129:15,24
democrat 59:18 60:7	deserving 12:23 36:9 50:8 82:21 113:18 131:4 143:3 265:25	died 153:11 184:8	directed 149:11 195:24	discretion 16:18,22,24,25 17:8 102:4 103:17 116:3
democrats 75:6	designed 85:23	differ 197:12	directing 119:15	discuss 226:23 262:11
demonstrate 89:2	desire 55:15 228:13,16 247:3	difference 59:15 65:17 161:17 227:5 240:4	direction 64:15	discussed 226:24 264:3
demonstrated 101:15 105:15, 20 107:8	desk 74:18,21 160:10	differences 250:13	directions 100:11	discussion 32:8 33:6,16 108:6 205:9 224:25 227:1 237:9 264:8
	destroyed 127:15	differently 147:25 169:12 218:8 259:8	director 169:15	discussions 192:13 224:23, 24
	details 172:17,24		disability	

disdain 111:2	disturbing 74:16	132:17 133:2,5 144:6,18	doubt 47:17 71:14 76:13 79:2 147:25	24:7 35:6,22,25 36:17
dishonest 180:21	diverse 54:24 62:24 88:10 131:12	dodge 95:23	doubts 20:24	duties 10:16
dishonor 80:9	diversionary 17:3	Doe 137:4	Doug 134:11	duty 124:8 153:2,3
dismiss 153:16 191:9,21 227:9	divided 142:3	doesn't 32:20 49:22 74:9 75:4 105:17,18,19	dovetails 237:20	<hr/> E <hr/>
dismissal 17:4 192:16	DJJ 206:23 207:16	dog 89:19	draw 89:18 112:2 248:20	e- 20:7
dismissed 192:6 227:16,19 231:4	DNA 121:7	domestic 25:6 140:24 141:7 142:5	driving 236:7,10	ear 103:19
dismissing 191:15 207:3 227:7	do- 245:22	don't 20:25 21:23 26:2 30:10,17 31:8 32:2 40:4 41:8 45:3 46:5, 24 68:23 71:14 74:19 75:7,14 78:24 79:12 87:12 89:2 93:1, 3 95:18 98:21 99:5,10 101:18 102:2,15 103:4, 5,6 104:23 106:16,17,19 107:4,22 108:1, 3 110:16 112:1	dropped 180:23	earlier 28:11 44:23 52:17 162:9 211:23 227:24 241:13 245:8 257:6
disposed 171:2	Doby 7:6,8,11,17,21, 24 8:4,6,9,12 9:6,14 10:4,9, 12,19,22,25 12:3 13:6	docket 17:15 32:1,9,14, 18,19,20 33:9 67:22 96:15,20 99:1 104:11 118:16 119:25 140:24 258:1	drove 118:12	early 57:19 168:12 213:25 214:7 229:3
disposition 150:12			drug 89:18	earned 47:15,18 128:16 129:13
dispositive 156:20 257:21			DSS 141:12	earnestly 56:5
dispute 20:14 177:2			due 52:21 103:1 137:3 256:4	ears 188:17
disputes 129:15			DUI 30:6 57:22	ease 50:17 83:6 143:14 202:13
disregarded 237:6			duly 7:11 13:16 37:4 50:25 83:17 115:9 132:14 144:2 147:2 151:22 244:16	easier 138:3 141:7
disrespect 193:11	dockets 64:2 67:3	door 28:1 128:3	duplicating 97:22	easy 105:5 106:21 128:25
disrespectful 90:22	docket's 32:16	Dorchester 207:7,11,19 208:11 212:11, 13 223:23 230:12	Durant 13:10,12,16,22 14:1,4,8,11,15 15:6,8,12,14,18 16:9,11 19:13 22:11,15,19	echo 234:11
distilled 256:4	documented 160:8			echoed 240:9
distinct 165:19	documents 7:15 13:19,24 14:6 37:8,20 51:3,16 68:16 83:20,25 84:6,9 115:12 116:7	Dorn 49:5		
distinction 227:4		dotted 127:4		
districts 165:17				

<p>economic 8:23 14:25 38:13 52:12 85:7 117:1 134:3 145:11</p> <p>edge 104:20</p> <p>edification 49:9</p> <p>educated 88:13</p> <p>education 78:13</p> <p>effect 108:11 180:4</p> <p>effect's 240:5</p> <p>effective 16:14 39:16 54:20 86:22 118:4 135:13 245:18</p> <p>effectively 32:1 49:14 71:3 73:20 148:17 204:2 219:14</p> <p>effects 136:9</p> <p>efficient 21:23 67:23</p> <p>effort 64:6 67:16 129:13 147:16</p> <p>efforts 53:20 61:6</p> <p>ego 35:11</p> <p>eighteen 137:13</p> <p>elapsed 26:22</p>	<p>elect 93:23</p> <p>elected 48:13 49:14 96:7 106:11 107:18 109:19 113:7 218:13</p> <p>election 8:25 15:2 38:15 52:14 85:9 117:3 130:8,13 134:5 145:13,18</p> <p>elections 53:13</p> <p>electronic 206:10 208:21, 22</p> <p>element 177:20,21 188:25 189:4</p> <p>elephant 78:24</p> <p>email 182:11 212:3,17 213:1,2,5,6 226:8 255:7 261:5 265:2</p> <p>emails 21:21 212:3,5 254:20,21,24 259:20 260:19 261:1,11,23 264:10 267:11</p> <p>embarrassed 106:8 218:10</p> <p>embarrassment 47:8 217:21</p> <p>embellishment 93:15</p> <p>embrace 164:13</p>	<p>embracing 214:25</p> <p>Emmer 206:13,19 207:5 223:24</p> <p>emotion 241:24</p> <p>emotional 228:15</p> <p>empathize 162:2 238:17</p> <p>emphasize 146:4</p> <p>employee 167:16 223:9</p> <p>employee's 167:12,13</p> <p>employees 98:15</p> <p>employment 88:11</p> <p>encompass 213:13</p> <p>encountered 237:23</p> <p>encourage 151:4</p> <p>encouragement 55:1</p> <p>end 26:6 29:20 60:2 67:8 79:5,25 135:22 141:19 158:19 176:10 188:17 212:14 230:2 248:10 260:3</p> <p>ended 73:6 80:11 127:5 155:22 210:2 216:13 225:8</p>	<p>ending 58:4</p> <p>endorsed 73:22</p> <p>endorsing 69:9</p> <p>ends 104:14</p> <p>energy 87:23</p> <p>enforced 209:10</p> <p>enforcement 31:10 33:20 90:17 118:13 152:5,6,19 154:4 161:15 163:3 168:20 173:18 175:22 176:16,19 177:6 197:1 201:13 202:1 219:21 239:7</p> <p>engage 254:16</p> <p>enjoy 141:16</p> <p>enjoyed 27:9 71:9 78:10</p> <p>enjoys 49:6</p> <p>enormous 40:11</p> <p>ensure 17:2 62:2</p> <p>ensuring 80:17</p> <p>enter 203:11</p> <p>entered 145:15 202:9 261:3</p>	<p>entering 8:2 203:3,7 261:23</p> <p>entire 156:20 191:3 254:10 261:8 262:24</p> <p>entitled 9:17 64:22 69:1</p> <p>entry 261:1</p> <p>environment 57:21 72:22</p> <p>equally 98:17</p> <p>equation 119:2 120:3</p> <p>Equity 124:10</p> <p>era 68:23</p> <p>error 61:3</p> <p>escalated 221:19</p> <p>essentially 208:24</p> <p>Essentials 124:16</p> <p>estate 20:12 25:8 26:12 39:25 136:19</p> <p>ethic 20:20 21:16 22:5 29:8 35:3, 19 50:6 62:20 64:6,7 74:1,16 75:9 78:22</p> <p>ethical 10:23 22:12 42:7 60:15</p>
---	--	--	--	--

88:25 89:6 91:4 121:20 139:1 222:8 249:7 251:15	events 78:12	244:19 253:7 255:21 265:4	exercised 41:10 103:22	16 42:8 54:18, 23 55:3 56:4,13, 16,25 57:9,13, 14 58:6 60:17
ethically 150:22 211:3,6 214:3 220:24	everybody's 188:4 258:22	excellent 10:17 56:15 88:15 147:19 161:12 246:24 247:12	exercising 18:22	62:24 65:3 66:22 67:4 69:18 76:12 78:7 86:20,24 87:11,12 88:4, 16 89:11,13,25 90:2,10 91:6 105:11,12,16,20 108:14 111:10, 16,17 112:3,4,8, 18 118:3,18,23 119:8 120:18 121:18,22 123:22 126:7 129:7,11 135:11 139:3,5 142:6 148:7 149:15 161:10 175:25 176:2 185:12,20 245:11,17,21 246:2,6,13 250:21 251:13, 18 255:23 259:5
ethics 8:20 12:21 14:23 36:7 38:10 52:10 82:19 85:4 88:25 89:5 93:4 113:16 116:23 131:2 134:1 143:1 145:8 265:23	everybody's 49:15 106:25	exchange 219:10 227:25 257:14	exhausted 200:22	109:2,10 91:6 105:11,12,16,20 108:14 111:10, 16,17 112:3,4,8, 18 118:3,18,23 119:8 120:18 121:18,22 123:22 126:7 129:7,11 135:11 139:3,5 142:6 148:7 149:15 161:10 175:25 176:2 185:12,20 245:11,17,21 246:2,6,13 250:21 251:13, 18 255:23 259:5
evaluate 146:5 172:15 190:17 222:15, 17 254:13,25	everyone's 94:14	exchanged 261:5	exhibit 8:7,10 14:9,12 37:23 38:1 51:19,22,25 84:6,12,15,19 116:10,13 133:8,11,15 144:21,24 202:15,18 203:13	121:18,22 123:22 126:7 129:7,11 135:11 139:3,5 142:6 148:7 149:15 161:10 175:25 176:2 185:12,20 245:11,17,21 246:2,6,13 250:21 251:13, 18 255:23 259:5
evaluation 199:2	evidentiary 43:25 124:13 214:5 221:1	excited 68:14	exist 214:5	148:7 149:15 161:10 175:25 176:2 185:12,20 245:11,17,21 246:2,6,13 250:21 251:13, 18 255:23 259:5
evaluative 8:17 10:20,23 14:20 22:12 36:5 38:7 50:4 52:7 60:12 82:17 85:1 91:2, 4 113:14 116:20 121:16,20 130:25 133:23 138:24 142:24 145:5 146:13 251:11,14 256:3 265:20	exact 215:19 221:16 240:15	excites 68:8	exists 103:1	148:7 149:15 161:10 175:25 176:2 185:12,20 245:11,17,21 246:2,6,13 250:21 251:13, 18 255:23 259:5
evening 244:21	EXAMINATIO N 10:7 16:2 24:5 29:18 39:3 43:22 44:21 54:1 62:15 66:15 70:13 74:5 77:13 86:10 92:22 97:17 99:21 109:14 110:22 117:19 123:10 124:23 128:9 135:8 140:17 155:9 161:22 164:5 173:3 179:11 193:12 203:23 214:19 217:10 221:21 232:23 241:5	exciting 15:13	expect 47:25 81:7	148:7 149:15 161:10 175:25 176:2 185:12,20 245:11,17,21 246:2,6,13 250:21 251:13, 18 255:23 259:5
evenly 142:3		excuse 104:7 158:16 217:3 233:9 247:7 259:10	expectation 32:23 33:7 205:19	148:7 149:15 161:10 175:25 176:2 185:12,20 245:11,17,21 246:2,6,13 250:21 251:13, 18 255:23 259:5
event 166:3		excused 114:4	expectations 32:13 216:4,12	148:7 149:15 161:10 175:25 176:2 185:12,20 245:11,17,21 246:2,6,13 250:21 251:13, 18 255:23 259:5
		execution 219:8	expected 242:17	148:7 149:15 161:10 175:25 176:2 185:12,20 245:11,17,21 246:2,6,13 250:21 251:13, 18 255:23 259:5
		executive 36:21 114:8,12, 17,21,24 262:16 266:15,21,25 267:4,5,7	expects 12:20 36:6 50:5 82:18 113:15 130:25 142:25 265:21	148:7 149:15 161:10 175:25 176:2 185:12,20 245:11,17,21 246:2,6,13 250:21 251:13, 18 255:23 259:5
		exemplary 150:22	experience 10:15,25 16:12, 17 17:20 18:2,5, 8 19:19,21,25 20:5,15,17,18 22:14 25:11 34:24 35:3 39:15 40:12,14,	148:7 149:15 161:10 175:25 176:2 185:12,20 245:11,17,21 246:2,6,13 250:21 251:13, 18 255:23 259:5
		exercise 16:22,23,24 17:8	expert 121:5	148:7 149:15 161:10 175:25 176:2 185:12,20 245:11,17,21 246:2,6,13 250:21 251:13, 18 255:23 259:5
			explained 225:1 226:2	148:7 149:15 161:10 175:25 176:2 185:12,20 245:11,17,21 246:2,6,13 250:21 251:13, 18 255:23 259:5
			explaining	148:7 149:15 161:10 175:25 176:2 185:12,20 245:11,17,21 246:2,6,13 250:21 251:13, 18 255:23 259:5

<p>150:16 216:17, 18 223:5</p> <p>explanation 175:15 238:15</p> <p>explore 87:19 230:17</p> <p>explosives 131:14</p> <p>exposure 24:23 57:13</p> <p>express 88:18 147:15 254:1</p> <p>expressed 19:17 20:20 22:9 40:17 56:22 58:21 89:10 120:17 137:14 229:2 247:15,16 249:8 250:22</p> <p>extend 161:24 200:24</p> <p>extended 225:23</p> <p>extending 117:4</p> <p>extends 150:12</p> <p>extension 47:1</p> <p>extensive 65:6</p> <p>extent 65:21 70:5 96:14 163:23 262:5</p> <p>externally 105:25</p> <p>extraordinary 72:12 76:11 247:8</p>	<p>extremely 19:14 28:3,7 48:6 56:21</p> <p>eyeballs 234:22</p> <p>eyes 29:8 192:22</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>faced 259:6</p> <p>faces 111:8</p> <p>fact 27:15 28:20 30:13 34:4 60:7 75:5 103:10 121:6 142:6 153:22 154:15 158:15 160:2 171:1 175:12,16 178:20 180:2,5 181:15 187:6 189:4 208:18 211:2 213:21 215:14,25 219:19 224:25 227:14 229:2 231:25 232:1,19 247:22,23 250:15</p> <p>factors 17:25 89:1 142:3,4</p> <p>facts 65:11 95:24 96:1,3 98:16 113:2</p> <p>factual 146:10</p> <p>failing</p>	<p>150:14</p> <p>fair 19:10,16 41:3 45:19 80:19 81:3,8 90:11 99:17 106:2 110:4,7,12,15 120:14 173:14 174:5 175:18 176:15 198:4 247:1,12 248:8 253:18 257:12</p> <p>fairly 20:15 74:2 79:9 127:25 129:19</p> <p>fairness 16:25 17:6,8 18:23 256:4</p> <p>faith 20:25 148:13</p> <p>fall 20:10 27:24 68:1 123:24</p> <p>falls 67:24</p> <p>familial 52:24</p> <p>familiar 11:14 23:8 42:24 43:2 51:7 56:21 57:16 61:13 62:1 64:13 72:21 91:24 95:11 122:12 125:14 139:20 168:14 241:7 252:9</p> <p>families 125:16 206:2 210:7 211:13</p> <p>family 21:4 39:24 40:5</p>	<p>41:1 52:20 53:6 55:5,23 65:9 76:16 81:24 97:7 106:6 137:24 140:21 141:1,6,11,13, 15,21 142:1,4 150:9 156:1,6 157:6,7 161:18 162:1 194:16 204:24,25 205:3 208:3 213:16, 20,21,22 214:16 215:9 216:7,10, 18 219:12 221:4,7,8,9 222:21 223:14 225:22 226:19, 21,22 231:4 235:21 238:3 258:25 264:4</p> <p>fan 106:7</p> <p>fantastic 19:7 83:14</p> <p>farming 21:4</p> <p>fascinating 58:3</p> <p>father 21:4 49:13,16 164:10,14 166:19 167:1,3, 5,15 169:4 184:8 205:4 235:8,24 236:3</p> <p>Faulk 16:1,3 23:21</p> <p>faulty 230:25 231:1</p> <p>favor 114:8 266:15</p>	<p>favoritism 249:9 250:3,15, 16</p> <p>fear 96:4</p> <p>feathers 95:3</p> <p>February 130:13</p> <p>federal 30:11,18,20 31:8 55:4 57:20 64:12 65:5,13, 17</p> <p>feel 16:12 19:10 39:14 44:11 54:18 69:20 86:20 94:19 110:17 118:2 120:5 125:8 135:10,11 148:14 161:16 188:19 214:3 215:25 221:2 222:1 240:20 245:16 249:1 259:2</p> <p>feeling 81:13 127:17 148:12 222:2</p> <p>feels 90:19</p> <p>feet 25:20</p> <p>fell 188:16</p> <p>fellow 97:19 172:14 247:10</p> <p>felonies 87:3</p>
--	---	---	--	---

<p>felony 57:24</p> <p>felt 88:5 97:7 110:6 126:10 220:3 229:14 236:11, 17,25 242:7</p> <p>Fiffick 54:4</p> <p>Fifty-four 169:9</p> <p>fight 75:25 126:20, 21,25 127:3</p> <p>fighting 89:19 229:6,7</p> <p>fight 75:20</p> <p>figure 34:15 98:8 173:21 185:12 198:10 251:8 262:24</p> <p>figured 185:8,9</p> <p>file 30:6,7,8 34:2,8, 23 94:24 217:16</p> <p>filed 8:24 15:1 20:9 38:14 52:14 85:8 117:2 134:4 145:12 149:9 212:22 229:21 231:25 232:14</p> <p>files 118:12</p> <p>filing 20:8</p> <p>final 193:24</p>	<p>finalized 191:22</p> <p>finally 19:13 90:5 197:7</p> <p>find 67:23 106:15 124:18 151:4 171:24 178:7 185:25 187:25 188:2 209:24 227:14 248:15, 16 254:7 258:2</p> <p>fine 35:15 99:12 116:2,9 117:16 134:23 152:7 179:2 180:17 219:10</p> <p>finished 29:13 258:10</p> <p>fire 72:25 212:20</p> <p>fired 154:13</p> <p>firm 55:6 87:4</p> <p>firms 55:8</p> <p>firsthand 75:16</p> <p>fitness 10:23 22:12 42:7 60:15 91:5 121:21 139:1 249:7 251:15</p> <p>FITSNEWS 204:4</p> <p>fix 127:17</p> <p>flag 241:22</p>	<p>flavor 69:3</p> <p>flexibility 52:17 77:5,11 85:21</p> <p>flight 63:13,14 94:3</p> <p>flinch 49:23</p> <p>floor 73:15 75:24 76:11</p> <p>Florida 208:19</p> <p>Floyd 36:23,24 37:4, 10,15,18,22,25 38:3,21,24 39:2, 5,10,14 40:7,13 41:22 42:4,9 43:16,21,24 44:23 45:20 46:16,25 47:13 48:7,10 49:24 50:1,16</p> <p>flying 158:16</p> <p>focus 18:19 25:4 26:5 41:17,19 101:19 146:12</p> <p>focused 8:17 14:19 38:7 52:7 85:1 116:20 133:22 145:5 198:21 199:2</p> <p>folks 76:20 78:17 85:13 94:19 95:1 107:3,15 109:19 167:18</p>	<p>168:3,25 169:24 204:5 219:15 238:21</p> <p>follow 12:20 36:6 50:5 65:1 70:6 82:18 113:15 131:1 142:25 149:10 211:14 265:22</p> <p>followed-up 169:21</p> <p>foolish 234:8</p> <p>fools 74:10 257:9</p> <p>football 101:5</p> <p>Force 58:2</p> <p>Ford 145:22,24 146:14,23 147:2,7,10 149:14,25 150:2 151:11 163:14, 24 165:3 174:5, 7,23 187:5 194:18 202:10, 17 204:21 205:5,7,8,11,16, 20 207:21 211:11,18 212:10 213:7 214:7 216:10 222:23 223:13 224:19 225:22 228:1,12 231:20 232:13 233:20 259:17 260:17, 22 261:4,19 262:1,7,10 264:3,17 267:11</p>	<p>Ford's 231:25 237:17</p> <p>foreclosures 39:23</p> <p>forego 243:18</p> <p>forever 76:6</p> <p>forget 136:5</p> <p>forgive 210:6 227:24</p> <p>forgiving 188:7</p> <p>forgot 151:18</p> <p>forgotten 47:11 61:4</p> <p>form 79:11 159:1 163:19</p> <p>formal 13:1 36:12 50:11 82:24 113:21 131:7 143:6 266:3</p> <p>forthright 90:11</p> <p>fortunate 45:10 106:10 107:17 112:11 258:15</p> <p>fortunately 71:17 158:2</p> <p>Forty-one 206:16</p> <p>forward 20:19 68:2,8 69:11 71:25 77:20 80:21 96:21 107:9,25 121:12 125:18</p>
---	--	---	---	--

143:20 145:22 161:3 174:10 187:7 202:11 212:25 214:4 221:9 227:2,3 228:13,16 233:3 243:21 259:2 260:22	free 105:8 106:23 108:2 freely 164:24 frequently 78:9 224:14 Friday 209:23 210:4,5 227:8,10 229:9, 12 230:7,8 Fridays 232:2,5 friend 48:22,24 85:18 138:3 188:10 friendly 19:8 friends 46:22 48:19,20, 21 93:2 97:8,16 106:7 110:25 121:2 157:8 187:23 244:6 247:10,22 257:20 front 7:14 9:15 13:20 19:11 25:20,25 37:8 46:8 51:4 53:21 83:21 95:22 101:12 106:15 111:25 115:13 132:18 144:5 145:21 206:25 210:2 215:2 229:13 249:2,16 frowned 250:19 full 26:20,21 33:15	52:23 124:16 134:21 full-time 21:8 fully 53:7 112:24 148:16 150:14 201:10 fun 131:18 fundamentally 67:15 69:16 future 30:4 87:23 107:9 259:7	80:24 87:14 91:25 92:4 100:12 111:23 122:13,17 124:14 137:23 139:21,25 146:20 152:14 154:2 177:25 250:18 252:10, 14 general's 154:18 generally 25:3 108:1 154:4 157:5 188:24 204:17 211:9 gentleman 66:23 179:7 182:3 186:11 gentleman's 160:10 gentlemen 114:19 143:21 192:20 200:20 202:22 243:10 267:2 Georgia 198:15 199:15 get all 123:22 235:17 giant 35:1 giants 35:10 Gibbons 115:1,3,5,9,15, 19,22 116:2,4,9, 12,15 117:7,8,9, 11,12,16,24 118:2 120:10 121:14,15,23	122:25 124:25 128:8,11 131:16,18,22,25 give 9:1 26:4 28:17 30:15 38:18 52:23 53:1 79:19,22 81:11 85:12 102:5,6 107:18 110:15 117:13 129:18 130:17 131:9 134:6 138:8 146:16 158:9 169:16,17 180:2 187:5 188:20 200:17 239:8 245:14 246:2 250:6,7 258:20 261:11 Giver 18:14 giving 15:3 38:16 73:8 85:10 103:6 108:15 150:4 250:17 glad 15:18 49:18 62:25 82:4 103:8 gladly 74:10 glean 156:25 glee 100:19 glowing 77:18 glowingly 73:25 128:17
G				

goal 173:14	185:22 196:11, 19,20 197:8,13, 23 198:9 236:13	146:2 228:14	growing 26:24	126:24 160:3 171:25 172:2,3 257:24
goals 88:2	grab 30:8 114:15	gray 112:22	grown 15:19,22 17:13, 17 53:11	guys 28:2 71:1 72:20 73:1,3
God 55:22 234:20	grabbed 34:2	great 8:13 9:9 19:16 51:14 57:20 71:9 82:5 90:5, 25 91:15 92:13 94:12 100:19 101:14 126:2 143:11 212:16 246:5 258:6 266:10	guard 75:23	
Goings 124:14	grace 102:6 103:6	greater 30:12 31:2 32:13 58:7 125:13	guardian 137:2,7	H
Golden 256:5	gracious 81:19	greatest 136:3	guess 21:16 25:2 26:3 43:3 98:5 100:7, 24 104:2,11 105:1 155:11 170:11 180:22 192:4 193:24 194:18 197:11 199:10,18 230:15 234:16 238:12 239:14	hack 71:5
golf 236:10	graciously 39:25	greatly 78:14 110:25	guest 244:1	half 27:3 34:7 111:17 112:9 140:25
good 7:2,6,8 10:12 13:10 16:4,5,20 20:25 29:9 32:15 38:25 39:5,6 40:15 44:23 54:3,4 55:13 56:4 58:5 62:24 66:17,18 71:25 72:8,9,15 78:20 81:13 83:12,13 86:12, 13 87:25 92:24, 25 99:23,24 115:4,5 119:21, 23 121:2 127:1, 17,21 128:12 132:5 134:13 137:11,12 152:2 159:22 160:5 163:7 182:4 216:12 217:24 243:1 244:21 258:9 259:3	graduate 107:13	Greenville 15:9	guidance 70:4,6	Hallelujah 82:9
government 79:11	grand 53:12	grew 21:4 48:9 49:17 90:23 135:19	guideline 252:19	hand 13:14 22:18 29:16 37:2 50:23 83:15 115:7 132:12 143:25 146:25 151:20 177:5
GPS 159:5,8,18 160:3,4,7 161:2, 4 183:5,7 184:2	grandmother 181:23 196:8 235:24	Grey 29:15	guidelines 11:25 23:18 43:10 61:24 92:10 122:22 140:5	handcuffs 233:22
	grandmother's 208:4,20	Grey's 35:15	guilty 155:23,25 156:3,19 221:10,14 232:8,11	handed 30:6
	grant 46:25 115:1,9 116:12,15 207:2 237:7,11	grieving 238:21	guns 181:19	handful 40:17
	granted 64:18 106:6 182:3 207:25 228:22 233:2,8, 10 234:18	grocery 135:22	guy 18:13 79:18 82:8 102:23 104:8 110:1	handle 16:19 20:18 63:24 68:2 94:9, 10 95:20 102:25 103:7 107:16 113:6 119:12 259:8
	grateful 53:19 54:21 55:1 60:1 73:18	ground 44:1		handled 57:20 95:20 191:16 251:4 253:19 256:7
	gratitude 201:1	group 125:21		
	grave 138:16	groups 257:19		
	gravity	grow 46:13 253:21		

<p>handles 196:22</p> <p>handling 88:21 90:3 171:25</p> <p>happen 102:14 129:16 138:10 182:17 197:2 204:12 233:13 242:15, 19</p> <p>happened 34:7 46:24 59:25 101:25 125:15 137:19 148:24 159:19, 20 162:20 175:16 184:8 185:23 187:20 188:2 218:10 223:18 230:23 231:2,17 232:17 235:16 238:2,8, 16</p> <p>happening 95:15 182:16 198:22 212:21 214:25 223:6 237:1</p> <p>happy 9:12 15:24 69:21 76:19 86:1 95:5 147:5 151:15 152:1 155:2 243:24</p> <p>hard 21:3 29:5 32:22 59:19 71:10 72:6 75:15 100:9 101:6 102:15,17 118:22 123:22</p>	<p>129:13 130:5 248:15 267:17</p> <p>harken 126:7 219:9</p> <p>harsh 219:16 220:8</p> <p>hat 239:15</p> <p>hate 149:6 173:5,11 179:16</p> <p>haven't 57:1 64:19 81:22 93:11</p> <p>head 44:3,9 96:21 121:9 166:11</p> <p>headquarters 170:12</p> <p>health 10:21 22:16 42:6 60:13 91:3 121:18 138:25 251:16</p> <p>hear 86:1 89:18 94:7 101:6 103:8,11 109:25 112:13 124:3 145:19 147:5 151:16 152:1 174:20 189:20 191:5 222:3 238:15</p> <p>heard 20:23 24:13 46:13 81:2 89:21 114:10 146:17 150:5 158:3 177:7 179:18,19 186:12,20 189:17,18,19,20</p>	<p>192:12 200:23 203:1 206:14 222:9 224:17 230:17 233:16 240:10 241:13 257:17 262:20, 21 264:2,11,25 265:13</p> <p>hearing 74:25 99:2,3 105:5 108:22 153:8 155:21 156:3,13 157:11 158:12,23 160:12,20 162:13 165:13 174:1 175:20,24 177:5,11 178:9 181:2,18,21,22 182:8 183:3,12, 25 184:1,20 185:2,15 190:1 191:24 193:17, 20 194:2,9,17 197:4,20 205:10 206:20,21,25 207:7 208:24 209:1,2 216:21, 22 222:24 223:3,22 233:18 237:8 238:23 241:17 249:18, 21 260:17 261:23 262:15 263:19,20 264:6</p> <p>hearings 79:20 89:22 152:17 162:25 181:1,5,12 184:11 190:4 209:12,13 224:22 229:11, 12 267:18</p>	<p>heart 20:24</p> <p>heartfelt 238:15</p> <p>hearts 188:8</p> <p>heavy 12:23 36:9 50:9 82:21 113:19 131:4 143:3 265:25</p> <p>heck 180:12</p> <p>hectic 27:2</p> <p>Heirs 85:15</p> <p>held 114:17 193:18 194:2 197:19 207:1,16 266:25</p> <p>helpful 201:5 202:4</p> <p>helping 201:9</p> <p>helps 113:10 142:10 158:8 245:7</p> <p>hesitates 247:10</p> <p>hey 33:3 72:19 101:7 161:11 172:6 189:2 212:24 223:5 224:3 225:13 248:1 257:24</p> <p>he'd 74:13</p> <p>he's 27:20 45:11,15 47:6 48:11,14</p>	<p>49:22 71:13,15 76:16 82:4</p> <p>high 120:15 241:24</p> <p>highest 73:20 89:6</p> <p>highlight 31:20</p> <p>highly 90:13 93:5 112:13</p> <p>Hill 256:23</p> <p>Hinson 39:1,4,7 40:21 43:14</p> <p>hire 119:17</p> <p>hissself 168:17</p> <p>historically 68:19</p> <p>history 21:15 59:20 69:15,18 71:16 88:15 187:25</p> <p>hit 236:10</p> <p>hits 127:14</p> <p>hitting 177:14</p> <p>hold 46:5 79:13 228:2</p> <p>holding 125:8 258:16</p> <p>holistically 254:3,12</p> <p>home 62:21 127:14</p>
---	---	--	--	---

141:8 195:20 196:9 honest 19:10 90:11 honestly 69:14 72:8 99:13 107:3 157:5 171:20 180:1,8,19 183:1 184:7 188:22 189:20 200:8 215:19 honesty 138:19 honor 53:20 86:4 honored 48:23 hope 49:21,22 56:6 78:4 80:15 97:21 99:25 135:15 137:25 149:23 151:6 242:8 hoped 222:3 hoping 111:18 129:10 horrible 161:10 Horry 165:17 Horton's 73:8,11 host 49:16 hot 77:6 hour 243:6 263:16	hours 31:9,12 76:2 89:22 195:23 236:12,13,16 house 58:25 71:2,6 73:15 76:7 78:8 81:16 125:24,25 208:4,5,21 235:9,11,22,23 housekeeping 22:18 42:10 60:20 139:6 huge 53:14 87:23 242:19 Huh-uh 182:9 183:13 190:9 human 177:16,17,20 239:16,18 humble 102:25 hundred 65:19 176:8 hundreds 89:22 hungry 106:12 husband 29:5 134:11 hush 167:19 219:14 Hutto 163:1 181:25 206:24 207:14 212:24 213:3 224:25 229:3 232:3 235:19 237:13	Hutto's 236:18 <hr/> I <hr/> I.e. 127:7 idea 32:15 93:10 99:10 138:16 237:6 ideal 110:11 ideas 222:10 identification 8:8,11 14:10,13 37:24 38:2 51:20,23 52:1 84:13,16,20 116:11,14 133:9,12,16 144:22,25 202:16,19 203:14 266:8 identified 149:12 identify 35:10 256:11 identities 267:12 ill 75:22 illuminating 214:23 imagine 29:21 93:20 164:10 179:14 imagined 15:14 immediately 70:25 108:8	159:1 160:17 178:7 197:17,18 206:18 213:1 222:22 235:18 immensely 201:5 impact 17:25 87:23 158:10 163:19 180:3 187:5 215:15 impactful 254:6 impartial 41:3 110:12 247:2 impartially 97:9 implement 65:22 implemented 94:18 importance 17:19 important 18:24 31:20 47:24 58:8 62:25 69:22 78:16 80:2 89:1 101:3 110:13,14 111:2 147:20 254:9 impossible 31:4 108:9 161:6 impressed 126:17 impression 87:22 137:20 239:5,9 impressive 34:24	improprieties 131:3 impropriety 12:22 36:8 50:8 82:20 113:18 143:2 265:24 improve 22:1 inaction 148:11 incarcerated 206:22 incarcerative 233:24 incident 30:8 166:17 included 8:18 10:2 14:20 16:8 38:8 39:9 52:8 54:11 56:14 71:20 85:2 86:16 116:21 117:23 133:2,23 135:4 145:6 204:10 225:24 244:25 including 11:14 23:8 42:24 61:13 91:24 122:12 139:20 208:1 239:21 252:9 inclusion 177:12 incorporate 146:19 incorporated 12:7 23:24 43:16 62:8 92:15 123:4 140:10 252:25
--	---	--	---	---

incorrect 165:24	167:23	insight 128:1	intentional 250:15	225:16
increase 41:20	influence 48:9	insistent 259:9	intentionally 244:10	intervene 11:20 23:14 43:6 61:20 92:6
incredible 48:15 93:19 219:18	information 12:15 65:20 67:2 102:5 146:18 149:3	instance 137:19 146:7 156:7	interact 67:11 169:25	122:18 140:1 252:15
incredibly 47:24	159:11 163:22 169:17 170:16, 21,22 181:13	instances 89:3 119:14 159:18	interaction 168:4 175:25 178:10 210:7	interview 31:11 65:9 119:17
incumbent 58:13 191:2	186:18 209:20 235:5 253:15,16	instinct 186:21	interacts 19:15	interviewed 31:16
independence 80:22 81:4	260:10,13 261:10,25 262:3 263:7 267:13	institution 71:12	interest 8:23 15:1 38:13 52:13 85:7 98:18,20 117:1 134:4 145:11 174:18 238:2 240:3	interviewing 100:16
independent 191:16 192:19 193:6	informed 204:23 211:18	institutions 59:8,12 80:5,8	interested 66:3 156:10	interviews 31:10,13,21
indications 162:15	ingenious 108:9	instructed 95:16	interests 90:17	intimidated 121:11 171:21
indictment 227:8,19	inherent 17:7 18:22	insurance 245:25	interfere 41:4	introduce 9:4 15:7 38:19 76:17,20 85:14 117:6 134:8 162:22 172:5 243:24
indictments 21:13 29:6 118:15	initial 183:2	integrity 35:3 119:20	interim 184:4	introduced 165:14 168:17
indifference 238:14 240:15 241:19	initially 153:14 157:19, 21 183:7 222:20	intellect 78:22 109:22 110:12	interject 172:12	intuition 186:21
indifferent 238:25 240:5	injury 25:7 112:10 124:13	intellectual 112:14 113:4	intern 45:23	investigated 8:15 14:18 38:5 52:5 84:24 116:18 133:21 145:3 148:16
individual 99:6	injustice 242:11	intellectually 150:23	internally 105:25	investigating 172:4 176:4
individuals 150:21 240:13	innocent 126:25	intelligent 19:15	interpretation 160:13	investigation 12:5 23:22 43:15 62:7 65:7 92:14 123:2 140:10 168:13 252:24
industriousness 47:18	inquired 226:7	intend 105:12 129:9 130:1 265:3	interpreted 248:21	investigations 148:23
inescapably 78:17	inquiries 14:19	intent 11:5,9 22:24 23:3 42:15,19 60:25 61:8 90:23 91:15,22 122:3,7 139:12, 16 251:25 252:4	interrupt 149:6 159:9 192:20,25	
infer 244:10	inquiry 8:16 22:4 38:6 52:6 84:25 116:19 133:22 145:4 200:22			
inferences 112:2				
infirmed				

<p>investigator 166:20,25 167:1,5,14</p> <p>invitation 125:23,24 204:8</p> <p>invite 258:10</p> <p>invoke 49:21</p> <p>involved 68:18 69:8 110:9 119:25 125:13 126:16 146:3 148:20 154:12 162:21 163:14 171:6 174:5,8 176:5 181:14 183:16, 21,22 186:6,8 188:15 198:24 204:1 207:6 251:5</p> <p>involvement 42:1 58:22</p> <p>involving 141:14 167:11</p> <p>Iraq 111:5</p> <p>irritated 178:5,7</p> <p>isn't 24:24</p> <p>issue 53:6 63:6 79:4, 17 93:24 94:9 95:6 96:6 101:21 102:2 103:5 127:11 157:18 187:25 190:1 197:6 213:24 217:21 218:16 225:16</p>	<p>227:13 228:23 239:14</p> <p>issues 31:24 32:11 60:21 71:10 87:9 95:23 98:7, 9 105:22 106:2, 4,23 111:13 112:14,24 113:6 124:13 129:19 146:3 172:13 175:21 179:23 214:5 218:1 221:1 228:13 255:13</p> <p>items 251:20</p> <p>iterations 112:17</p> <p>it's 12:13 15:13,22 16:4 18:13 25:18 26:12 28:20 31:4 32:22,24 33:5, 13 41:9 47:9 53:20 55:18 58:13 59:7 63:11,17 67:13 69:16 72:4,8,9, 10 73:3 78:7 80:2 81:3 86:4 88:24 89:8 90:13 93:15,22 94:2 99:9 100:9 102:14,17,22 103:5,6,18 106:14 107:1,6 108:23 110:17 112:6</p> <p>I'd 17:19 21:11 45:16 48:5</p>	<p>62:21 95:4 96:11 111:6</p> <p>I'll 15:18 22:18 29:10 38:25 45:15,17 56:6 58:9,14 59:11 72:15 76:12 80:2,14 93:1 94:11 105:15 107:1,16 110:24</p> <p>I'm 15:18,24 20:1 21:3,6 25:6,13 28:23 29:13 33:3 39:2 40:2 43:2 44:19 45:6, 15,20 46:2,14, 18 48:6,7,23,24 49:18 53:19 54:6 58:18 60:20 62:25 64:12 67:13 68:15 69:21 72:12,13,19 73:17 77:2 79:21 80:11 81:19,25 83:14 89:4 93:16 96:2, 12 97:21 98:5, 12 101:19 102:22 103:8 104:8 106:7,8,9, 10,13 112:4</p> <p>I've 11:23 15:22 16:15 17:17,21 18:2,4,5,7,12, 14,20 19:8,9 20:6,8,10,12,23 24:14,17 27:19 28:2,3 31:8,9 34:7 39:17,18,</p>	<p>20,21,22,23 41:2 46:12 54:24 55:4 57:23 58:6,8,11 59:13 62:1,17 63:19 64:11 65:24 66:7 69:6 73:17 77:1 78:14 82:7 87:18 88:1 89:5, 14,18,19,20,21, 23 90:2,11 93:3 94:13 96:23 99:15 100:7,24 102:4,14 103:21 106:1 109:17 110:2,24,25 111:5</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>jack 40:2 176:24</p> <p>Jackson 85:18 199:16</p> <p>jail 94:5 187:22 188:9 196:1,4 206:22 207:17</p> <p>James 50:20,25 51:21, 24 52:2 56:15, 18 70:15 72:19 257:7</p> <p>Jane 137:4</p> <p>January 130:13 204:12 209:14 235:16</p> <p>Jim 76:24</p> <p>JMSC</p>	<p>53:17</p> <p>job 10:17 16:18 21:9 56:5 65:10 82:5 95:5,6 98:22 101:8,17, 18,20 104:25 108:13 127:20 150:7 152:24 154:11 173:23, 24 180:18 216:2,12 217:24 256:2</p> <p>John 35:12,13,20 73:22 86:8,9,11 137:4</p> <p>Johnny 85:17</p> <p>Johnson 26:8,25</p> <p>join 41:12 134:15 179:13 193:14</p> <p>joined 76:20 134:9</p> <p>joke 71:23 158:13</p> <p>Jones 100:2</p> <p>Jordan 44:18,19,20,22 45:19 66:13,14, 16,18 69:4 70:9 71:22 114:6 202:12 266:13</p> <p>Jr 217:19 256:12</p> <p>judge 7:5,6,8,17,21,24 8:4,6 9:6,10,11, 14,17,19 10:3,9,</p>
---	---	---	--	--

12,14,19,22,25 12:3,11 13:6 16:14,21 17:15, 19 18:11 19:1,7 27:12,15,16 28:12 30:21,25 39:16 40:15 41:17,20 54:20 55:14,16 56:20 57:9 59:4,11 60:8 65:11,20 67:7,9,25 68:12 69:3,24 72:15 76:13 79:19 80:24 86:22 87:13,16 88:1 89:17 94:2,6 107:17 109:24 110:12 112:8 113:7 118:5,19 119:23 135:13, 16 136:4 141:2, 4 147:14 150:8 151:6 154:21 158:12,24 160:14 164:24 165:14 169:7 186:17 191:22 206:14,20,25 207:1,10,25 208:10,11 209:2,7,24,25 210:2 217:13 218:13,16 221:24 228:18 229:13,22 231:23 232:4,6 233:15 236:19 237:7,11 239:17 245:4,5,19 246:4,24 247:12 249:19 253:12	judge's 197:16 judges 17:12,15 46:21 63:5 64:10 65:25 67:19 70:2 78:6 93:21, 23,24 103:3,16 109:20 119:10, 25 121:2 147:18,19,21 150:10 152:7 207:9 253:20 judgeships 140:21 judging 258:16 judgment 41:5 60:8 101:24 119:21 180:3 judicial 7:3 8:14 10:25 11:1,2 14:17 15:10 17:10 22:14,20,21 38:4 42:9,11,12 52:4 53:13 59:5 60:17,21,22 68:13 78:5 81:1 84:23 90:6 91:6, 8,9,14 98:15 99:15 100:18 107:5,7 116:17 120:7 121:19, 23,24 133:20 136:2 137:12 139:3,7,8 145:2 163:16 166:19, 20 167:6 170:13 199:3 202:25 243:13 244:5 251:13,21,22	judiciary 80:22 81:4 150:21 217:21 251:19 July 130:10,12,17 June 33:4 juries 25:21 jurisdiction 47:3 209:25 jurisdictions 198:23 jurist 29:9 40:14 jurists 247:3 jurors 154:19 jurors's 215:12 jury 68:3 169:7 173:19 justice 17:2,5 18:21 66:2,6 68:7 90:15 103:19 127:5,8 148:18 181:8 222:6,10 240:10 Justin 83:10,17 84:14, 17,21 86:17 97:13 Juvenile 181:8	<hr/> K <hr/> Kandahar 73:1 Karl 151:22 152:2 keen 201:20 keeping 45:15 Kennedy 35:21 Kenny 170:17,18 Kevin 124:15 kick 73:4 kid 102:2 107:12 killing 63:18 94:6 Kimpson 125:22 kind 18:15 26:5 29:7, 8 30:3,8 32:11, 15 34:9 39:18 53:24 57:21 68:8,9 101:10 104:12,19 105:3,6 106:3, 21 110:4 118:11,16 126:2 127:12 129:3 130:10 141:23 142:15 154:20 171:1,19 173:24 174:18 177:12, 15 178:11 184:24 185:6,8,	9 188:1 193:2 208:15 219:17, 20 232:25 233:24 234:11 237:20 239:3 245:22,24 246:23 247:11 248:15,18 250:15,16 254:12 255:5 kindly 266:22 kinds 245:11 Kingtree 40:1 Kinsey 170:18 Kirkland 81:20 82:1,2,7 Kittredge 66:6 240:11 knew 33:1 49:12 81:13 169:6 185:7,22 186:21 187:18,25 188:10 208:15 209:22 213:18 214:5 221:8,14 229:10 239:21 246:4 264:7 knowing 19:11 29:5 30:25 49:17 74:14 89:8 106:9 228:12 251:1 knowledge 40:14 41:11 56:20 84:7 111:12 119:13,
---	---	---	--	---

<p>14 137:11 175:4 198:6 212:12 247:8</p> <p>knowledgeable 66:22 246:21</p> <p>Kolb 126:15</p> <p>kudos 35:19</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>lack 56:25 89:11 111:9 121:22 177:23 240:2 263:21</p> <p>lackadaisical 152:14 178:1 240:1,4</p> <p>lacked 75:17</p> <p>lacks 148:8</p> <p>ladies 114:19 143:21 202:22 243:10 267:2</p> <p>lady 38:19 117:6 154:18 195:11 255:5</p> <p>laid 101:22 237:13</p> <p>land 32:14 35:13,20 127:11</p> <p>lane 28:25</p> <p>Langford 67:4</p>	<p>language 29:1</p> <p>Lanue 48:10</p> <p>laptops 203:16</p> <p>large 78:5</p> <p>largest 55:8</p> <p>lash 104:15</p> <p>lastly 53:20 247:3</p> <p>late 181:10 263:16</p> <p>lateral 146:21</p> <p>latest 58:10,14</p> <p>law 10:15 17:20 18:15 19:12 20:3 21:15 26:8, 21 28:3,4 30:5 31:10 33:20 40:16 41:5 45:5 46:7 54:23 57:1 58:11,17 65:1 75:11 79:8,10 81:8 85:18 87:4 89:7,24 90:17 93:11 101:12 110:25 112:14, 24 113:3 118:6, 8,13 119:18 120:16,23,24 123:20,25 126:14 127:25 136:10 141:3 150:9 152:5,6, 18 154:4 161:15</p>	<p>163:2 167:18 168:20 173:18 175:21 176:16, 19 177:6 187:18 196:25 201:12 202:1 219:21 239:6 246:3,22 247:6 253:9 258:1</p> <p>laws 8:20 12:21 14:23 36:7 38:10 50:6 52:10 82:19 85:4 99:17 113:16 116:23 131:2 134:1 143:1 145:8 148:10 150:19 265:23</p> <p>lawyer 28:19 29:8 30:13,17 33:2 54:22 58:2 64:11 73:21 75:14 78:21 100:8 106:9 107:23 125:12 128:18 129:21 135:14,16,21 147:8,10 148:13 189:10 215:2 232:8 248:17 250:8 253:11 266:23</p> <p>lawyers 17:11 46:13 47:21,22 73:20 96:18 98:6 99:5, 6,9 100:25 101:1 102:7 103:2,3,7 104:13 105:24</p>	<p>107:18,19 118:14 119:4,17 121:1 124:4 147:21 246:14 247:10 250:6,9 254:23</p> <p>lax 104:1</p> <p>lay 73:22 77:22 79:15 105:14</p> <p>laying 234:22</p> <p>lazy 29:8</p> <p>Lea 244:4</p> <p>lead 100:23 217:2 223:4 251:7</p> <p>leader 60:3 71:7 108:19</p> <p>leading 207:5</p> <p>lean 96:20 244:7</p> <p>learn 75:5 105:19 118:17 120:22 121:3,7,10 123:25 126:6 263:25</p> <p>learned 109:9 118:21,22 119:11,17 121:9 189:13 258:11</p> <p>learning 118:21 121:11 266:9</p> <p>leave 221:15 235:22,</p>	<p>23 257:22</p> <p>leaving 25:9</p> <p>led 182:5</p> <p>Lee 158:23 162:25 168:7 170:11 181:6,15,21 184:5,6 193:18 194:5 196:4 208:25 209:1 225:10 230:12</p> <p>left 31:14 69:7,8 75:10 146:21 148:11 208:6,14 227:17 264:18</p> <p>legal 16:12 19:14 39:14 40:11 54:18 55:10 56:16,20 78:4 86:20 114:16,22 118:2 129:1 135:10 165:4 177:6 237:24 245:6,16 255:13 262:16 266:21 267:7</p> <p>legislating 59:10,12</p> <p>legislation 59:22 68:11 125:20</p> <p>legislative 229:3</p> <p>legislatively 159:21</p> <p>legislator 11:10 23:4 42:20 55:12</p>
---	--	---	---	--

59:9 61:10 80:12 91:20 122:8 139:17 252:5 legislators 250:8,9 legislature 11:22 41:6 58:23 64:15 68:9 legislature's 58:12 Lejeune 125:5,11,15 lend 18:25 length 105:10 109:18 128:24 lent 141:7 142:5 lesser 191:14 lesson 258:14 lethargies 123:9 lets 239:2 letter 11:5,9 12:21 22:24 23:3 35:20,21 36:7 42:15,19 46:7 50:6 60:5,25 61:8 74:7,11 82:19 91:15,21 97:2 113:16 122:3,7 123:12, 18 131:2 139:12,16 143:1 217:20 223:17	251:25 252:4 265:22 letters 34:22,25 49:4 60:2 74:12 77:19 96:23 217:17 letting 117:11 239:3 248:6 Let's 102:19 level 57:23,24 87:2 100:19 154:3,5 221:6 239:25 255:25 256:3 Lexington 102:12 liaison 176:11 lie 194:14 life 27:1,10,25 30:5, 16 40:11 55:17 59:13 69:18,23 70:1 72:14 76:8 77:1 78:15 80:9 88:3 89:8,15 100:15 102:14 107:15 108:4 120:6 127:15 130:4 141:9 142:4 188:9 213:21 258:14 lifing 107:15 light 153:15 197:3 lightly 71:13 257:9	likes 47:5 125:22 limitation 252:10 limitations 11:15,17 23:9 42:25 61:14 91:25 122:13 139:21 222:12 limited 22:3 100:13 limits 146:22 197:15 limos 29:21 lineage 49:19 lines 222:16 249:22 list 124:1 169:18 listed 136:12 listen 46:20 187:21 listened 188:11,14 listening 154:23 205:18 238:13 254:13, 14 listing 137:10 litem 137:2,7 literally 162:24 168:1 litigant 110:14 litigants 17:11	litigate 147:15 litigating 73:24 124:6 litigation 20:12 25:7,8 58:20 111:16,21 112:4 124:15 129:3,7,17 141:5,12,16 251:4,5 litigator 27:1 131:13 litigators 35:1 live 59:16 108:23 181:23,24 196:7,8,10 lived 72:20,25 102:14 159:2 209:4 lives 101:1,13 102:8 103:2 126:13 209:6 living 196:12,14 254:4 load 21:8 119:24 140:22,25 lob 204:14 local 181:17 185:17 241:16 locations 209:12 236:2 locked 235:10 lofty 88:2	log 120:5 127:22 logic 75:17 long 18:3 33:14,18 34:2 45:13,24 49:12 57:2,25 58:5 59:20 63:17 72:23 107:22 230:3 259:22 263:13, 15,17 longest 32:2 looked 7:17 190:22,23 235:15 236:12 Lord 27:5 lose 47:2 loss 97:6,7 164:14 183:24 losses 127:9 lost 74:24 161:13 lot 16:18 17:14 27:2 30:14 32:2 34:20 59:21 63:3,5 64:20 65:11 69:6 74:12,16 81:23 93:2,25 94:8,12, 16 97:1 101:25 103:9,20,22 105:22 106:18 112:15 118:18, 20,23 119:8,13
---	---	--	---	---

120:22 123:15 125:21 127:18 128:19 137:22 141:11 157:8 176:19 179:25 184:9 188:12 198:22 199:1 202:2 206:4 218:8 220:20 229:4 236:15,16 238:14 244:7 246:2 248:14 260:11,12 263:2	lunch 36:20 83:8 114:15 123:8 <hr/> M <hr/> mad 218:9 Madame 193:4 made 7:23 14:3 20:25 27:9 37:17 51:13 61:6 71:23 82:9 84:4, 5 114:23 115:21 118:9 120:25 133:1 139:4 144:15 158:9, 14,20,24 162:9, 17,18 180:5 182:2,18 191:22 195:11 196:17 201:22 204:5,7, 18 205:24,25 206:24 208:19 214:1,8 215:25 223:15 235:7 264:13 267:6 magistrate 57:23 89:20 154:1 195:25 magistrate's 183:14 Main 106:11,12 maintain 104:10 major 41:1 87:3 majority 135:17 147:18	259:11 make 9:1 15:4,15 19:7 20:18 31:19 32:2 33:9 38:17, 24 40:12 47:7, 21 49:1 53:2 65:10 68:7 72:13 73:19 77:15 81:6,14 85:11 90:19 93:1 96:2,11,22 98:23 101:24 102:13 104:3 105:1 108:23 109:3,7 117:4 119:23 134:7,17 138:2,10,15,17 145:24 146:17 147:16 150:17 156:4 181:14 183:20 211:6 213:10 215:11, 14 216:3,8,15 224:6,11 229:8 231:9 232:1 236:18 242:14, 15 245:11 247:24,25 248:22 258:24 259:10 260:4,23 261:10 maker 80:12 makes 110:1 219:19 229:23 making 14:6 16:19 27:14 37:20 51:15 59:10 84:8 87:22 112:4 116:6	133:5 134:14 144:17 147:24 148:25 161:17 225:2 248:3,11 260:12 mal 112:11 malpractice 39:22 124:6 man 40:1 118:11,17 120:15 152:16 187:13 222:6 man's 171:17 manage 31:25 33:9 96:15 99:1,3 managed 32:16 management 32:10 33:12 manages 95:12 managing 216:12 manner 21:23 22:3 95:21,22 96:16 100:18 103:24 232:14 253:18, 23 Manning 27:4 206:25 207:1 March 33:5 209:19,20 212:22 214:7 marching 103:13 Marine 254:2	Marion 85:17 mark 34:13 256:23 marked 8:7,10 14:9,12 37:23 38:1 51:19,22,25 84:12,15,19 116:10,13,17 133:8,11,15 144:21,24 202:15,18 203:13 Marlon 125:22 married 9:7 107:12 Martha 132:6,14 133:10,13,17 134:20,21,23 master 40:3 mastered 21:24 materials 8:19 14:22 38:9 52:9 85:3 116:22 133:25 145:7 209:18,19 math 111:9 matter 41:23 42:1 88:17 96:18 102:18 111:9 149:10 153:22 154:15 159:11 160:2 178:20 210:21 213:21 217:3 228:2
---	--	---	---	--

<p>233:16 238:6 239:11 243:15 260:20</p> <p>matters 96:14 110:9 112:19,21 113:8 148:17 250:23 262:6</p> <p>ma'am 24:1 60:24 61:12,16,19 62:4,11</p> <p>Mcfaddin 158:24 207:11, 25 208:10,11</p> <p>Mcgill 49:16</p> <p>Mciver 29:17 34:19,20</p> <p>meaningful 32:8 33:10,15</p> <p>means 17:5 49:3</p> <p>meant 17:1,3 75:25 193:11</p> <p>measure 29:7 216:3</p> <p>measured 216:4</p> <p>med 112:11</p> <p>media 68:20,23 69:2, 15 70:2,3,5 71:22 72:2 94:13</p> <p>medical 39:22 124:6,11</p> <p>Medicine 124:10</p>	<p>meet 28:13 99:6 101:4 117:9 164:9 213:8 225:7 243:25 267:10</p> <p>meeting 7:3 21:18 101:2 108:22,24 152:17 153:13 165:23 170:2,25 178:6 205:9 221:19 225:8 226:3,5,18,20, 22 231:6,7,8 265:6</p> <p>meetings 99:12</p> <p>meets 10:4 16:9 39:11 54:13 86:17 117:24 135:5 245:1</p> <p>member 48:12 61:3 76:14 125:22 128:16 131:15 266:23</p> <p>members 11:6,15,18,22 12:9 13:7 22:25 23:9,12 24:1 35:7 36:18 42:16,25 43:5, 19 44:16 47:15 53:5 61:1,6,14, 18 62:11 65:10 66:12 83:5 91:16,25 92:3,4, 18 111:22 114:14 122:4, 13,16 123:6 124:22 128:7,14</p>	<p>138:12 139:13, 21,24 140:14 151:8 155:3 156:1,6 194:16 201:6 203:20 204:4 235:21 243:2 252:1,10, 13 253:3</p> <p>memory 28:25 44:6 230:25 231:1</p> <p>menial 21:12</p> <p>mental 10:21 22:17 42:6 60:14 91:3 121:18 139:1 251:16</p> <p>mention 29:25 232:1</p> <p>mentioned 28:9 30:1 55:15 64:7 245:20</p> <p>merge 26:7,8</p> <p>merit 7:3 8:14 14:17 15:11 38:4 52:4 56:7 84:23 116:17 133:20 145:2</p> <p>merits 95:24</p> <p>messages 212:20</p> <p>met 19:12 81:20 109:17 152:15 188:8 204:21 207:21 214:10, 12,15 231:4</p>	<p>Meyers 96:24 102:11</p> <p>Michael 171:17 206:13, 19 207:5 223:23</p> <p>microphone 194:24</p> <p>mid 87:2</p> <p>middle 57:13 73:2 254:8</p> <p>Midlands 60:11 90:25 121:15 138:23 251:9,16</p> <p>miles 208:24</p> <p>miliary 59:7 107:13</p> <p>military 55:11 58:1 87:10</p> <p>mill 131:15</p> <p>Miller 143:20,22,24 144:2,8,12,16, 20,23 145:1,23 146:7 147:13, 17,25 148:8,20 149:17 150:2,25 151:3,5 152:10 160:22 162:10 163:17 168:16 171:6,24 174:21 183:17 194:3,10 198:21 199:3,4, 21 202:11,24 203:1,8,15,18, 25 217:7,12 221:23 231:19</p>	<p>232:15 241:7 243:12,20 244:1,4,16,21 245:1,3,16 246:17,24 247:4 251:9,10,17,20 253:5 261:2 262:21 264:2, 18,20 265:2,15 266:11 267:10</p> <p>Miller's 166:12 171:25</p> <p>mind 19:12 79:5 185:20 192:15 210:22 225:17 235:13 241:12, 19,22 243:5 254:5 255:5 263:19</p> <p>mindful 146:12 173:1 195:8</p> <p>mine 22:6 30:2 48:22 138:4 199:12</p> <p>minor 205:2 249:21</p> <p>minority 60:3 71:7</p> <p>minuscule 236:15</p> <p>minute 75:24 200:5</p> <p>minutes 50:18 83:7 143:15 202:14 243:7</p> <p>mirror 112:3</p> <p>misdemeanor 154:4</p>
--	---	---	--	--

misinterpretation 72:5	monitor 159:5 160:3,4,7 183:5,7 184:2	mother 197:3 205:4 214:11 235:24	multiple 25:21 39:23 100:13 148:11 150:15 197:5 198:23 210:17 249:14	158:18 188:11 205:24 213:24 235:8,9,10 238:22
missed 97:20 125:7 126:3 231:10	monitoring 159:18 196:12, 23 206:10 234:25	mother's 155:14	Murdaugh 170:19	Needless 100:23
mission 172:19	monitors 159:8	motion 94:24 114:6 193:17 206:15, 24 209:21 212:23 228:21 229:21,22,23 231:22,25 232:13 237:13	murder 31:9 33:4 39:21 89:14 241:23 256:16	negative 254:7
mistake 181:14	Montgomery 151:2	murders 18:3	<hr/> N <hr/>	Negligence 124:8
mix-up 266:7	month 32:5 160:11	motions 25:19		negotiation 191:1,7
mod 181:6	months 33:3 34:8 149:3 230:3	motivated 55:19		negotiations 33:10,16 184:18 189:12 191:10
model 18:15	moon 158:17	mouth 257:17		Nelson 58:18 76:24
modern 68:22	Moore 102:10	move 17:15 64:9 67:3 71:25 77:20 85:22 96:20 104:6 118:23 119:24 120:5 208:20,23 225:14	name's 137:6	nervous 46:19
modification 158:22 181:22 183:5 184:1 193:19,20,21,25 194:2 196:3 209:3	moot 229:23 231:24	moved 74:14 208:18	named 18:13 41:23 110:1	Nester 26:12,18
modified 193:22	moral 89:6 120:15	moves 68:7	narrow 41:17	Network 211:11
mom 226:15,16	Morgan 123:13	movie 125:10	nation 55:20 56:9 82:12	neutral 58:25 98:23
moment 64:8 79:16 115:13 229:24, 25	morning 7:2,6,8 13:10 16:4,5 21:7 29:23 37:10 39:5,6 44:23 46:6 54:3,4 62:21 66:17,18 83:12,13 86:12, 13 92:24,25 99:23,24 102:11 134:13 186:3,4 191:23 213:3 227:15 267:16	moving 68:11 74:21 161:3 191:21	national 57:13	neutrally 79:9
moments 172:16		Mullins 58:18	natural 155:17 195:9	Newman 27:12,16 109:24
Monday 102:11 209:23 210:4 229:8,11 230:7,8		multi 57:24	nay 114:11 266:18	news 197:25 198:1,2
Mondays 232:2,5			necessarily 32:21 198:25 248:19 257:22 258:6	newspaper 8:21 14:23 38:11 52:11 85:5 116:24 134:1 145:9
Monetizing 124:10			necessity 245:9	nice 16:4 38:22 117:9 138:4 203:25
			needed 12:16 101:9,23 137:3 141:8	Nichols

73:22 77:23	147:20 202:8	nowadays	obligation	247:25
night	244:23 251:9	100:9 129:16	211:5	offender
20:8 62:22	252:22 266:1	number	observation	188:21,23
200:9 266:10	noted	72:16 75:6,20	160:25 161:5	offenders
Nina	44:7 47:10	78:20 121:2	197:12 199:8,	63:18,25 94:1,
76:24	88:15 136:13	159:17 178:14	11,13,20,21	10
Ninth	140:20 197:2	208:1 212:18,19	200:3	offense
64:1	232:12 251:17	261:15	observations	108:20 112:17
Nisi	notes	numbers	196:16	162:21 207:24
137:2,7	31:19	127:22,23 130:4	observe	244:13
nobody's	notice	numerous	129:9 160:23	offenses
106:24	32:13 33:21	57:22,23 119:17	197:14	236:21
nominated	101:21,23	225:9	observed	offer
258:13	123:12 180:25	nuts	159:4 160:15	19:19 20:22
non-lawyer	182:8,22 183:11	68:11 124:6	199:9 208:8	70:23 88:5
250:8	184:12 190:3		obstacle	94:14 120:19
non-legislator	200:15 208:13	O	177:14	137:15,17 142:8
250:9	noticed		obstacles	146:15 185:25
nonetheless	118:25	oath	120:4	204:14 213:9,13
77:10 82:4	notices	49:22 151:19	obtain	214:13 216:25
85:24	95:7,14	225:21 260:24	267:11	225:2,3,18,23,
normal	notification	object	obtained	24,25 226:3,6,8,
104:13 176:1	159:4	51:15 84:8	33:15	9,11,23,24
210:6,10,11,12	notifications	116:6 133:4	obvious	247:17 250:10
211:17 259:23,	224:11	204:7 209:3	112:6 160:14	263:25 264:4,13
25	notified	objected	250:14	265:3
note	163:11 207:19,	194:3,20 228:3	occasion	offered
9:25 10:18 12:4,	20	objecting	152:9	80:8 90:10
24 16:6 22:7,10	notify	194:7,22	occasions	offering
23:21 36:10	196:25 210:24	objection	64:12 81:22	12:12 13:4 36:2
39:7 42:3 43:14	223:19	8:2,6 14:5 37:19	occurred	50:14 63:1
49:3 50:10	noting	138:16 144:17	162:21 171:15	82:14 113:25
52:16 54:9	73:25	203:3 209:6	occurrence	143:9 163:5
56:24 60:10	notion	231:20 233:20	64:18	266:5
62:6 82:23	34:1 80:10	234:2,3 240:1	occurring	offers
86:14 90:25	November	255:1 261:1,4,	242:13	224:24
92:13 113:20	153:11	22	occurs	office
117:21 121:14	novice	objections	159:25	21:6,13 25:10
123:1 130:23	25:18	260:18	offend	29:21 32:19
131:5,10 135:2	now-ish	obligated	59:12 80:6	40:1 55:24
138:22 140:8	262:14	47:6	offended	62:19 67:11,20,
143:5 146:1,16				21 69:7 75:11

87:2 97:14 98:19 110:3 119:15 129:21 136:1 154:18 159:3 163:15, 16,20,22 165:19,24 166:2,21 167:7 168:10,22 169:13,14,20 170:17 171:11 176:13 186:23 188:15 195:22, 23 197:9,10,11 199:3 200:14 201:18 205:6 206:14,19 210:12,13 222:19 223:1,7, 10,19,22 224:2, 7 242:5 246:7 250:19	open 12:25 19:12 33:5 36:11 50:11 82:23 113:21 131:6 143:6 154:25 186:7 227:12 266:2 opened 213:18,19 opening 9:2,12 15:4,15 38:17,24 53:2,9 85:11 86:1 117:5,13 134:7, 17 operates 110:19 operating 112:1 197:15 opinion 102:25 148:1 197:12 232:16 opponent 45:16 138:6 opportunities 54:21 78:11 opportunity 9:1,15,20 12:18 15:4 21:9 26:7, 17,19 32:6 33:10 36:4 38:16,18 50:3 51:5 53:2 55:3 56:6 64:8 79:19, 23 81:2,11,14 82:16 85:10,12 86:6 87:19,24 98:25 104:5 107:2 109:8 110:7,16 113:13 117:4 119:9,16	125:12 128:13 134:7 142:23 150:5 228:17 243:20 260:23 261:12,14,25 262:2,14 264:22 265:19 opposed 108:15 114:11 156:3 177:16 194:10 266:18 opposing 187:7 opposite 147:9 234:13 240:15 opposition 8:24 15:2 38:14 52:14 85:8 117:2 134:5 145:12,17 182:3 option 115:24 options 263:6 orally 224:12 Orangeburg 26:9,15 102:12 153:8 159:2,3 166:4,17,18 168:7,21,23,25 169:11,18 170:1 176:17 181:17 187:24 191:23 195:22,24,25 196:2,13,14 197:19 199:17 200:13,14 206:17,20 208:6 227:18 230:13 236:6	Orangeburg- 207:17 order 7:4 32:10 33:12 94:21 104:10 108:8 158:22,24 160:15,20 193:24 194:8 195:18 197:16 208:9,10,12 209:12 235:21 249:13 ordered 160:7 orders 103:13 108:15 150:4 ordinary 224:11 organization 108:21 119:5 original 54:25 168:18 183:11 originally 141:4 outcome 11:11 23:5 42:21 61:10 91:21 122:9 139:18 179:18 189:23 252:6 257:13 258:12 outcomes 78:10 outreach 169:12 outset 256:25 outsiders 216:11	oven 110:18 overcome 120:22 220:25 overview 109:18 owe 76:25 Ownership 124:10
<hr/> P <hr/>				
P-R-O-C-E-E- D-I-N-G-S 7:1				
p.m. 198:4,9 199:6,9, 22,23,25 267:19				
pages 8:8,11 14:10,13 37:24 38:2 51:20,23 52:1 84:13,16,20 116:11,14 133:9,12,16 144:23,25 202:16,19 203:14				
paid 165:8				
pandemic 142:4				
panel 57:19 243:24				
paper 160:11 181:17 185:17 199:14				
paperwork 160:9 196:1 197:13				

parallels 112:2	43:4 61:17 68:7 92:3 101:13	230:19	54:11 84:14,17 86:15 111:15	79:20 93:5,25 94:5,6 95:1
parent 152:4,11	122:16 139:24 188:15 191:2	passing 59:20	112:7 116:12 117:23 131:11	100:11 101:11 103:10,23,24
parent's 208:4,21	252:13 261:2 267:10	passionate 31:25 247:19	133:10,13 135:3 136:13 140:23	104:18 120:22 125:21 126:21
parents 76:23 162:21 181:25 182:1 205:3 225:14	partisan 59:18 71:1,5 75:4,8 79:17,24 80:6,10	passive 178:4	141:24,25 144:23 244:24	130:14 135:21 136:5,7,10
parole 89:15 169:5	partisanship 70:23	past 26:1 27:17 87:4, 20 99:16 105:17	PD'S 67:20	147:23 154:17 156:9,13 157:22
part 8:5 14:6 24:10 25:3 27:11,12 37:20 49:8 50:2 51:16 64:5 65:23 68:14 69:18 77:21 83:2 84:9 104:21 112:7 116:7 125:19 129:17,24 133:6 141:15 144:18 148:4 156:22 172:1 177:9 181:24 187:12 191:6,9 192:16 200:8 214:2 215:8 217:2 231:6 235:21 240:18 257:25 261:8	partition 27:24	107:8 108:19 140:22 159:12 211:24 251:6,18	peculiarities 128:12	162:5 175:9 176:22 202:2 210:20 216:5 217:22 223:2,19 224:4,6 225:6 233:20 245:9,12 246:10 248:6 250:1 258:7 260:8
part 8:5 14:6 24:10 25:3 27:11,12 37:20 49:8 50:2 51:16 64:5 65:23 68:14 69:18 77:21 83:2 84:9 104:21 112:7 116:7 125:19 129:17,24 133:6 141:15 144:18 148:4 156:22 172:1 177:9 181:24 187:12 191:6,9 192:16 200:8 214:2 215:8 217:2 231:6 235:21 240:18 257:25 261:8	partitions 20:13 39:23	Pat 35:22	Pee 10:18 22:10 42:3 49:17	233:20 245:9,12 246:10 248:6 250:1 258:7 260:8
part 8:5 14:6 24:10 25:3 27:11,12 37:20 49:8 50:2 51:16 64:5 65:23 68:14 69:18 77:21 83:2 84:9 104:21 112:7 116:7 125:19 129:17,24 133:6 141:15 144:18 148:4 156:22 172:1 177:9 181:24 187:12 191:6,9 192:16 200:8 214:2 215:8 217:2 231:6 235:21 240:18 257:25 261:8	partner 26:8 28:4 58:18 71:2 126:14	paternalistic 107:23	Peoples 118:19 217:13 246:4	246:10 248:6 250:1 258:7 260:8
part 8:5 14:6 24:10 25:3 27:11,12 37:20 49:8 50:2 51:16 64:5 65:23 68:14 69:18 77:21 83:2 84:9 104:21 112:7 116:7 125:19 129:17,24 133:6 141:15 144:18 148:4 156:22 172:1 177:9 181:24 187:12 191:6,9 192:16 200:8 214:2 215:8 217:2 231:6 235:21 240:18 257:25 261:8	parts 129:2,3	path 78:18	Peoples's 169:7	people's 59:21 126:13
part 8:5 14:6 24:10 25:3 27:11,12 37:20 49:8 50:2 51:16 64:5 65:23 68:14 69:18 77:21 83:2 84:9 104:21 112:7 116:7 125:19 129:17,24 133:6 141:15 144:18 148:4 156:22 172:1 177:9 181:24 187:12 191:6,9 192:16 200:8 214:2 215:8 217:2 231:6 235:21 240:18 257:25 261:8	party 24:21 110:14 136:12,15 137:3 256:1	patience 201:9	peeve 30:2	people's 63:19 102:3
part 8:5 14:6 24:10 25:3 27:11,12 37:20 49:8 50:2 51:16 64:5 65:23 68:14 69:18 77:21 83:2 84:9 104:21 112:7 116:7 125:19 129:17,24 133:6 141:15 144:18 148:4 156:22 172:1 177:9 181:24 187:12 191:6,9 192:16 200:8 214:2 215:8 217:2 231:6 235:21 240:18 257:25 261:8	Pasco 166:18,23 167:5,9,16,17 170:2,22 171:8	patient 17:10 106:22 110:5	penalty 33:19,23	perceived 22:3 238:14 250:3
part 8:5 14:6 24:10 25:3 27:11,12 37:20 49:8 50:2 51:16 64:5 65:23 68:14 69:18 77:21 83:2 84:9 104:21 112:7 116:7 125:19 129:17,24 133:6 141:15 144:18 148:4 156:22 172:1 177:9 181:24 187:12 191:6,9 192:16 200:8 214:2 215:8 217:2 231:6 235:21 240:18 257:25 261:8	Pasco's 166:24 169:20	pattern 10:18 22:9 187:16	pending 11:11 20:11 23:5 42:21 61:10 91:20 93:14 114:7 122:9 139:18 191:6 213:15 231:12 252:6 259:12 266:14	percent 66:21 69:4 140:23,24,25 176:8
part 8:5 14:6 24:10 25:3 27:11,12 37:20 49:8 50:2 51:16 64:5 65:23 68:14 69:18 77:21 83:2 84:9 104:21 112:7 116:7 125:19 129:17,24 133:6 141:15 144:18 148:4 156:22 172:1 177:9 181:24 187:12 191:6,9 192:16 200:8 214:2 215:8 217:2 231:6 235:21 240:18 257:25 261:8	Pascoe 230:20	patterns 195:9	penalty 33:19,23	percentage 236:15
part 8:5 14:6 24:10 25:3 27:11,12 37:20 49:8 50:2 51:16 64:5 65:23 68:14 69:18 77:21 83:2 84:9 104:21 112:7 116:7 125:19 129:17,24 133:6 141:15 144:18 148:4 156:22 172:1 177:9 181:24 187:12 191:6,9 192:16 200:8 214:2 215:8 217:2 231:6 235:21 240:18 257:25 261:8	pass 46:6 71:13 116:16	pause 195:15	penalty 33:19,23	perception 20:25
part 8:5 14:6 24:10 25:3 27:11,12 37:20 49:8 50:2 51:16 64:5 65:23 68:14 69:18 77:21 83:2 84:9 104:21 112:7 116:7 125:19 129:17,24 133:6 141:15 144:18 148:4 156:22 172:1 177:9 181:24 187:12 191:6,9 192:16 200:8 214:2 215:8 217:2 231:6 235:21 240:18 257:25 261:8	participated 53:16 99:13 108:25	pay 257:9	penned 208:12	perfect 216:5
part 8:5 14:6 24:10 25:3 27:11,12 37:20 49:8 50:2 51:16 64:5 65:23 68:14 69:18 77:21 83:2 84:9 104:21 112:7 116:7 125:19 129:17,24 133:6 141:15 144:18 148:4 156:22 172:1 177:9 181:24 187:12 191:6,9 192:16 200:8 214:2 215:8 217:2 231:6 235:21 240:18 257:25 261:8	participating 101:5 255:18	paying 94:13 184:9	people 18:18 28:6 35:18 47:20,22 48:14,15 57:17 63:11,17,18 68:10 69:9 72:4 75:12 78:19	perfectly 134:23 183:20
part 8:5 14:6 24:10 25:3 27:11,12 37:20 49:8 50:2 51:16 64:5 65:23 68:14 69:18 77:21 83:2 84:9 104:21 112:7 116:7 125:19 129:17,24 133:6 141:15 144:18 148:4 156:22 172:1 177:9 181:24 187:12 191:6,9 192:16 200:8 214:2 215:8 217:2 231:6 235:21 240:18 257:25 261:8	parties 11:18 23:12	PCR 256:23	perimeter 196:25	perform 10:16
part 8:5 14:6 24:10 25:3 27:11,12 37:20 49:8 50:2 51:16 64:5 65:23 68:14 69:18 77:21 83:2 84:9 104:21 112:7 116:7 125:19 129:17,24 133:6 141:15 144:18 148:4 156:22 172:1 177:9 181:24 187:12 191:6,9 192:16 200:8 214:2 215:8 217:2 231:6 235:21 240:18 257:25 261:8	passed 41:6 96:25 125:20 159:13 167:9 220:23	PDQ 8:9 10:2 14:11 16:7 24:9 37:25 39:9 51:21,24		perimeters 196:25

<p>period 67:9 119:22 181:9 185:3 246:6</p> <p>person 9:4,5 35:16 48:1,14 101:23 106:13 127:2,23 136:23 153:6 154:21 162:23 167:23 169:17 176:12 186:11 188:7 199:11 218:18 242:13 247:9,11 253:11 254:14</p> <p>personal 7:18 13:23 25:7 37:12 51:8 83:24 89:8 102:3,8 103:2 112:10 115:16 124:13,16 132:21 136:24 144:9</p> <p>personalities 188:8</p> <p>personality 35:10</p> <p>personally 174:22 251:3</p> <p>persons 159:18 211:4</p> <p>perspective 94:17 98:20 99:16 113:5 127:7 149:22</p> <p>perspectives 73:23</p> <p>pertain 260:19</p>	<p>pertained 88:18</p> <p>pet 30:2</p> <p>phase 267:8</p> <p>phases 129:3</p> <p>philosophy 63:23 104:11</p> <p>phone 73:13 121:10 125:14 162:18 212:19</p> <p>phones 71:23</p> <p>phrasing 215:23</p> <p>physical 10:21 22:16 42:5 60:13 91:3 121:18 138:25 251:16</p> <p>physically 171:21 199:7 208:5</p> <p>pick 102:19 211:9</p> <p>picked 95:19 160:21</p> <p>picture 16:20 254:10</p> <p>piece 49:15 189:23</p> <p>pieces 30:19</p> <p>pile 234:19 239:13</p> <p>pitch 204:14</p> <p>pitched</p>	<p>222:3</p> <p>place 55:25 56:4 57:21 72:4 101:8 146:8 157:24 164:18 166:3 176:23,24 198:11 207:8 236:1</p> <p>places 68:4 71:21 73:16 150:3 197:5 198:8 209:4 235:10, 18,20 236:3,16 249:15</p> <p>plainly 106:19</p> <p>plaintiffs 20:10 246:1</p> <p>plaintiff's 87:4</p> <p>plan 67:19 70:7</p> <p>planning 26:13 67:1,22 68:6</p> <p>plans 129:10</p> <p>play 72:4</p> <p>plays 34:4</p> <p>plea 95:10 155:23 156:1,3,19 157:13 184:17, 20 185:5 186:1 187:7 189:12,16 190:1,2 191:1,3, 7,9 192:16 196:11 212:14,</p>	<p>16 213:1 214:3, 11,13 216:16, 17,18,20,23,25 221:11,14 224:23 225:2,3, 18,23 226:3,23, 24 227:8,9,15, 22 228:17 229:20,23 231:21,22 232:12 233:3 263:25 264:3,6, 12</p> <p>plead 95:16 232:8</p> <p>pleads 27:19,20</p> <p>pleaing 191:5,13</p> <p>pleas 18:9 19:24 20:1 32:14 68:4 87:15 113:8 141:19</p> <p>pleased 76:23</p> <p>pleasure 19:6 35:14 86:4 118:20</p> <p>pled 186:13 189:5 192:1 233:23</p> <p>pledge 11:10 23:4 42:20 61:9 91:19 122:8 139:17 252:5</p> <p>pledging 11:25 23:18 43:10 61:24 92:10 122:22 140:5 252:19</p>	<p>plethora 154:23</p> <p>Plural 243:4</p> <p>pm 114:17 266:25</p> <p>podium 46:9 76:2 143:21 145:25 264:21</p> <p>point 9:23 15:25 34:9, 14,21 53:24 60:2 64:23 72:8, 9 88:4 96:7 100:5 101:14 102:24 146:4 154:8 158:21 160:6 161:1,4 163:8 172:1,3 174:2,10 179:3 183:18 187:2 201:18 202:10 206:24 210:20 213:11 219:10, 20,24 221:20,25 222:23 224:2 226:25 229:1,14 230:18 232:7 234:23 237:5 238:20 239:8 243:15 244:13 248:8 266:21</p> <p>pointed 126:8</p> <p>pointing 28:20</p> <p>points 35:15</p> <p>pole 30:10</p>
--	---	--	---	---

policy 59:10 78:10 80:12	119:3 120:2 126:22 135:6 143:23 151:5	potentially 12:23 36:9 50:8 82:21 113:18 131:4 143:3 265:25	27:12,25 30:12 31:23 46:4 142:7	21:13
policymaker 80:11	165:1,8 200:25 245:2 248:10	power 106:12 244:11	practitioners 28:5 31:1	presence 68:20,24 69:15 235:23 236:22
policymaking 80:20	249:4,23,24 254:16 257:8 258:15	practical 238:6 239:10	pray 70:21	present 8:25 15:3 38:15 52:15 85:9 109:1 110:7,8 117:3 134:6 168:6 194:17 231:6 261:5
polite 19:6,15 184:24	positioned 190:15	practice 10:6 16:11 17:21 18:15,19 21:10,15,19,24 24:10 25:4,9,20 26:9,13,14,20, 21 27:5 28:3 31:8 33:1 39:13, 17,24 41:12,14 46:14 48:8 54:15 55:7 57:16,19 79:10 86:19 89:7 95:7 101:12,15 107:21 111:25 112:10,18,19 118:2 121:13 124:16 135:7 137:22 140:20 141:7,15,16,18 142:3,7 224:11 245:21,22 246:5 247:6 253:9	prayers 155:14	presentation 126:3 138:8 239:23 242:12 263:5
political 40:18,23,25 41:1,3,4,8 59:1 68:23 72:11 79:2	positions 148:9 247:20	practicing 30:5 45:5 58:16 87:18 89:23 100:8 118:6 141:4 253:10	predated 265:9	presenting 19:10 186:18
politically 41:2	positive 10:12 19:5 40:10 56:14 65:23 78:3,6 88:12 120:13 137:11 246:21 249:6 250:20 254:6	practitioner	predominately 58:19	preserved 78:1
politics 48:9 58:22 68:18	posits 232:16		preferences 79:2	presented 102:5 262:20 263:21
poorly 248:21 259:4	possesses 120:14 247:2		preferred 78:9 79:6 220:22	presenting 19:10 186:18
population 79:7	possession 222:22		prejudice 64:20	preserving 78:1
portion 12:17 113:12 141:16 142:20 265:18	possibility 174:23 216:25 228:21 237:1		prejudice 207:3,4	President 69:13
pose 221:24	possibly 93:21 175:19		preliminary 146:1	presiding 242:10
posed 160:22	post 67:4		premise 18:17	press 204:3,4
posited 253:17	post-conviction 256:19		preparation 78:23 137:12,16	pressed 197:6
position 10:5 12:13 16:10 25:1 39:12 44:11 49:20 54:14 67:8 68:25 77:9 86:18 101:22 105:2 110:8 114:24 118:1,25	postion 229:5		Preparatory 187:24	pressing 225:17
	posture 21:1		prepare 29:6 137:21,25 187:1	pressure 17:14 244:3
	potential 68:5		prepared 9:19 66:22 72:13 74:19 75:22 87:8,12 89:14 99:14 113:5 137:18 236:4	presume 76:8 225:23
			preparing	presumptuous 65:24
				pretrial 65:6
				pretty

<p>32:15 57:12 58:4 69:13,16 105:8 109:2 111:13 112:11 121:8 160:14 213:8 216:2 247:21 249:23 251:2,5</p> <p>previous 8:22 14:24 38:12 52:12 58:23,24 79:24 85:6 116:25 134:2 145:10</p> <p>previously 40:22</p> <p>pride 29:5 250:12</p> <p>primarily 16:25 18:16 26:12 141:5 177:20</p> <p>primary 112:10</p> <p>principles 79:13</p> <p>print 212:6</p> <p>printed 197:24 198:1</p> <p>printing 75:25</p> <p>printout 160:24 197:13</p> <p>printouts 197:8 198:14 199:14</p> <p>prior 11:11 23:5 42:21 61:10 91:20 122:9 139:17 142:6</p>	<p>188:3 207:24 222:24 246:3 252:6</p> <p>priorities 119:12</p> <p>private 21:10,14,19 26:20 31:23 41:11,14 124:10 142:7 245:21,22 250:3,6,18</p> <p>privilege 56:6 72:12 76:11 86:4 104:8 152:7 175:7 262:9,11</p> <p>privileged 60:3 76:6 262:6</p> <p>privy 197:21</p> <p>probate 137:23</p> <p>probation 169:5</p> <p>problem 41:6 141:22 177:14 198:7 203:6 211:21 242:20 260:21 263:12</p> <p>problems 33:24 104:18 119:1</p> <p>procedural 44:1 156:22</p> <p>procedurally 125:16 189:24 190:1 209:11 214:24</p> <p>procedure 101:21 119:20 129:24 179:17</p>	<p>210:10,11,12</p> <p>proceed 83:8 114:25 145:18 202:23 222:7 231:24 232:11</p> <p>proceedings 163:12</p> <p>process 9:11 11:20 12:14,17 15:19, 20,21 16:16 23:14 36:1 43:7 44:4,6 47:17 50:2 53:11,13 59:5 61:21 62:3 63:3 65:23 68:13 80:18,20 83:2 92:6 93:22 107:4 112:16 113:12 114:25 122:18 128:12 140:2 141:11 142:21 177:12 204:22 212:14 214:1 252:16 255:19 256:4 260:10 264:20 265:18</p> <p>processing 131:15</p> <p>prodding 164:21</p> <p>produce 21:22</p> <p>produces 79:12</p> <p>professed 100:17</p> <p>profession 254:5 257:21</p>	<p>professional 10:23 16:12 19:9 22:12 39:14 42:7 54:18 55:18 60:16 70:1 71:14 86:20 91:5 118:3 121:17 135:11 139:1 141:9 177:17,20,23 211:25 222:12 228:10 245:17 250:21 251:11 253:15</p> <p>professionalism 88:10</p> <p>professionally 134:20</p> <p>professionals 107:19</p> <p>profusely 61:3</p> <p>program 107:13</p> <p>programs 17:4</p> <p>progressed 209:11</p> <p>promise 147:9 161:7</p> <p>promote 78:12</p> <p>prompted 26:4</p> <p>prong 63:12 94:2</p> <p>pronouncing 151:13</p> <p>proper 17:9 262:25 263:9 264:10</p>	<p>proportion 79:6</p> <p>propose 163:2</p> <p>proposing 225:3</p> <p>prosecute 150:14 153:19, 24 168:2 177:8 219:12 220:2 222:5</p> <p>prosecuted 148:17 149:1,19 213:20 219:24 256:6,16,20,21, 22 257:16</p> <p>prosecuting 44:25 45:2,8 126:18 162:23 214:4</p> <p>prosecution 154:5 222:6 230:21 251:3 257:25</p> <p>prosecutor 16:17,18,22 17:1,9,14,22 18:7 21:8 25:11 32:8,25 33:1 88:19 89:14 90:3,14 94:2,15 101:16 110:2 118:8,10 121:4 149:15 152:22 154:2 161:12 163:4 168:17 171:18 206:7,12 211:12 217:16 220:12,13 240:17 246:25</p> <p>prosecutor's 127:7</p>
--	--	---	---	--

prosecutorial 16:19 257:19	20 109:8,18 111:19,23,25	71:4 84:13,16, 20 116:11,14	138:25	105:15 112:4 114:7 118:6
prosecutor's 21:12	112:1,20,21 113:5	133:9,12,16 144:22,25	qualifications 8:16 9:16,18	126:8 130:6 140:19 142:11,
protect 64:25 148:10 150:10 267:12	public 55:24 69:7 78:11,15 79:17	202:16,19 203:14	10:21 13:2 14:18 22:16	14 149:23 152:12 154:22
protected 90:20 148:21 180:20	80:15 87:6,21 89:23 90:4,19	pursuant 12:18 36:4 50:4 82:16 113:13	36:13 38:6 42:5 50:12 52:6	165:1 174:2 179:5 188:18
protection 229:3	91:12 94:5 96:4 98:10,20 105:3	130:24 142:23 145:14 261:24	55:13 56:24 60:13 82:25	190:18 191:12 195:16 209:2
protocol 104:13	112:12 118:25 119:5 123:15	265:20	84:25 86:24 113:22 116:19	210:21 211:15 214:25 215:8,
protocols 121:7	127:19 130:23 164:22 217:18	pursue 26:20	121:17 124:20 131:8 133:21	10,11 220:18 221:24 222:4
proud 28:4 46:2,12,15 47:22 48:7,24	236:3 240:12 250:7 253:12,14	pursuing 55:24 222:10	143:7 145:4 146:6 251:15	222:4 228:1,8,9
82:5 125:19 126:2 128:15,20 250:5	public's 240:17	pursuits 81:23	266:3	230:15 231:14, 15 232:15
proven 26:23	publically 157:11	push 21:1 178:4 180:16	qualified 10:19,22 16:13	234:4,16 260:25 261:21 262:4,19
proves 234:8	publicly 106:8 185:16 263:10	pushing 69:9 195:15	20:18 22:11,15 39:15 42:4,6	264:24 266:14
provide 146:8	public's 79:4	put 40:24 49:18	54:19 60:12,14, 19 86:21 91:1,4,	questioned 19:18 41:10 75:17 154:9 178:6
provided 55:12 68:16 82:12 256:22 261:24 262:1 263:13	published 137:5 204:9	75:18 105:2 110:17 118:12	7 118:3 121:16, 20 135:12	questioning 12:7 23:24 43:17 62:9 86:3 92:16 123:4
providing 12:15	pull 108:24	120:6 121:9 129:21 151:18	20 135:12 138:24 245:18	140:11 145:19 199:1 200:21 206:4 252:25
provision 208:7	pulling 29:22 100:11	160:11 191:3 199:23,24 207:4	13 18 258:13	questionnaire 7:19 13:23 37:13 51:9 83:24 115:17 132:22 144:10
Proximate 124:8	PURC 109:18	216:15 251:20 264:1	qualities 17:17,18 111:3 150:25	questions 9:13,24 12:8,10 15:17,24 16:1 22:18 23:25 24:2 28:24 35:8, 24 39:1 42:10 43:18,20,25
PSC 97:23 98:3 105:22 108:12,	purely 56:8	puts 254:15	quality 17:12 105:11	
	purpose 146:5	putting 257:16	question 16:15 18:12 24:13,23 29:11 30:2 32:12 41:7 43:24 58:25 60:6 62:20 63:1 64:3 69:5 70:23 71:4 80:1 86:23 93:6,7 94:11 97:22 98:2,13 100:24 101:14	
	purposes 8:8,11 14:10,13 37:24 38:2 51:20,23 52:1	Q		
		qualification		

44:5,17 53:4,25 58:24 62:10,12 66:25 76:2,15 77:16 86:8 92:17,19 96:22 97:11 99:19 107:9 110:20 117:15,18 123:5,7 124:19 127:18 128:8 130:21 134:18 139:6 140:12,15 142:18 151:8 155:1,4 161:20 164:11 172:21 179:1 190:13,22 201:1 203:10,18 218:4 230:16 243:19 244:14 253:2,4,17 255:16 260:15 263:2 267:18	50:22 83:15 115:6 132:11 143:24 146:25 151:20 raised 12:5 23:22 43:15 62:7 88:20 90:6 92:14 123:2 138:11 140:9 169:4 252:23 raising 76:18 rally 192:7 ran 48:16 49:13 118:16 142:1 range 236:7,10 Rankin 35:8,9,13,23 49:10,11,24 70:11,12,14 72:9 74:7,9 82:6 109:13,15 164:3,6,7 172:8 203:21,22,24,25 214:21 218:25 219:2 221:20 222:2,19 255:8, 20,22 266:14 rarely 76:9 256:25 rationale 226:7,9,10 re- 147:14 RE- EXAMINATIO N 190:19 219:1	re-looking 231:9 re-offending 187:17 re-victimized 148:12 reach 90:18 152:18,21 162:15 168:11 169:24 170:15 reached 162:11 169:21 171:3 174:7 259:17 reaching 174:17,22 177:15 222:21 reacted 259:4 reaction 79:15 read 18:14 35:17 58:11 77:21 130:2 148:2 149:8 155:19 157:1,17 164:18 165:13 194:15 197:16 204:8 219:18 227:24 256:7 reader 20:1 Readiness 59:23 reading 149:13 readings 185:22 ready 27:18,19 31:3 39:2 75:24 76:1	96:13 107:24 120:4 229:22 232:8,11 real 20:12 25:7 26:12 28:3 39:25 53:9 82:6 96:25 184:12 189:25 233:12, 14 239:14 realities 237:24 reality 177:3 187:19 230:6 239:24,25 realize 157:23 247:23 264:4 realized 205:17 reason 30:24 77:7 93:18 128:12 197:2 227:20,21 233:3 236:4 245:14 reasonable 110:4 236:25 248:15 reasoning 226:2 246:22 reasons 55:16 57:10 76:25 77:25 210:3 220:21,22 248:25 259:1 recall 44:2,25 111:4 140:22 153:3 163:21 165:23 170:24 183:13 184:6 194:22	195:5,6,7 207:13 215:18, 23 221:17 223:18 227:25 228:4 recanted 58:4 receive 163:18 253:15 received 8:23 10:9 11:10 15:1 19:2 23:4 38:13 40:7 42:20 52:13 56:10 61:9 77:19 85:7 88:7 91:19 117:1 120:10 122:8 125:13 134:4 137:9 139:17 145:12 235:5 246:17 252:5 receiving 114:22 183:13 recent 20:3 57:17 recently 96:25 recess 243:6 recite 43:3 recognition 100:8 238:20 recognize 9:23 16:1 38:25 53:25 72:10 79:11 85:12 86:8 115:15 117:18 146:2 179:4 190:18 195:9 239:17
R				
races 68:24 raise 13:14 37:1				

244:14	8 194:25 202:8, 10,21,23 203:7, 12 204:10	referring 89:3 107:11 193:21 195:19 208:25	58:22 75:12 78:1 140:19 172:19 228:9	remains 187:14
recognized 100:25 222:11	218:21 232:3 243:9,11	reflect 44:5	relates 192:17 193:17 220:7 222:17 248:7	remanded 181:8
recognizing 24:24 97:10	244:23,25 251:20 252:23 254:4 261:3 264:1 266:2 267:1,3,5	reflection 97:6	relating 43:25	remarkable 53:14
recollection 198:5 199:5	recorded 108:24 195:1 260:24	reflective 28:22	relationship 168:4 244:10 266:8	remarks 15:16 38:25 53:2,24 85:11 134:7,17,19 243:17
recommendatio ns 49:4	recurring 108:5	reform 58:12 64:16 66:3 159:15	relationships 73:15 248:6	remedy 146:9
recommending 217:20	recuse 89:16	refreshed 44:6	relative 89:13	remember 62:19,20 126:14 136:18 165:25 171:16 184:13 194:7,12,14
reconcile 230:5	recused 207:10 210:1	regard 187:17 215:6 248:9	relayed 171:8 205:20	release 13:1 36:12 50:11 79:21 82:24 113:21 131:7 143:6 266:3
reconsideration 207:7 225:11	red 241:22	registry 188:22,23	released 197:7	remind 12:18 36:4 50:3 82:16 113:13 130:24 142:23 172:13 198:17, 20 265:19
reconvene 243:7 267:16	redact 261:25	regress 105:19	relevant 261:2,25	reminded 253:9,19
record 8:3 10:1,3 12:4, 25 13:9 14:7 16:6,8,23 17:6 23:21 34:22 36:11,22 37:20 39:7,10 43:14 45:7 49:8,19 50:10,19 51:16 54:9,12 62:6 70:19,24 77:21, 24 82:23 83:9 84:9 86:14,16 92:13 99:9 113:20 114:18, 20 116:7 117:21,23 123:1 131:6 132:4,6 133:6 135:2,4 140:8 143:5,17, 19 144:18 145:16 186:15 189:17 190:23 191:4,10 192:3,	redacted 267:12	regret 137:20 138:7 215:24 257:16	relief 146:8 248:18	reminding 243:23
	reduce 64:9	regrets 215:15 216:1	relieving 32:10	remiss 48:5 128:22 201:11
	reduction 17:4	regularly 250:2	relive 193:15	remove 183:5 184:2
	redundant 77:17	regulatory 98:19	remain 12:25 36:11 50:11 82:23 113:21 131:6 143:5 266:2	removed 206:11,15
	reexamining 221:4	Reichert 124:12	remaining 60:15 251:14	render 112:25
	refer 134:22 216:16	rein 105:8 106:23		rendered 180:3
	reference 34:23 77:19 123:12 149:20 165:3	reinvestigating 231:8		
	referenced 71:22	relate 28:8 31:7,22 111:19		
		related		

<p>rendering 112:25</p> <p>renders 16:13 39:15 54:19 86:21 118:3 135:12 245:17</p> <p>reopened 148:23</p> <p>reopening 171:3 243:16</p> <p>repeat 63:18,25 93:25 94:10 98:2</p> <p>repertoire 109:20</p> <p>repetitious 77:18</p> <p>report 13:1 30:8 36:12 41:22 50:12 79:21 82:24 107:2 113:22 131:7 136:11 143:6 146:19 266:3</p> <p>reported 22:11 42:4 60:11 91:1 138:23 195:21 198:3 251:10</p> <p>reporter 192:22 193:4</p> <p>reporting 257:13</p> <p>repose 125:17</p> <p>represent 20:10 152:24 165:12 176:19 223:14 245:25</p>	<p>representation 129:2</p> <p>representative 29:11,14,15,19 35:12 44:18,20, 22 45:19,21,22 46:17,20 47:4, 10 66:14,16,18 69:4 70:9 71:22 74:4,6 76:5 97:12,13,18 136:16,24 137:3 142:15 165:18 193:11,13 195:17 202:12 231:13,15 232:21 234:21 239:4 266:13</p> <p>represented 28:6 194:9,17 204:24,25 211:3,5 223:11, 21 224:4 245:25 246:1 261:8</p> <p>representing 45:1 152:25 174:18 194:18 205:6 210:9 211:19,23 217:24 238:2 247:14</p> <p>represents 98:19</p> <p>republicans 71:8 75:7</p> <p>reputable 71:9</p> <p>reputation 10:13,24 22:13 42:8 47:14,18 60:17 91:6 121:21 128:16</p>	<p>138:12,19 139:2 249:7 251:12</p> <p>request 22:5 149:2 183:5 184:1 194:11 202:13 208:2,19 229:16 261:14</p> <p>requested 11:23 229:19</p> <p>requesting 263:6</p> <p>require 79:14 115:25</p> <p>required 10:16 21:11 222:6</p> <p>requirements 10:5 16:10 39:12 54:14 86:18 91:3 117:25 135:6 245:2</p> <p>requires 69:24 112:15 150:9</p> <p>requisite 10:15 40:13</p> <p>reschedule 229:17</p> <p>research 112:16</p> <p>residence 10:6 16:11 39:13 54:15 86:19 118:1 135:7 228:15 245:3</p> <p>resident 118:19</p> <p>resigning 55:20</p>	<p>resolution 18:1 230:4 255:15</p> <p>resolve 96:18 106:21</p> <p>resolved 96:17 102:19 213:25 225:1</p> <p>resoundingly 78:2</p> <p>resource 68:5</p> <p>respect 17:16 44:7 47:23 49:6 71:9, 11 90:12 111:9, 13,20 127:25 129:5 136:8,10 203:19 225:18 241:20</p> <p>respected 78:14 96:25 111:1,5</p> <p>respectful 17:10 56:17 71:9 106:19</p> <p>respond 21:21 40:20 41:12 57:2,4 59:1 88:22 250:24,25 253:15 261:16 266:17</p> <p>responded 225:4,5 253:23</p> <p>responding 22:4</p> <p>response 19:19,20 20:22 40:21,24 90:8 120:18 126:19, 21 137:17</p>	<p>138:14 154:12 161:9 191:14 203:4,9,15 204:7,10,16 213:12 222:4 235:19 237:13 247:17 249:9 266:19</p> <p>responses 28:10 35:15 109:12 195:10 204:3 216:3 254:15</p> <p>responsibilities 101:17 107:4</p> <p>responsibility 104:5 109:10 217:4 234:9</p> <p>responsible 206:7</p> <p>rest 159:7</p> <p>restricted 223:20</p> <p>result 58:5 79:5 80:19</p> <p>results 79:12</p> <p>Resume 112:6</p> <p>retain 165:6</p> <p>retired 121:3</p> <p>retirement 26:18</p> <p>retirements 93:20</p> <p>retribution 96:4</p> <p>return 196:9</p>
--	--	---	---	---

<p>retweets 69:11</p> <p>review 31:12 32:7 44:9 55:3 109:18 111:15 115:14 132:19 144:7 231:12</p> <p>reviewed 11:24 23:17 37:10 61:23 62:1 92:9 105:25 106:1 122:21,24 140:4 145:25 252:18</p> <p>reviewing 31:23 43:24 131:11</p> <p>revisit 71:15</p> <p>Revitalization 59:24</p> <p>revocation 153:8 156:13,18 157:10 160:12, 19 181:4,18 184:19 185:5, 14,15,19 191:24 197:20 209:21 216:20,22 227:22 228:21 229:21 233:2,5 234:17 237:8</p> <p>revoke 94:25 231:23</p> <p>revoked 96:1 228:22 233:23</p> <p>revolves 63:6</p> <p>rewarding 87:21 128:5</p>	<p>Richland 63:1,10 64:1 93:7,9,11 94:8, 15 101:8 102:12 103:1</p> <p>ride 120:24</p> <p>ridiculous 187:11,12</p> <p>Rightfully 70:17</p> <p>rightly 129:19</p> <p>rights 90:16,20 148:21 149:16 150:10 165:10,11 179:22,25 180:20 241:8,20 242:8,12</p> <p>Riley 58:18</p> <p>Rinkenberger 169:14</p> <p>rises 256:2</p> <p>risk 63:13,14 77:17 80:9 94:3,4 233:12,14</p> <p>risked 59:13</p> <p>rite 104:23</p> <p>Rivers 133:10,14,17 134:11,21,23 135:5,10 136:11 137:8 138:21,24 139:6 140:15,16 142:12,19,21 143:13</p>	<p>Rivers- 134:21</p> <p>Rivers-davisson 132:7,9,10,14, 20,24 133:2,7 134:16,19 143:10</p> <p>road 218:17 228:25 229:18 230:3</p> <p>robe 79:25 242:10,14</p> <p>Robert 124:12,14</p> <p>rocketed 73:10</p> <p>Rodney 246:3</p> <p>role 67:11,17 69:3 71:7 87:3 98:3, 5,11 126:9 127:7 136:17 137:5 165:22,23 168:3,20</p> <p>roles 101:17</p> <p>roll 32:21</p> <p>romanticized 34:1</p> <p>Ron 26:12</p> <p>room 31:15 78:24 240:23 258:21</p> <p>roster 68:3</p> <p>roughly 24:11</p> <p>routinely 180:1</p>	<p>row 145:21</p> <p>rude 90:7,21 94:19</p> <p>ruffled 95:3</p> <p>rule 11:2 22:21 42:12 44:8,12 46:8 47:1 60:23 91:10 94:24 121:25 124:11 129:23 139:9 223:10 251:22 256:5</p> <p>rules 11:3 19:22 22:22 42:13 60:23 91:11 99:7 119:19 120:17 122:1 139:10 141:13 145:15 205:1 222:12 251:23 263:4</p> <p>ruling 136:9</p> <p>run 40:1 77:6,7 97:14 119:9,10 140:21 218:2 236:5</p> <p>running 26:25 35:19 49:23 55:6 57:11 73:7 76:10 101:4 105:4 115:1 142:2 147:19 257:7</p> <p>rural 135:18,19</p>	<p>Rutherford 29:11,14,15,19 35:12 45:21,22 46:17,20 47:4, 10 74:4,6 76:5 97:12,13,18 114:7 123:21 142:14,15 193:11,13 195:16,17 197:16 199:18 230:16 231:14, 15 232:21 234:21,22</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>Saab 237:21 242:25</p> <p>Sabb 27:7,8 29:13 30:1,4 31:2 34:20 45:1,2,6,9 48:3,4,5 49:18 124:22,24 125:4,6 128:6 149:4,5,6,24 155:6,10 170:7 172:9 179:5,7 190:17,20 192:24 193:1,9 214:17,18,20 217:5 219:11 228:5 241:1,3 243:1 253:6,8 255:3,16,17 260:16</p> <p>Sabb's 220:18</p> <p>Sabb's 29:21 44:24</p> <p>sacrifice 81:23 201:21</p>
--	--	---	--	---

safe 90:19 93:17	36:19 52:22 77:8 99:2,4 229:11,12	scrutinized 69:21	seemingly 78:17	212:24 213:3 214:17,18,20
Safran 24:3,4,6 27:6 99:20,22 101:15 172:10,11 173:2,4 175:5 178:22 232:22, 24	scheduled 52:18 209:21 210:17	scrutiny 63:3,5	seeping 123:9	215:18 217:5,23 218:25 219:2,11 220:18 221:20 222:2,19 224:25 229:3 235:19 237:13,21
sake 22:7 206:3	scheduling 77:6 82:3 85:22 106:4,22 107:11 210:3 230:11	SCVAN 165:7	sees 66:4	241:1,3 242:25 243:1,23 253:6, 8 255:3,8,16,17, 20,22 260:16 262:18 263:3,9, 15,17 264:17, 21,24 265:5 266:13
sales 20:14	school 59:23 85:18 107:20 110:25 118:8 187:24	seasoned 118:18 121:1 239:6	Selection 7:3 8:14 14:17 15:11 38:4 52:5 84:23 116:18 133:20	266:13
Sam 45:22 48:7,16, 21,24 49:2	science 41:1	seat 50:21 83:11 115:2 132:7 143:23 145:21 170:13 202:25 243:13,14	self-evaluation 254:16	send 106:25 212:4
Samuel 37:4,25 38:3	scope 172:19	seats 76:9	self-evident 198:25	senior 212:18 244:4
sand 248:21	score 45:15	secondary 68:3	seminar 125:1	sense 17:7 18:22 32:3 104:7 105:6,10 238:1
Santee 26:9,15 27:3	screening 11:12,16 12:17, 24 15:20 23:6, 10 36:10 42:22 43:1 50:2,9 52:12 54:7 61:11,15 82:22 83:2 91:21 92:1 113:12,19 114:6,25 122:10,14 131:5 132:3 139:18,22 142:21 143:4,19 202:24 243:12 252:7,11 264:19 265:18 266:1	seconded 114:7 266:13	Senate 48:11,17 71:18 125:23	sensitive 267:13
Sarah 147:2,10 165:3 181:13 182:13 194:18 207:21 213:6 214:7 222:23	screenings 8:22 14:25 38:12 85:6 116:25 134:3 145:10	section 11:14 12:1 23:8 42:24 61:13 91:24 92:10 122:12,23 139:20 140:6 252:9,20	senator 27:8 29:13,21 30:1,4 31:2 34:20 44:24 45:5,6,9 48:3,4 49:10,11,18,24 70:11,12,14 72:8 74:3,7,9 82:6 109:13,15 124:22,24 125:4,6 128:6 149:4,5,6,14,24 155:6,7,10 157:5 161:1 164:3 170:7 172:8,9 179:5,7, 9 181:25 190:17,20 192:24 193:1,9, 10 203:21,22,24 204:20,25 206:24 207:14	senior 212:18 244:4
sat 73:13 74:15 76:9 100:19,20 159:12 221:23		secure 148:15		sense 17:7 18:22 32:3 104:7 105:6,10 238:1
satisfied 126:25		Security 40:4		sensitivity 146:2 148:9
Saturday 21:13 100:21		seek 55:2		SENTATOR 228:5
Scarborough 58:19		seeking 150:7 219:9		sentence 188:19,20 216:19 221:13 233:24
scared 45:2,9 171:22				sentiment 201:25 230:5 261:21
schedule 30:23 33:5				separate 165:19 191:16 192:19 193:6 214:9

separately 175:8	15 68:9,12 72:13 87:6,21 111:4	shape 159:1 213:10	shock 71:23	180:17 186:24 192:22 211:13 247:13 248:24 249:3 251:4
sequitur 243:16	session 36:21 87:14 114:8,12,17,21, 24 262:16 266:15,21,25 267:4,5,7	share 47:16 52:16 56:1 128:22 147:12 159:11 237:17 255:6	Shoot 179:2	sides 18:8 73:23 99:18 111:14 120:2 127:21 152:20 211:12 246:8 256:21
sergeant 168:22	sessions 19:23 137:23 154:3	shared 101:24 111:2 215:7,16 237:2	shoots 241:12	
serve 9:20 17:6 35:5, 14 55:13,15,16 60:3 76:6 87:16 98:25 109:20 136:24 137:5 143:9 167:23 240:16	set 64:24 65:5 96:19 131:12 160:19,21 183:14 197:20 205:9,15 222:13	sharing 62:19	short 182:22 184:12 185:3 246:6	
served 17:2 48:10 49:13 59:18 66:20 78:8 97:9 111:5 128:23 165:22 201:17	sets 249:13	sharpen 107:21	show 16:23 17:9 47:5 73:3 78:18 94:24 105:4 118:11,17 185:18 192:3,7 198:14	sign 127:4
service 12:12 13:4,5 17:5 18:7 36:3 41:25 50:14 55:2,11 57:18 58:23,24 59:6, 17 62:24 71:7 82:11,15 87:6, 21 88:6 89:23 90:4 91:13 98:10 105:3 109:16,17 112:13 113:24 114:1 130:22 169:16 201:12 202:7 245:3 247:5 254:2 265:17 266:6	setting 32:19 111:15 256:19	Shaw 58:2	showed 160:9	signal 138:5
	settings 78:11	sheet 115:22 200:18	showing 96:12 234:12	signed 58:9 208:13
	settled 143:16	sheets 20:2 216:19	shown 17:7 21:15 135:25	significance 208:14
	settlement 249:21	shelter 73:11	shows 41:22 160:24 234:19	significant 18:1,4 19:20 20:15,17 31:24 32:24 33:2 57:12 59:22 101:3 227:5
	settling 141:19	shepherd 104:5	sick 54:6	signify 114:9 266:15
	sex 188:21,23	sheriff 49:4 123:16 170:20 178:20	sickness 102:2	signing 125:25
	sexual 57:25 150:19 188:25 189:4,5 242:1	sheriff's 159:3 168:21 169:13 170:17 176:17 195:23, 25 197:10 200:14	side 17:23 25:11 34:25 45:16 53:10 62:3 64:11 67:5 71:18 72:11 87:15 89:16,21 93:9 103:15 104:20 119:1,8 121:13 127:19 128:2,3 130:1 152:9 177:16,23	similar 95:21 259:7
services 65:6	sexually 150:15	she's 15:9 70:18 81:25		simple 102:17
serving 18:25 36:2 57:9,	shades 112:22	shift 249:8		simply 41:25 75:15 76:1 127:4 231:20 261:21
		shilling 71:15		single 22:8 136:6 205:10,16 218:17 236:1
				sir 7:17,21 8:1 9:22

<p>11:4 12:9 13:8, 22 14:4 15:8,25 16:4 19:2 25:1, 22 36:24 37:10, 11,18 42:14 43:19 44:14 45:19 49:10 51:6 52:3,19 53:23 62:18 63:16,22 65:4 66:7,10,19 70:10 71:19 76:18 83:3,4,13, 23 84:2,5,11 86:7,13,23 91:12,18,23 92:2,8,12,18,25 93:11 95:21 97:3,5 99:24 100:3 109:11 112:6 114:3,5 115:4,24 116:16 123:6,17 124:3 131:20 144:8, 12,16 145:23 149:25 151:13, 15,20,25 155:3, 8,13,16 156:11, 14 157:2,16,20, 25 158:5,7 159:6,10,14,16, 24 161:19 164:4,8,12,16, 20,23,25 165:9, 12 166:2 167:17 168:24 169:2,8, 13 172:23 173:7,10,12,16, 25 174:4,16,19 176:14,18,21 177:4 179:15 184:16 185:6,10 186:4,7,10,16,</p>	<p>18,20,25 190:14 191:18,19 192:9,25 193:8, 16 194:1,6,15 198:16 201:3, 14,16,19,23 202:6 203:8,22 204:13 215:5 217:6,14 218:6, 15,23 219:7 224:8,20 225:16 227:23 230:23 231:13 232:18, 21 233:5 238:4, 11 240:21 244:22 253:3,25 256:14 258:4 260:14 262:1 266:11</p> <p>sister 170:10</p> <p>sit 74:18 107:20 162:25 180:19</p> <p>sitting 45:17 73:10 98:6 110:10 163:3 186:7 218:18 234:4,18 236:9 257:12 262:23</p> <p>situation 158:1 164:17 196:21 204:1 216:13 223:9 239:25 240:8 249:17 259:7</p> <p>situations 149:2 150:2,20 157:22</p> <p>size 171:22</p>	<p>skill 21:25</p> <p>skills 48:15 119:6 126:17 129:12</p> <p>slacked 141:23</p> <p>SLED 41:22 136:11 154:16 163:22 168:11,12 188:2 209:18 210:23 223:1,3 235:15</p> <p>SLED's 210:22,24</p> <p>slightly 78:25</p> <p>slip 20:10 27:23</p> <p>slipped 81:10</p> <p>slow 258:19</p> <p>slowing 260:9</p> <p>small 25:13 27:25 30:12 55:6,9 135:16,17,19 136:21 223:22</p> <p>smaller 136:21</p> <p>smart 47:5 88:13</p> <p>smarter 125:21</p> <p>smite 202:3</p> <p>Smith 36:20 49:5 50:20,22,25 51:6,11,14,18,</p>	<p>21,24 52:2,19, 25 53:5 54:3,12, 17 56:10 58:16, 21 60:9,12,20 62:5,8,17 66:17 70:10 76:19,22, 24 77:4,12,16 82:1,7,10 83:4 93:7 257:7</p> <p>snippet 28:12</p> <p>so-called 153:7 191:23</p> <p>soapbox 29:10 33:25</p> <p>social 40:4 68:19,23 69:1,15,25 70:2, 3,5 71:21 72:1</p> <p>softball 222:3</p> <p>soldiers 72:19 73:8 125:16</p> <p>sole 46:4 152:24</p> <p>solicitor 24:21 27:11 33:16,17 67:12 86:25 93:13 94:16,21 111:11 119:16 123:13 126:8,15,22 127:1,6 130:22 165:20 166:8, 10,12,13,18,22 167:17 168:1 171:10,12 175:25 183:17 191:3 194:10 217:19 221:3 230:20 231:5,8</p>	<p>241:14 244:4 248:11 249:4,12 256:13 257:11</p> <p>solicitor's 163:15,16,20,21 165:19,24 166:1,21 167:7 168:10 170:11 176:13 183:16 186:23 188:15 195:22 197:9,11 201:18 212:19 239:15 242:5 246:7</p> <p>solicitors 33:20 67:17 152:8 170:1,23 219:22 242:6</p> <p>solicitor's 25:10 26:5 32:19 67:21 87:2 110:3</p> <p>solo 142:7</p> <p>somebody's 189:2</p> <p>somebody's 94:3</p> <p>someone's 130:4</p> <p>someone's 105:16</p> <p>something's 161:3</p> <p>son 9:7 49:20 167:2, 13</p> <p>sooner 107:6</p> <p>sort 27:9 28:24 47:24 48:6,9</p>
--	---	--	--	---

<p>56:18 67:5 69:2 73:4,6 111:19 129:5 192:15 253:9 259:16</p> <p>sorts 20:14 190:16</p> <p>sought 11:10 23:4 42:20 61:9 91:19 122:8 139:16 252:5</p> <p>sound 93:15 101:6,7 120:15</p> <p>sounds 131:17 158:1 180:24 189:25</p> <p>source 44:7,12 46:7,18 256:11</p> <p>Soured 161:15</p> <p>South 9:20 11:3,25 22:21 23:18 42:12 43:10 48:10 56:5,8 57:7 61:24 65:14 82:13 87:5,23 91:10, 12 106:9 121:25 122:22 132:8 135:18 139:9 140:5 143:9 150:8 154:21 211:10 220:12 247:6 251:23 252:19</p> <p>space 62:19 102:6 107:16,18</p>	<p>sparing 69:16</p> <p>Spartan 95:11</p> <p>speak 7:12 13:17 37:5 51:1 73:25 78:20 83:18 93:5 106:19 108:1 111:21 115:10 128:17 132:15 144:3 147:3 151:23 152:3 155:2 158:14 161:18 164:22,24 175:2,8 179:24 187:4 188:18 189:20 192:7 200:4 204:19 210:14,15 244:17 261:9</p> <p>speaker 60:4 71:1,6 74:9</p> <p>speakers 125:1</p> <p>speaking 34:24 78:12 108:2 149:14,21 172:21 180:1 211:10</p> <p>speaks 18:16 47:24 78:22 168:3 219:4</p> <p>special 41:23 136:19,25 137:6</p> <p>specific 89:3 149:9 212:22,23</p>	<p>specifically 88:19 149:17, 18,21 215:18 221:17 227:6,20 258:25 259:17</p> <p>spectrum 104:14 112:23 149:8</p> <p>speech 195:9</p> <p>speeding 39:21</p> <p>Speedy 30:20</p> <p>spend 30:14 57:6 123:20 216:6</p> <p>spending 72:17</p> <p>spent 53:10 118:7 176:16</p> <p>spirit 12:20 16:25 36:6 50:6 82:18 113:16 131:1 142:25 265:22</p> <p>spoiled 161:14</p> <p>spoke 28:11 125:4 149:17 165:13 204:23 205:13 211:23</p> <p>spoken 66:7 186:10 212:13</p> <p>spread 41:15</p> <p>squared 45:6</p>	<p>stability 10:21 22:17 42:6 60:14 91:3 121:18 139:1 251:16</p> <p>Stacey 85:15</p> <p>stack 234:24</p> <p>staff 8:13 12:6 14:16 23:23 43:16 52:3 53:17,24 62:8 79:22 84:23 86:3 92:14 98:19 116:17 117:15 123:3 132:2 133:19 134:18 140:10 205:19 243:19 252:24 255:13 267:9</p> <p>stage 87:17 243:3</p> <p>stages 256:23</p> <p>Staggs 244:5</p> <p>stake 240:14</p> <p>STALLER 161:21</p> <p>stance 177:21</p> <p>stand 9:16 46:21 50:17 58:4 76:2 83:6 143:14 151:1 202:13 253:14 267:15</p> <p>standard 211:12</p>	<p>standards 64:14</p> <p>standing 46:8 47:12</p> <p>standoffish 97:24</p> <p>standpoint 158:2 176:6 238:3 240:12</p> <p>Stanley 96:24 97:6</p> <p>Starbucks 73:9</p> <p>start 77:17 86:24 105:21 155:11 205:14 222:18</p> <p>started 21:5 30:5 57:19 94:15 120:1 129:20 141:3 253:10</p> <p>starting 169:7</p> <p>starts 21:6 34:9 127:12</p> <p>state 8:20 9:20 12:12 13:4 14:23 19:1 36:2,3 38:10 52:10 55:4,8,13, 19 56:1 64:12 65:13,14,19 72:15 81:25 82:11 85:4 108:21 109:17 113:24 114:21 116:23 130:18, 22 134:1 143:9 145:8 152:5 153:1 162:24</p>
---	--	---	---	--

191:14 194:8 201:12 209:3 217:23 220:11 232:9 238:3 241:16 249:5,24 263:9 265:17 267:4 stated 40:13 60:18 121:22 153:12 232:5 242:9,18 Statehouse 55:24 75:10,12 statement 7:19 8:12 9:2,12 13:24 14:14 15:4 37:13 38:3, 17 51:9 52:2 53:9 83:25 84:21 86:1 115:17 116:15 117:5,13 132:22 133:17 144:10 145:1 154:25 158:10 162:9 163:19 180:3 182:18 187:6 215:12,14 226:13 231:16 235:7 statements 204:6 states 195:18 station 161:5 stature 171:23 statute 111:25 125:17 statutory 10:4 16:9 39:11	54:13 86:18 117:25 135:6 146:6 222:16 245:1 stay 20:2 21:20,21 58:14 69:8 129:25 169:19 176:5,7 199:2 206:21,22 208:3 stayed 62:22 stays 248:5 stemmed 148:6 step 68:2 69:10 245:6 258:19 266:24 Stephen 41:24 stepped 69:14 steps 59:23 72:1 stern 246:23 stick 17:2 Stoller 151:2,12,13,14, 17,22 152:2,3,4 153:11 155:5,8 164:2,4,7 170:8 172:20,25 178:23,25 179:2,13 190:11,12,14 195:3,7,14 198:19 200:23 201:3,14,16,19,	23,25 202:9,20 204:22,24 205:3,4,12 208:25 214:2,6, 9,15 215:9,16, 20 216:10,18 219:12,20 220:4,6,19,23 221:7,9,18 226:18,20,22 227:2,11 230:18,24 231:3,4 234:12 238:13,24 239:21 258:25 259:18 262:21 264:11 265:10, 11 Stoller's 205:18 263:24 Stollers 205:3 220:17 237:2 265:11 stood 131:14 stop 194:23 stopped 182:17 store 135:22 story 180:6 257:12 straight 9:13 15:16 53:3 86:2 117:14 118:8 134:18 243:19,21 strategy 66:1 stream 108:23	street 45:5 106:11,12 135:23 strength 22:6 strengths 21:3 stress 27:14 172:1 stressful 26:24 strictly 216:9 strikes 74:2 80:14 string 148:24 stripes 82:14 Strom 62:13,14,16 64:3 65:16 66:11 67:3 76:16,23 92:20, 21,23 97:4,10 123:8,11 125:4 129:6 179:4,9, 12,24 187:16 190:10 217:8,9, 11,19 218:24 221:20 237:22 242:18 256:12 257:3,4,5,6 Strom's 190:22 strong 21:16 59:19 220:16 stronger 220:4 strongly 80:8	struck 259:19 struggling 230:5 stuck 105:7 128:2 study 8:18,22 14:21, 24 38:8,12 52:8, 12 85:2,6 116:21,25 130:2 133:24 134:2 145:6,10 stuff 29:7 59:25 68:10 69:12 75:19 116:5 131:18 175:22 188:1 190:11 217:18 234:19, 24 251:2 style 109:22 141:19 sub-committee 159:12 subject 66:8 88:17 149:10 203:9 260:20 submission 151:1 submit 46:10 115:25 254:24 submitted 7:20 13:25 37:14 51:10 84:1 115:18 132:23 133:3 144:11 147:22 148:2,5 203:5
---	---	---	---	---

<p>submitting 11:5,9 22:24 23:3 42:15,19 60:25 61:8 91:15,21 122:3, 7 139:12,16 251:25 252:4</p> <p>subpoenas 118:15</p> <p>subsequently 208:16 226:2</p> <p>substantively 209:5</p> <p>substantial 79:6 254:10</p> <p>substantially 101:9</p> <p>substantive 44:1 93:6 189:25</p> <p>success 77:1</p> <p>successful 109:22 130:8 154:7</p> <p>succinct 148:5</p> <p>sudden 28:14</p> <p>suffer 74:10 257:8</p> <p>suffered 109:5</p> <p>sufficiency 19:18</p> <p>sufficient 41:11</p> <p>suggest 20:16 35:16 204:15 258:8</p> <p>suggesting</p>	<p>138:12</p> <p>suggestion 244:11</p> <p>suit 20:9</p> <p>suitability 20:21</p> <p>sum 203:8</p> <p>summary 60:18 121:22 154:6</p> <p>super 173:19</p> <p>supervised 236:2</p> <p>supervisor 49:5</p> <p>supplement 129:11</p> <p>supplemented 210:20</p> <p>support 9:10 52:24 53:7 55:23 77:2 123:18 134:10</p> <p>supporters 97:16</p> <p>supposed 96:12 101:19,20 114:13 196:23, 25 197:6,13 206:10 235:12 236:14 239:17 259:15</p> <p>supreme 119:11</p> <p>surely 169:23 201:6</p> <p>surprise 153:18</p>	<p>surprised 68:17 102:23</p> <p>survey 8:18 10:11 14:21 19:4 38:8 40:9 52:8 85:2 88:11 116:21 120:12 133:24 145:6 219:19 246:20</p> <p>surveys 10:10 19:3 40:8 56:11 88:8 106:25 120:11 137:9 246:18</p> <p>survivors 148:12</p> <p>Susan 73:13</p> <p>suspect 93:22</p> <p>suspicion 21:17 22:1</p> <p>swear 162:19</p> <p>swing 17:1</p> <p>sworn 7:11,19 8:5,12 13:16,24 14:14 37:4,13 38:3 50:25 51:9,17 52:2 83:17,25 84:21 94:2 115:9,17 116:8, 15 132:14,22 133:17 144:2,10 145:1 147:2 151:22 244:16</p> <p>sympathies 200:24,25</p>	<p>synthesize 113:2</p> <p>system 18:21 34:16 65:17 68:7 81:1, 3 95:11 118:14 120:7 136:2 148:13 161:15 177:7 217:22 218:11 239:2,4 240:19 245:7, 10,15</p> <p>systems 121:8</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>T&d 181:17</p> <p>table 71:11</p> <p>tables 128:24</p> <p>tag 35:9</p> <p>takeaway 258:17,18</p> <p>taker 18:19</p> <p>takes 29:9 31:11</p> <p>taking 72:19 98:3 104:21 108:16 258:24</p> <p>talk 35:2 74:25 111:7 125:23 153:6 158:19 160:17 163:17 169:24 171:3 174:20 177:22</p>	<p>187:2 192:23 198:17 205:7 222:14 223:11 226:11,13,14 227:1,11 237:4 241:18 249:19 259:15 263:7</p> <p>talked 28:12 30:4 34:6 65:2 152:16 162:18 206:1 208:7 214:11 218:2 220:21 221:4 222:19 226:16 231:5 237:21,22 245:8</p> <p>talking 27:16,23 28:23 29:1 32:25 44:24 65:24 66:2 67:19 81:9 98:7 149:7 159:8 176:11,12 179:21 180:10 189:23 193:2,3 208:2 211:4 220:17 221:8 223:3 232:6 236:11 259:18</p> <p>talks 31:3</p> <p>Talley 262:18 263:3,9, 15,17 264:21,24 265:5</p> <p>Tammy 38:21,22 48:25</p> <p>tangential 172:24</p> <p>tape 108:19</p> <p>target</p>
---	--	--	---	--

161:13	91:6 93:4	testified	49:6 56:1 63:20	126:12 127:1
task	107:10 121:19	255:7	64:5 65:12,16,	142:16 146:24
172:14	137:11 139:3	testifies	25 67:25 68:8	148:7 155:17
tasks	179:17,19	7:13 13:18 37:6	70:17 72:5	156:22 163:17
21:12	218:1,14 219:5	51:2 83:19	75:15 78:6,16	165:2 171:24
taught	228:10 247:16	115:11 132:16	90:22 95:22	178:2 184:5
118:20 124:7,9,	251:13 264:7	144:4 147:4	96:12,22 98:5	185:21 187:20
13	temperamentall	151:24 244:18	101:2,14 103:4	190:3,24 196:19
tax	y	testify	106:24 108:8,9	212:25 213:14
20:14	150:23	9:1 15:3 38:16	109:1 110:15,	218:10 224:3
Taylor	ten	52:15 85:10	18,19	225:11 229:7
102:10	227:15	117:3 134:6	theme	233:18,19
teach	tend	214:6 236:4	219:17	238:25 240:6,14
119:18,19,20,21	104:12 249:8	255:6	there's	245:10,12,13
teacher	term	testimony	17:14 18:13	258:9 259:16
259:6	32:21 87:7	8:5 10:1 14:7	25:24 27:2 30:7	things
teaching	208:9 209:23	16:6 37:21 39:8	32:6 33:7,19	18:23,24 20:14
119:4,6	210:4,5 240:1	51:17 54:10	47:17 49:4,5	25:6 31:19,20
team	terms	84:9 86:15	63:3 64:19	32:2 56:13 57:5
67:15 125:22	49:19 98:3	89:22 116:8	69:19 94:8	58:7,13 68:1
tease	100:10 101:10	117:22 133:6	102:1,3 104:1,4	69:7 71:16,21
204:3	103:17 104:10	135:2 144:19	108:6 112:22	75:11,23 78:16
technical	105:4 109:22	148:4 151:10	they'll	80:23 81:15
121:8 238:5	111:16 140:20	203:1 205:18	79:7 81:7	85:22 87:24
technically	149:9 169:10,12	215:17 221:2	they're	88:10 94:8,18
237:25	198:3 199:8	224:17 244:23	19:23 65:10	95:20 99:25
teenagers	219:5 222:9	263:24 264:14	77:3 78:3 94:4	102:20,21 103:7
81:20	234:17 237:23	text	101:4,5,19	104:6 105:23
teeth	terrible	212:20	they've	107:14 108:8
57:21	238:16	texted	28:15 30:12	109:6 111:19
telling	terribly	61:3	53:18 73:4 90:1	121:3,11 126:6
180:6 186:10,17	263:13	thankful	104:19 105:17	138:3 154:24
223:2 225:21	terrific	77:3 81:19,25	thin	155:19 158:18
238:24 254:9	246:24	161:2	41:15	159:21 171:7
temper	terrifying	Thankfully	thing	173:13 174:1
218:3,5	103:24	232:19	25:9 31:24 33:8	176:23 177:13
temperament	test	that's	40:4,21 64:4	178:11 180:7
10:25 17:10	46:6 94:3	13:12 16:15	68:8 71:25 72:6	188:12 191:4
22:14 42:9	105:16	21:6,23 24:12,	76:8 78:6 95:7	198:16 214:9,24
47:25 56:13,19,	testament	18 27:14,21,25	96:11 100:6,17	225:10 228:20
24 60:17 90:6	247:21	31:18 42:2	103:9 104:2,17	229:6 230:9
		47:23 48:23	106:8,14 108:5	233:17 235:17
				237:14 240:20

<p>246:16 247:24 248:7 249:13 250:4,11 254:11,13,19,22 257:18 258:20 259:5 260:1,2 261:15</p> <p>think's 185:18</p> <p>thinking 21:25 33:4 112:15 120:1 130:10 230:1 257:23</p> <p>Thirteen 88:17</p> <p>thought 18:12,20 26:13 65:16 69:6 74:12 75:17 90:21 109:6 119:2 125:1,6 157:21 170:5,7, 8 181:4 184:18 185:4,13 187:11,12 212:16 216:23 224:17 230:17 233:12,14 253:13,17 265:13</p> <p>thousand 65:18,19 76:1</p> <p>thousands 63:10</p> <p>threatened 104:16</p> <p>three-fourths 224:1</p> <p>threw 126:10</p>	<p>throw 121:12</p> <p>Thurmond 217:19 256:12 257:3</p> <p>ticket 39:21 58:9</p> <p>ticking 34:9</p> <p>tighten 159:22 236:24</p> <p>Tim 73:8,11</p> <p>time 12:12 13:3 24:10 25:2,3 26:20,21 27:11, 12 28:13,14 30:14 31:3,12, 23 32:2 34:2 36:14,21 44:4 45:24 47:1 50:13 52:4 53:8 57:2,10 58:17 61:5 66:21 67:9, 23 69:10,12,16 72:23 75:5 79:3 80:10,11 81:24 83:1 86:7 88:19 90:1,4 93:12,19 94:18,25 96:13 98:25 99:8,13 100:14 101:16 102:6,13,24 104:7 107:16, 21,22 111:18 112:9,15 113:5, 23 115:23 116:5 117:17 118:24 119:22 121:4 123:19,20,21 125:15 126:11</p>	<p>129:13 130:16 131:9,25 134:15 136:1,4,20,22 141:10,13,25 142:2,17 143:8 146:17 152:16 154:19 155:25 161:11 162:19 169:25 170:25 171:7 173:8 174:21 176:16 178:17 179:25 180:8,10 181:9 183:25 185:3 186:9,12 187:8, 19 190:18 191:1 192:23 194:24 196:2,8 198:18 199:24 204:21 206:12 207:6 210:21 211:22 212:22,23 213:12,14 215:13,22 216:7,14,15 218:19,21 221:11 222:23 224:2,12 225:20 229:1,25 235:13 236:15 246:6 249:15 251:6 255:4,9 258:24 259:11,16 260:3,10 262:24 263:11 265:16 266:4</p> <p>timely 232:1,14</p> <p>times 16:15 17:3 25:21 31:16 45:7 74:17 75:10 78:9 82:8</p>	<p>100:10 101:25 102:1,4 104:17 109:4 110:2 128:4 136:5 138:1 163:3 213:23 224:22 235:11 248:9,14</p> <p>timing 88:3</p> <p>tired 63:21 94:5</p> <p>Titan 96:25</p> <p>Title 129:22</p> <p>titles 20:13</p> <p>today 7:9 15:5 23:24 30:7 36:15 37:1, 21 38:20,23 43:17 44:13 53:21 54:6 56:3 62:9 66:17 76:24 77:7 82:1 83:3 84:10 85:13,16,17,19, 20 86:5 92:16 114:1 117:10 123:5 134:9 140:11 142:22 144:19 152:3 164:22 168:5 201:9 204:19 205:18 207:16 215:7,17 218:12 242:9 245:8 253:1,24 255:6 257:6 261:6,15 267:17</p> <p>today's 7:2</p>	<p>told 30:6,23 40:22 79:22 94:24 95:5,6,18 103:12 126:23 148:23 170:24 171:20,23 174:23 175:12 186:21 191:20 205:5,6,19,20 209:15,17 214:7 220:18 222:1 223:25 227:20 234:14 235:7,14 236:8 237:12,15</p> <p>tomorrow 267:16</p> <p>ton 25:15 53:19</p> <p>tonight 267:15</p> <p>tool 161:5</p> <p>top 7:5 21:22 44:2,8 124:12 253:13</p> <p>Tort 124:14</p> <p>totality 254:17</p> <p>totally 32:22</p> <p>touch 21:20</p> <p>touched 34:20 54:16 103:9</p> <p>tough 217:16</p> <p>towers 121:10</p>
---	---	---	---	---

<p>town 25:13 27:25 135:16,17 172:3</p> <p>track 16:23 17:6 88:15 101:4</p> <p>tracks 95:12</p> <p>trades 40:3</p> <p>training 55:22</p> <p>transcript 35:17 70:25 164:19 190:22 227:24 228:6 231:18 232:17</p> <p>transferred 166:14 171:14</p> <p>transition 25:24 68:25 69:22,23 70:5</p> <p>transitioning 86:25 97:23</p> <p>transitions 48:1 98:11</p> <p>translate 19:25</p> <p>translates 19:22</p> <p>transparent 108:21</p> <p>trauma 173:8</p> <p>travel 46:1 150:3</p> <p>treat 47:19,22 104:12</p> <p>treated 17:16 127:24 241:20</p>	<p>treating 90:12</p> <p>treatment 47:19</p> <p>treats 48:14</p> <p>tremendous 53:17 63:8 68:19 103:16</p> <p>trenches 55:7</p> <p>trial 18:2,5 19:21,25 20:18 27:18,19 30:20,22 32:14, 23 33:2,4,8,11, 22 57:14 58:3,6 60:19 95:17 96:19,20 119:6 120:4 124:4,18 126:16,17 141:24 170:19 220:5</p> <p>trials 18:3 57:23 68:1 98:8 129:9 130:18 141:20, 21</p> <p>tribunal 215:3</p> <p>Triplet 244:14,20</p> <p>TRIPPLET 252:22</p> <p>trouble 181:7</p> <p>trucks 29:22 72:20</p> <p>true 41:9 47:7 48:22, 23 65:12 66:23 87:25 106:24</p>	<p>174:25</p> <p>trump 231:22</p> <p>trunk 118:12</p> <p>trust 56:7</p> <p>trustee 167:22,23</p> <p>trustworthiness 138:19</p> <p>trustworthy 138:14,17</p> <p>truth 7:12,13 13:17, 18 37:5,6 51:1,2 83:18,19 115:10,11 132:15,16 144:3,4 147:3,4 151:23,24 244:17,18</p> <p>tunes 239:10,11</p> <p>turn 71:24 75:1 202:5 216:23</p> <p>turned 157:13 184:19 188:12 209:7,19 227:22 259:3</p> <p>Turner 149:19,22 153:9,17 160:6 166:20 167:4,15 181:22 206:5, 16,21 213:14 219:15 233:21 235:6,8 236:10, 12 261:9</p> <p>Turner's 167:15 207:12</p>	<p>235:8</p> <p>turning 33:24 190:2 260:19</p> <p>turns 155:22 190:21</p> <p>tweaking 103:19</p> <p>tweaks 141:14</p> <p>two- 215:7</p> <p>two-week 18:3</p> <p>type 19:11 22:4 57:1 88:14 155:21 238:15</p> <p>typed 118:15,16</p> <p>types 40:16 246:16 248:7 260:6,7</p> <p>typically 183:16</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>U.S. 88:25 256:13</p> <p>Uh-huh 175:23 176:3 177:10 182:20 192:14 196:15</p> <p>ultimate 228:8</p> <p>ultimately 78:5 79:14 125:20 149:1 181:15 207:1 209:14 254:15</p>	<p>unable 52:22 222:7</p> <p>unanswered 149:3</p> <p>unbeknownst 89:17</p> <p>unbiased 64:22 98:23</p> <p>uncertainty 259:13</p> <p>unclear 130:10</p> <p>undeniable 79:17</p> <p>underlying 228:14</p> <p>underscore 97:6</p> <p>understand 11:24 23:17 24:8 43:9 52:20 53:8 57:5,15 61:23 79:8,9 92:9 94:12 98:12 99:11 101:10 102:9,21 106:23 107:4,7, 15 111:18 112:24 113:10 120:20 122:21 140:4 141:1 142:13 152:25 153:2,21 155:20 156:4,24 173:24 177:1,6,8 179:21 188:4 189:8 198:24 199:1 201:7,10 215:8 219:25 225:13,20 230:15 234:21 238:16 239:18,</p>
--	---	--	--	--

20 240:7 242:16 245:13 246:9 250:23 252:18 259:1 263:1,22 264:16 understandable 47:9 understandably 260:8 understanding 25:13 41:24 71:11 102:8 103:4 104:4 106:3 120:16 130:16 145:13 146:11 155:20 160:10 167:9 173:15,17 191:12,13 192:2 194:1,3 196:19 197:8 201:21 214:24 230:22 246:13 247:2 understands 80:18 240:19 understood 72:3 100:4 156:12 218:20 231:7 263:23 unethical 88:21 unfortunate 90:22 uniform 176:23 249:24 unique 87:7 165:2 255:23 uniquely 190:15 universe 261:9	university 57:7,15 unlucky 89:18 unnamed 261:7 unprofessional 178:8 unqualified 151:5 unsigned 144:13 untimely 174:15 unused 68:5 unusual 211:25 212:10 unwind 198:24 update 36:19 84:5 updates 7:22,25 14:2 37:16 51:12 84:4 115:20 132:25 144:14 uphold 59:16 89:6 upmost 17:18 upset 95:1 236:6 260:9 uranium 131:15 usher 132:2 utility 98:20 Utsey	124:9 <hr/> V <hr/> Vaguely 43:2 values 18:23 variety 57:9 81:22 vast 55:6 56:16 88:16 129:12 vehemently 207:22 Vehicle 124:14 venue 261:19 verbally 223:16,17 224:9,10,16 verdict 256:17 verification 8:19 14:22 38:9 52:9 85:3 116:22 133:25 145:7 version 110:11 vet 264:10 vice 87:6 victim 57:25 127:14 148:16 152:4, 11,25 153:20,25 154:7 158:15 169:17 177:9 178:19 180:13	187:13,14 208:6 210:11,13,14, 16,18,22,24 211:11,12 212:2 222:18,20,25 223:1,8,9,14,21, 24 237:3 242:2 248:17 261:7 victim's 153:21 158:10 162:2 163:18,19 166:1 168:9,11 169:12,14,20 176:6 180:2 187:5 210:7 241:7,13,14 242:7 victimized 167:24 victims 58:3 147:11 148:9,11,19,20, 22,25 149:16 150:4,11,16 153:1 154:12 165:11,12,18 167:21 169:3 172:6 176:1 179:22 187:1 189:15 190:2 205:1,4,7,12,20 206:1 210:24 211:14,23 213:8 217:25 228:16 232:13 241:17 242:13 257:15 259:15 victims' 179:25 180:20 194:16 206:2 video 79:21	view 12:22 28:15 36:7 50:7 82:20 113:17 126:9 131:2 143:2 219:5 265:23 viewed 43:9 viewpoint 147:16 views 41:4 violate 59:13,14 158:25 196:24 violated 159:19 180:1 236:20 violating 160:15 208:8 242:7 violation 195:24 235:14 violations 12:22 36:8 50:7 82:20 113:17 131:3 143:2 160:9 195:21 196:16 197:3,22 209:16,17 242:12 265:23 violent 64:17 94:1 207:24 virtue 68:6 81:24 virtues 18:16,24 visceral 79:15 vision 54:25
--	--	---	--	--

vital 88:16	253:22 254:1 255:17	212:15 214:1	63:8 64:2 66:1 73:14 75:19	William 26:8,24
voice 126:11 169:10	warranted 257:10	weekdays 21:14	93:8,25 103:9 110:24	Williams 36:20 83:10,12, 13,17,23 84:2,5, 11,14,18,21 85:15,16,17,25 86:4,12,17,19 88:7,15 91:1,8 92:20 97:12 99:23 109:16 110:21,24 114:2,4 171:22
voices 69:11	warrants 90:3	weekend 27:17 29:2 81:16	whatnot 157:8	willingness 35:5 201:1
volunteered 56:18	Washington 45:23	weekends 21:11 29:6	whatsoever 146:9 187:18	Willson 100:2
vote 218:18 258:12	wasn't 44:8 66:25 85:23 94:20	weeks 31:19 33:22 160:2 166:9,13 169:6 170:11 171:4 221:3 231:5,8	what's 34:16 93:8 104:11 110:13	win 68:24 154:20 215:13,23
voted 218:12	waste 178:17 180:8 215:12,22	Weeks's 171:10	whip 45:13 108:8	wins 127:8
votes 114:23 267:6	wasting 154:19	weigh 95:23 98:16	whipped 106:16,20	wise 36:19
<hr/> W <hr/>	watch 108:25 130:18	weight 12:24 36:9 50:9 82:22 113:19 131:4 143:4 265:25	whipping 104:20 106:18 109:6	wishing 167:19
Wade 126:15,16,17	watched 45:25 46:12 221:23	well-respected 10:13 56:19	white 112:20 125:24, 25	withstanding 222:13
waiting 125:10	watching 28:25 106:24,25 110:10,18 236:10	well-tempered 120:14	wholeheartedly 242:22	witnessed 28:2 154:16
waive 117:16 262:8,9, 10	ways 67:23 78:3 80:3 103:23 253:21	we'd 76:19	who's 68:18	witnesses 8:25 15:2 18:4 31:18 38:15 52:15 85:9 90:8 117:3 134:5 145:17
walk 233:21 240:18	weakest 112:7	we'll 14:16 52:3 83:6 84:22 86:1 101:15 102:24	who've 97:8	won't 111:21
walking 240:18	wear 159:7 160:7 196:20 206:11	we're 28:17,18 33:6 63:1,18 64:10 65:19 85:24 98:16,22,23 99:7	wicked 47:4	
wallflower 71:12	wearing 159:5 160:5,8 239:15	we've 8:23 9:7 15:1 32:3,15 34:17	wife 9:6 15:8 29:1 38:21 55:22 70:15 81:10,19 85:15 117:7 168:14 243:24 244:1	
Walt 166:19 167:4,15	website 108:23		wife's 47:11 89:17	
wanted 21:14 49:8,11 71:20 76:3 81:11,14 88:1,5 126:7 158:3 161:24 187:22 188:10 196:9 208:12 220:19, 20 221:6 224:25 226:11 231:19	week 30:21 33:5 57:25 58:5 130:14 137:24		Wilkins 60:4 71:2,12 72:16 74:7,8,15 77:23 257:8	

wood 95:22	worker 21:3	writing 62:23 112:16	116:1	34:11,12 38:24, 25 44:11 54:6
word 178:1 188:22 199:13 220:8 224:3 226:1	workers' 87:1	125:19 204:6 223:15 224:9	years 9:7,8 10:6 16:11 18:6 21:24 26:22 27:13 33:22 34:7,11 35:14 39:13 45:1,4 53:10 54:15 55:7 57:6, 17 59:19 74:15, 18 76:6,7 81:21 86:19 87:5,18, 20 89:24 90:3 91:14 95:1 99:16 100:1,7, 15 103:10,21 106:5 107:20 108:12,19 111:4 117:8 118:1,7, 24 119:4,5,15 120:6 135:7 141:6 148:6 161:14 169:6,8 234:5 245:3 247:5 253:10 259:24	56:2 60:22 62:25 68:24 69:1 71:4 72:21 78:19 79:16 80:21 87:13 94:6,7 95:11 96:7,8 97:25 98:6,8 99:25 103:12 105:3,7 107:11
wording 221:16	working 55:8 57:7 68:12 88:19 167:7,10 172:6 216:5 246:7 248:16	written 14:6 19:17 70:7 74:10,14 88:17 120:17 123:18 137:13 203:4 204:7 217:17 256:6	20 89:24 90:3 91:14 95:1 99:16 100:1,7, 15 103:10,21 106:5 107:20 108:12,19 111:4 117:8 118:1,7, 24 119:4,5,15 120:6 135:7 141:6 148:6 161:14 169:6,8 234:5 245:3 247:5 253:10 259:24	you've 9:3 15:5 24:20, 24 25:20,23,25 29:8 30:25 31:10 32:24 46:3 54:16 64:6 71:21,24 78:15 84:1 103:12,13, 14,15,20 104:6, 10,14 105:12 106:4 108:12 109:9 111:1,14
words 74:11,14 128:23 163:6 179:16 215:19 257:17	workman 95:22 96:16	wrong 98:22 196:21 228:4 235:1	yield 172:9 179:7 241:3	
work 17:23 18:6 19:7 20:20 21:11,16, 22 22:5 24:14, 15,17,24 25:3,8 26:5 29:2,8 30:11,15 35:3, 19 53:16,19 58:20 62:20 64:6,7 67:19 73:19 74:1,16 75:9,11,15,18 78:22 80:16 81:24 96:21 99:2,3,4,5 104:2,23 105:24 108:10 118:13, 22 130:5 138:1, 6,9 141:18,19, 21,24 169:19 212:25 213:4,7 240:20 242:2 250:2 267:17	works 29:5 177:7	wrongfully 126:20 127:2,16	YOA 188:20	
workday 21:5,6	world 67:5 87:9 90:13 129:1 177:1 216:6 257:23,24	wrote 60:5 160:14 179:16 208:9,10 217:19	young 38:19 171:16 187:13 251:6 255:4	
worked 24:9 59:19,22 71:10 102:10 184:18 211:7 242:5	worn 30:10	Y	younger 111:7	
	worse 93:21,22	y'all 131:22,24 132:1 165:6 174:5,8, 17 182:6,8 183:6 184:12 185:4,18 207:2 257:3	you'd 46:9	
	worth 73:25	y'all's 180:25	you're 9:4 15:14 24:20 25:18 27:13	
	worthy 45:11,16	yard 161:6		
	would've 260:11	year 34:6,13 65:18 69:12 106:1,9 111:17 112:9 129:8 159:12 171:9 199:15 207:16		
	wouldn't 41:4,6 59:25 102:16	year's		
	wound 221:15			
	wrap 232:25			
	wreck 20:9 27:23 39:22			
	write 46:9 97:1 257:1			
	writes 35:20,21			
				Z
				Zoom 152:16 153:5,7, 12 154:17 162:13 178:6,11 184:22 185:4 191:20 205:9,15 214:16 215:8 216:9 226:5,18, 20,22 227:6 265:6,9,11