



1226 Pickens Street  
Columbia, South Carolina 29201  
info@garberreporting.com  
Telephone: (803) 256-4500 | Fax (803) 256-1999

## **SCREENING HEARINGS**

*November 09, 2023*

**2023 Judicial Merit Selection Commission**

**REPORTER: Patricia Bachand**

1 STATE OF SOUTH CAROLINA )

2 COUNTY OF RICHLAND )

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5 JUDICIAL MERIT SELECTION COMMISSION

6 TRANSCRIPT OF PUBLIC HEARINGS

7 \* \* \* \* \*

8 BEFORE: REPRESENTATIVE "MICAH" CASKEY, IV, CHAIRMAN

9 SENATOR LUKE A. RANKIN, VICE CHAIRMAN

10 SENATOR RONNIE A. SABB

11 SENATOR SCOTT TALLEY

12 REPRESENTATIVE J. TODD RUTHERFORD

13 REPRESENTATIVE WALLACE H. "JAY" JORDAN, JR.

14 HOPE BLACKLEY

15 LUCY GREY MCIVER

16 ANDREW N. SAFRAN

17 PETE STROM

18 ERIN B. CRAWFORD, CHIEF COUNSEL

19 \* \* \* \* \*

20 DATE: November 9, 2023

21 TIME: 9:00 a.m.

22 LOCATION: Gressette Building, Room 105

23 1101 Pendleton Street

24 Columbia, South Carolina 29201

25 REPORTED BY: PATRICIA G. BACHAND, COURT REPORTER

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(No Information Requested.)

1                   CHAIRMAN CASKEY: Good morning, ladies and  
2 gentlemen. We are going to go ahead and being our session,  
3 today, of continuing to screen candidates for judicial  
4 office. Before we bring in any candidates, though, we do  
5 need to go into executive session to receive a legal  
6 briefing from counsel. And so on motion of Senator Talley,  
7 seconded by Representative Rutherford, the pending question  
8 is going into executive session.

9                   All in favor signify by saying "aye".

10                  (At this time the members audibly say "aye.")

11                  CHAIRMAN CASKEY: All opposed "nay."

12                  (Hearing none.)

13                  CHAIRMAN CASKEY: The "ayes" have it. And  
14 we will go into executive session. I would kindly ask that  
15 anybody who doesn't need to be here for that, just step out  
16 of the room so we can do it. Thank you.

17                  (Executive session from 9:37 a.m. to 9:42 a.m.)

18                  CHAIRMAN CASKEY: Ladies and gentlemen, we  
19 will go back on the record. For the record, while we were  
20 in executive session we received no legal briefing. No  
21 decisions were made and no votes were taken. So just as  
22 soon as the candidate can take the podium, we will resume  
23 the screening process.

24                  Good morning, sir. Thank you for being here  
25 this morning. My understanding is you are here in a



1 application for Seat 4 of the circuit court of the 9th  
2 Judicial Circuit. Is that right?

3 MR. DAIGLE: That's correct.

4 CHAIRMAN CASKEY: If you would, sir, raise  
5 your right hand.

6 WHEREUPON,

7 JASON A. DAIGLE, being duly sworn and  
8 cautioned to speak the truth, the whole truth and nothing  
9 but the truth.

10 CHAIRMAN CASKEY: Thank you. There should  
11 be some documents in front of you. If you would please  
12 review those.

13 MR. DAIGLE: It looks like I've got my sworn  
14 statement and then my PDQ.

15 CHAIRMAN CASKEY: And those are the personal  
16 data questionnaire and the sworn statement that you've  
17 submitted to the Commission?

18 MR. DAIGLE: Correct.

19 CHAIRMAN CASKEY: Are there any updates for  
20 amendments that need to be made to those?

21 MR. DAIGLE: My kids have had birthdays  
22 since then. But that's about it.

23 CHAIRMAN CASKEY: Do you object to our  
24 making these documents are part of the record of your  
25 testimony -- sworn testimony here today?

1 MR. DAIGLE: I do not.

2 CHAIRMAN CASKEY: We'll have staff do that.

3 (EXHIBIT NO. 1 - JUDICIAL MERIT SELECTION  
4 COMMISSION PERSONAL DATA QUESTIONNAIRE OF JASON  
5 A. DAIGLE)

6 (EXHIBIT NO. 2 - JUDICIAL MERIT SELECTION  
7 COMMISSION SWORN STATEMENT OF JASON A. DAIGLE)

8 CHAIRMAN CASKEY: The Judicial Merit  
9 Selection Commission has thoroughly investigated your  
10 qualifications for the bench. Our inquiry has focused on  
11 the nine evaluative criteria, and has included a ballot box  
12 survey, a thorough study of your application materials,  
13 verification of your compliance with state ethics laws, a  
14 search of newspaper articles in which your name appears, a  
15 study of previous screenings, and a check for economic  
16 conflicts of interest.

17 We have received no affidavits filed in  
18 opposition to your election, and no witnesses are present  
19 to testify.

20 I'll give you an opportunity in a moment to  
21 make a brief opening statement, if you would like. But I  
22 see you've brought some folks with you here. If you'd like  
23 to introduce them, we'd be happy to --

24 MR. DAIGLE: Sure. I've got my wife, Kathy,  
25 and my parents, Alisha and Pat.

1                   CHAIRMAN CASKEY: Thank you all for being  
2 here today.

3                   As I said, Mr. Daigle, you are welcome to  
4 make a brief opening statement, if you'd like. Otherwise,  
5 we can have staff just begin with the questions.

6                   MR. DAIGLE: Sure, just very briefly. Thank  
7 you all for screening me. I appreciate the opportunity.  
8 I'm standing here, today, asking you to qualify me and to  
9 select me for a 9th Circuit position. And that is a -- is  
10 a big deal and is a huge undertaking and a huge  
11 responsibility for both you, and for me.

12                   And that being said, I don't deserve the  
13 seat. None of the other candidates running for this  
14 deserve the seat. Not one of us is owed that seat. The  
15 lawyers who practice in the 9th Circuit, they're the ones  
16 who deserve it. The litigants in the 9th Circuit, they're  
17 the ones who deserve it. They're the ones to whom that  
18 seat is owed.

19                   And I promise you, I would not be sitting  
20 here today -- or standing here, today, if I didn't think I  
21 was the best candidate for that position. I hope the  
22 questions that I answer will make your job as easy as I  
23 possibly can. Thank you all.

24                   CHAIRMAN CASKEY: Thank you, sir. At this  
25 time, I'd recognize Mr. John for some questions.

1 MR. JOHN: Good morning, Mr. Daigle. My  
2 name is Breeden John. I'll be filling in for Andy Fiffick  
3 this morning. I've reviewed your application documents and  
4 files, and I just have a few questions for you.

5 MR. DAIGLE: Okay.

6 EXAMINATION BY MR. JOHN:

7 Q. So, Mr. Daigle, how do you feel your legal and  
8 professional experience thus far renders you qualified and  
9 will assist you to be an effect circuit court judge? And  
10 if you could give us a quick overview of your experience in  
11 civil and criminal.

12 A. Okay. So I've been a civil litigator for almost  
13 nineteen years now. I've tried cases all over the state.  
14 I've tried jury trials, bench trial, magistrate trials,  
15 arbitration, FINRA arbitrations. I've done just about  
16 everything there is to do in civil litigation. That's all  
17 I've ever done.

18 I've been in court hundreds of times, argued  
19 hundreds of motions. And that type of experience is pretty  
20 rare these days, trying cases to verdict, trying bench  
21 trials to verdict, trying arbitrations to awards.

22 You know, we -- as lawyers, we're told when we go  
23 to law school, you can do anything if you're a lawyer. I  
24 don't know who said that, but it's not true. I'm qualified  
25 to do two things: one is being a litigator, and one is to

1 be a judge.

2           And I think that the experience I have on the  
3 civil side, there is zero substitute for that. Almost  
4 nineteen years of civil litigation experience is not  
5 something that you can come by any other way.

6           There's only one way to get it, and judges that  
7 don't have civil litigation experience, they don't get it  
8 on the bench. That's not something you learn on the bench;  
9 they're always behind in that sense. And I've seen it,  
10 time and time again. And it's important to have a judge  
11 with my experience on the civil side on the bench.

12           As far as the criminal law goes, the short answer  
13 is "zero." I've got no criminal law -- no criminal law  
14 experience. Now, I have been involved in criminal cases.  
15 I've represented folks who are defendants, or potential  
16 defendants, in criminal cases on the civil side. So there  
17 was either an ongoing investigation or an ongoing criminal  
18 actions while I was representing them on the civil side.

19           I, you know, have been in general sessions and I  
20 have been in court with them; although, I've not been  
21 actively representing them in that capacity.

22           And as far as any other criminal experience goes,  
23 I've started reaching out to members of the criminal Bar in  
24 Charleston, to get me up to speed on what is expected of  
25 judges, what judges do in criminal trials and pleas and

1 hearings and motions and status conferences and all of  
2 that.

3 I've started taking CLEs which is -- it's the  
4 first time I've ever taken a CLE, where I'm looking at the  
5 -- at the -- at the program from a judge's perspective  
6 instead of from a lawyer's perspective. And it's actually  
7 really interesting to do, to see what -- you know, to see  
8 the difference in what is expected of judges and what's  
9 expected of lawyers.

10 **Q. Thank you. At this stage in your career, why do**  
11 **you now wish to become a judge?**

12 A. It's something I've always thought about. It's  
13 something that I've always wanted to do. And, frankly, I  
14 thought it was unattainable. I didn't -- you know, I  
15 didn't know how judges were appointed.

16 You know, I knew how federal judges were  
17 appointed and -- you know, I'm not -- I'm not a politician.  
18 I'm not politically connected. I'm not from here, and I  
19 don't know anybody that's particularly important. But it  
20 was always something that interested me. It was always  
21 something that whenever I went to court, I saw what the  
22 judges did, I saw how they did it. And that's something  
23 that I wanted to do.

24 And, frankly, it's something that I thought I'd  
25 be really, really, good at. And like anybody else, I like

1 doing things I'm really good at. And that is, you know, by  
2 and large, why I wanted to do it.

3 And my firm has a summer clerk program, where we  
4 bring in second -- second-year law students to clerk for us  
5 for the summer, and that's where we hire most of our  
6 associates. And one of the things that they do is they --  
7 during their summer with us, is they have to come interview  
8 all the partners.

9 And for the last four or five years, every time  
10 those clerks have come to interview me, one of them always  
11 says, "Well, you should be a judge or ever thought about  
12 becoming a judge?"

13 And I'm like, "Well, yeah, of course I have," you  
14 know, in my head. But I never really gave it much thought.  
15 And then this past summer, it happened twice. Two of the  
16 clerks said that. And I was like, well, you know, now is a  
17 good time.

18 I'm in a place in my career, and my wife's in a  
19 place in her career, that I can switch gears to a public  
20 service position as opposed to private practice. I talked  
21 to her about it, she was supportive. I talked to my  
22 managing partner about it, and he was supportive. The  
23 partnership at my firm was supportive. And it's just the  
24 timing of it worked out very well for now to be the time.

25 **Q. Thank you. Mr. Daigle, the Commission received**

1 124 ballot box surveys regarding you, with 12 additional  
2 comments. Positive comments included that you would be an  
3 excellent judge, "Seems to be in it for the right reasons.  
4 Well qualified candidate with excellent judicial  
5 temperament, and seasoned civil litigator on both sides.  
6 Ready for the bench."

7 In your personal data questionnaire, you did  
8 disclose one lawsuit that was from -- filed against you in  
9 2006 by Discover Bank. I appreciate you providing the  
10 details on that. For the record, could you just explain  
11 the nature and the disposition of that?

12 A. So I found out in 2016, that I got sued in 2006.  
13 I was doing -- I had a case and I was looking at -- looking  
14 at one of my clients on the judicial website -- or on the  
15 clerk of court's website in Charleston. And I thought to  
16 myself, I've never typed in my name. So I typed in my name  
17 and I was like, "Oh, my God. I got sued ten years ago."

18 I didn't know I got sued. I was never served  
19 with a lawsuit. And as far as -- and I -- the disposition  
20 of it was that it was dismissed without ever being served,  
21 without me ever having knowledge of it. And I paid -- I  
22 already paid the debt, I assume, at that point.

23 Q. Thank you.

24 MR. JOHN: I would note that the Lowcountry  
25 Citizens Committee reported that Mr. Daigle is qualified in



1 the evaluative criteria of constitutional qualifications,  
2 physical health and mental stability, and well qualified in  
3 the remaining evaluative criteria of ethical fitness,  
4 professional and academic ability, character, reputation,  
5 experience, and judicial temperament.

6 BY MR. JOHN:

7 Q. Wrapping up for me, Mr. Daigle. Are you aware  
8 that as a judicial candidate, you are bound by the code of  
9 judicial conduct as found in Rule 501 of the South Carolina  
10 Appellate 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 your letter of intent, have you  
17 sought or received the pledge of any legislator either  
18 prior to this date or pending the outcome of your  
19 screening?

20 A. I have not.

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

24 A. I am.

25 Q. Have you asked any third parties to contact

1 members of the General Assembly on your behalf, or are you  
2 aware of anyone doing so?

3 A. I'm not aware.

4 Q. Have you reviewed and do you understand the  
5 Commission's guidelines on pledging in code section 2-19-  
6 70(E)?

7 A. Yes.

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

13 CHAIRMAN CASKEY: Thank you. Do members of  
14 the Commission have any questions or comments of Mr.  
15 Daigle? Mr. Rutherford.

16 EXAMINATION BY REPRESENTATIVE RUTHERFORD:

17 Q. Good morning.

18 A. How are you doing?

19 Q. You know, I found your comments interesting for  
20 two reasons. And the first of which is that, as you  
21 stated, you obviously live in South Carolina, and you don't  
22 have to know anybody important -- or given anybody  
23 political donations to decide that as a good lawyer you  
24 want to become a judge.

25 And I think that speaks volumes of our system,

1 the fact that you're able to stand here --

2 A. I agree.

3 Q. -- and on the precipice of, hopefully, getting  
4 elected and becoming a judge, without having to do all the  
5 things that some people have to do in other states, you  
6 didn't have to run for office and go out and solicit  
7 donations.

8 And I think -- I hope that, that at least  
9 imparted on you, your ability to simply be a good lawyer  
10 and one day decide that you would like to become a good  
11 judge.

12 I am concerned with the lack of criminal  
13 experience.

14 A. Okay.

15 Q. And I have advocated for years, and two important  
16 people that have ignored me, that we need a civil bench and  
17 a criminal bench. Because it is somewhat unfair on both  
18 sides, that you may one day be in front of a judge with no  
19 criminal -- with no civil experience, and here you've got  
20 nineteen years of litigating and done all of the things  
21 that you've done to perfection, and you're standing in  
22 front of a judge that doesn't know anything about anything,  
23 and you're having to education them as you practice, and  
24 how unfair that is.

25 But also on the other side, how unfair it could

1 be to a criminal defendant, who's life is in front of him,  
2 standing in front of a judge that doesn't know anything,  
3 who tends to -- if history repeats itself, judges that tend  
4 to lack criminal experience might -- in my practice, I find  
5 that they err on the side of the solicitor for fear that,  
6 that's a lot easier than erring on the side of the  
7 defendant and getting beat up in the press.

8 Tell me what you would do, between now and when  
9 the election is held in January, or whenever we do it, if  
10 we're able to do it, to remedy the lack of criminal  
11 experience that you've had.

12 A. I'd continue doing what I'm doing. I would  
13 continue to engage members of the criminal Bar, in  
14 Charleston, specifically, to get me up to speed on the  
15 procedures, on the rules, on, you know, the in's and outs  
16 of the criminal practice from the bench.

17 I'd continue to take CLEs that I think are very  
18 important. You know, I've taken several of them, and, you  
19 know, have learned quite a bit in that -- in that time.  
20 And, frankly, it's amazing the things that I knew, that I  
21 didn't know I knew, on the criminal side.

22 I think, you know, by the time I would get on the  
23 bench -- and I think it's maybe July of next year -- that's  
24 ample time for me to grasp the in's and outs, the workings,  
25 the mechanics of criminal practice from the bench.

1 Q. And if I could suggest along with that, civil  
2 lawyers tend to grab a hold of their cases on both sides,  
3 and not want anyone without touch them. Criminal lawyers  
4 are usually a lot more giving, especially public defenders,  
5 and even some private lawyers with magistrate-level cases  
6 and some general sessions cases, if somebody with your  
7 experience offered to come in and help with a trial that  
8 they know is a date certain.

9 You'd be amazed how many criminal lawyers would  
10 say, "Come on and sit with me."

11 A. And I've thought about that, too, to ask a  
12 criminal attorney to associate me on a -- on one or some of  
13 their cases. That's something that I have not run by in my  
14 management committee. I don't know if our malpractice  
15 insurance covers that or not.

16 But that's something that I have thought about.  
17 I just haven't taken the steps to do it yet. But that is  
18 something that I would certainly intend to do prior to July  
19 of 2024.

20 Q. Most criminal defendants don't sue their lawyers.  
21 They do end up with a bunch of gripes and PCRs --

22 A. Right.

23 Q. -- and all those things that don't amount to  
24 money judgments, but do amount to being a pain. But that  
25 also, I believe, helps you understand what criminal lawyers

1 are going through, standing next to somebody --

2 A. Oh, no question.

3 Q. -- even on a very simple case. So I would just  
4 encourage you to try and do more than just CLEs. Because  
5 in criminal law, it's just so much easier to get that kind  
6 of experience.

7 A. Sure.

8 CHAIRMAN CASKEY: Thank you, Representative  
9 Rutherford.

10 EXAMINATION BY CHAIRMAN CASKEY:

11 Q. Mr. Daigle, I had similar concerns. And it's not  
12 unique to you. Sometimes, we have folks who are applicants  
13 -- candidates that only have criminal experience, and so  
14 the question is presented, "Well, how do you see yourself  
15 fitting onto the bench?"

16 And in your case, clearly, ample experience and  
17 ability. Though, as I was looking at one of your answers  
18 to the questions that were asked with respect to the term  
19 "pleading straight up," and you were candid in that you  
20 didn't -- you'd never heard that term before.

21 I focus here, again, because the discretion that  
22 a judge has to impose a criminal sentence in our state is  
23 immense. The sentencing ranges are incredible. And unless  
24 one has been involved in a crime -- which I take from your  
25 records, you have not -- or been around it in some

1 meaningful way, it can be hard to develop a compass of  
2 sorts as to where and what sentences are appropriate.

3           And I think my first question would really be,  
4 when you look at judges that you're familiar with in our  
5 state, who do you look to and admire, and in whatever sense  
6 you think appropriate, want to emulate?

7           A.    You want me to name names?

8           Q.    Yes, please.

9           A.    The three -- the three judges that I've had the -  
10 - a ton of respect for, that I've been in front of, are  
11 Judge James, who's on the Supreme Court now, Judge Curtis,  
12 and Judge Young.

13          Q.    Three excellent choices. All right. Well, I'll  
14 just say this: In addition to Representative Rutherford's  
15 suggestion, then, participating in a trial is -- or trials  
16 in a criminal context, I think would be useful.

17          A.    I agree.

18          Q.    I would -- I would suggest spending some time in  
19 plea court just to -- just to see what happens. Because it  
20 is a wild thing to see at times. And I'll never forget  
21 when -- obviously, other attorneys have become judges, and  
22 great judges, with only civil experience.

23                I'm thinking of Tonya Gee and others. But that  
24 first day, where you're taking pleas and it's like  
25 possession of meth second, and you're like, "Oh, man, a one

1 zero five?" It's a -- it's eye-opening.

2 So anyway, I offer that for whatever utility it  
3 may be.

4 A. I appreciate that.

5 CHAIRMAN CASKEY: Senator Talley.

6 SENATOR TALLEY: Good morning --

7 MR. DAIGLE: How are you doing?

8 SENATOR TALLEY: -- Mr. Daigle. Nice to  
9 meet you.

10 MR. DAIGLE: You too.

11 SENATOR TALLEY: Thank you for offering.

12 And I just -- I wanted to chime in. You and I have been in  
13 practice about the same amount of time. And what we're  
14 experiencing more and more, as people come through this  
15 commission, as to the chairman's point, there's a lot of  
16 criminal experience and there's not that much civil  
17 experience.

18 Because as you well know, through mediation,  
19 you mentioned arbitration and construction cases, there's  
20 just not a lot that gets to trial. And we have, as  
21 Representative Rutherford raised, spoken with members of  
22 the legislature, maybe at the Supreme Court, about those  
23 concerns.

24 But then we've had justices that are on the  
25 Supreme Court, now remind us that they were similar to you,



1 that when they first take the trial bench, they had never  
2 been in criminal court, never worked in the solicitor's  
3 office.

4 And so I just -- I say that to you, don't  
5 read anything into what is being said or not said in that  
6 regard. It's just a uniqueness, in many ways, of our  
7 judicial system. But it is -- we've had a couple of  
8 candidates, the last couple years, that were like you, that  
9 spent their entire career on the civil side.

10 And one particularly comes to mind, serving  
11 up in my area, who has done a phenomenal job, and who gets  
12 rave reviews from solicitors and defense lawyers on the  
13 general sessions docket. So good advice has been given.  
14 But I appreciate you offering. Your background is simply  
15 one that we don't see as frequently.

16 MR. DAIGLE: Thank you.

17 CHAIRMAN CASKEY: Mr. Safran.

18 EXAMINATION BY MR. SAFRAN:

19 Q. Good morning, Mr. Daigle.

20 A. How are you doing?

21 Q. Just a couple of quick questions.

22 A. Sure.

23 Q. I understand, in looking at your CV materials,  
24 that you were with a number of firms for a period of time  
25 until settling in, in '14.

1 A. Right.

2 Q. Was it an area of law that you were particularly  
3 looking to focus on, that maybe the other ones didn't  
4 offer? Or, you know, what was kind of the reason that you  
5 -- I know that -- look, nobody stays at the first place  
6 most of the time --

7 A. Correct.

8 Q. -- or maybe even the second. But I'm just  
9 curious as to kind of what lead you to where you got to.

10 A. That's a good question. And each one was  
11 different. Some places, I didn't like the firm. Some  
12 places, I didn't like the work I was doing. Some places, I  
13 didn't like the people I was working with.

14 And I think I settled in, a little bit before  
15 '14, that's where I'm with my current job. And I think in,  
16 you know, '06 or so is when I got more of a footing in what  
17 I wanted to do, and got experience -- a ton of experience  
18 on the -- on the -- on the plaintiff's side when I was with  
19 what used to be Peter Hearn's. I can't remember what  
20 they're called now.

21 Q. Yeah, they kind of do both sides of it.

22 A. They do. And I -- and I -- and I got -- and that  
23 was first time I got, you know, a ton of plaintiff's  
24 experience. And then I went and worked with Roy and Amanda  
25 Maybank for five years, and that was something where I -- I

1 liked the work I was doing.

2 I liked -- you know, I had a ton of  
3 responsibility and a ton of autonomy. But I realized after  
4 there for five years, that a big firm suited me more than a  
5 small firm, for various reasons. And that was really the  
6 reason that I've, you know, been at Clement River -- what  
7 used to be Young Clement, now Clement Rivers for almost ten  
8 years.

9 Q. Right. And I mean, I know people at Clement  
10 Rivers. And I know there was some shakeup for a while, but  
11 obviously they've been going strong since.

12 A. Yeah.

13 Q. I'm assuming it's a place you like being.

14 A. I do. I do. And it's something -- and I'm --  
15 you know, I'm very fortunate to have found it, and, you  
16 know, very lucky to have been named a partner in it several  
17 years ago. And, you know, I've got -- I've got no  
18 complaints.

19 Q. Well, let me ask this, 'cause I certainly can  
20 very much respect the questions that have been made or  
21 offered to you, because of the criminal -- or the lack of.

22 A. Sure.

23 Q. And I guess the other question I've got is this -  
24 - and it's nothing you have control over. But, you know,  
25 give me an idea of -- in the last three years, how many

1 jury trials have you actually had to do?

2 A. In three -- in the last -- since the outbreak?  
3 Zero jury trials.

4 Q. Well, and it's -- I think we've heard even seven  
5 years ago, from one of the justices, that the number of  
6 jury trials that are occurring in the state now are very,  
7 very modest.

8 A. They are.

9 Q. And so, effectively, what's come on is that --  
10 you know, whether you're plaintiff or defense, the bulk of  
11 your time is discovery. Occasionally, you're having to go  
12 fight out some discovery issues and motions.

13 But as far as actually doing the trials anymore,  
14 they seem to be pretty scare at this point. Has that --

15 A. That's accurate.

16 Q. -- been your experience?

17 A. Yeah. And I mean, the last case I tried was  
18 actually an arbitration, so there's no jury. It wasn't  
19 even a bench trial. It was a -- it was a week-long  
20 arbitration. That was, I guess, right at a year ago is the  
21 last one I tried.

22 But, you know, that's despite the fact that we  
23 weren't in a courtroom, that's still a trial. We still,  
24 you know, have the rules of evidence apply --

25 Q. Sure. Sure. I mean, I guess what I'm

1 understanding is, is that while you still, obviously, have  
2 to put your case together, you still have to do all that  
3 has to go to get it ready. Most of them now are going to  
4 mediation, generally getting worked out that way.

5 And so in terms of the time you spend in court --  
6 as a circuit court judge now, I'm assuming the bulk of it  
7 probably is -- probably is dealing with criminal stuff now.

8 A. Yeah, I would -- that and then on the civil side  
9 there's still a -- it's not just discovery motions.  
10 There's a ton of other motions that --

11 Q. I'm sure you've got summary judgment and -- I  
12 mean, there are other things that come up.

13 A. Right.

14 Q. But I mean, it's not like when some of us  
15 started, where they were doing these trials literally --

16 A. Right.

17 Q. -- every week.

18 A. A couple a week. Right.

19 Q. And I guess the question is also that Mr.  
20 Rutherford asked -- and I know we've posed it to other  
21 people, so don't feel like you're being picked on -- do you  
22 legitimately feel like that in order to kind of maybe get a  
23 bit of an experience, criminally, that going and maybe  
24 getting some criminal cases from somebody and doing them as  
25 kind of -- just more or less a pathfinding process would be

1 a good idea?

2 A. I do think it's a good idea. I do. And, you  
3 know, sitting in plea court -- that's not the first time  
4 that's been suggested to me, you know, getting -- getting  
5 associated on criminal case, I've heard that before too.

6 And it's something I certainly intend to do  
7 between now and -- you know, to the -- if I'm fortunate  
8 enough to be selected, then, yeah, that's absolutely  
9 something I'm going to do.

10 Q. Well, and I know -- I don't know how the firms  
11 work. I mean, I'm -- I've always been friendly with Robert  
12 Gruber in your firm.

13 A. Sure.

14 Q. And I know Robert and I have had plenty cases  
15 against each other in the comp area. But Robert started to  
16 go back and get into domestic again.

17 A. Yeah. Yeah.

18 Q. And so, effectively, I'm assuming they don't  
19 necessarily frown on you, at least maybe diverting some of  
20 your time -- and granted, criminal is not necessarily going  
21 to be a money-maker --

22 A. Right.

23 Q. -- for you, but I think there's more to it for  
24 you than that.

25 A. I agree.

1           Q.    And so I think when that's suggested, it's  
2 suggested earnestly.

3           A.    And I take it as such.

4           Q.    Okay. Thank you.

5                   CHAIRMAN CASKEY: Any other comments or  
6 questions for Mr. Daigle?

7                                   (Hearing none.)

8                   CHAIRMAN CASKEY: Seeing none. Then this  
9 will conclude this portion of our screening process. I do  
10 need to take this moment to remind you that pursuant to the  
11 Commission's evaluative criteria, the Commission expects  
12 candidates to follow the spirit as well as the letter of  
13 the ethics laws, and we will view violations or the  
14 appearance of impropriety as serious and potentially  
15 deserving of heavy weight in the screening deliberations.

16                                   On that note, and as you may know, the  
17 record will remain open until the formal release of the  
18 report of qualifications, and you may be called back at  
19 such time if that need were to arise.

20                                   I want to thank you for offering for service  
21 to the State of South Carolina. I want to thank you for  
22 being here, today, and bringing your family. And I wish  
23 you and Kathy the best as you all travel back home.

24                                   MR. DAIGLE: Thank you.

25                                   CHAIRMAN CASKEY: Thank you.

1 (Candidate excused.)

2 CHAIRMAN CASKEY: We will stand at ease  
3 while the next candidate is brought in.

4 (A recess was held from 10:07 a.m. to 10:09 a.m.)

5 CHAIRMAN CASKEY: Good morning, Mr. Jenkins.

6 JUDGE JENKINS: Good morning.

7 CHAIRMAN CASKEY: Judge Jenkins, I  
8 apologize. I understand you are here in application for  
9 Seat 4 for the circuit court of the 9th Judicial Circuit?

10 JUDGE JENKINS: Yes, sir.

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

13 WHEREUPON,

14 THE HONORABLE ITTRESS J. JENKINS, being duly  
15 sworn and cautioned to speak the truth, the whole truth and  
16 nothing but the truth.

17 CHAIRMAN CASKEY: Thank you, sir. There  
18 should be some documents there in front of you. If you'll  
19 take just a moment to review those.

20 Judge, are those the personal data  
21 questionnaire and the sworn statement that you have  
22 submitted to the Commission?

23 JUDGE JENKINS: Yes, sir.

24 CHAIRMAN CASKEY: Are there any updates or  
25 changes that need to be made?



1 JUDGE JENKINS: No, sir.

2 CHAIRMAN CASKEY: Do you have any objection  
3 to us entering those into the record as a part of your  
4 sworn testimony?

5 JUDGE JENKINS: No, sir. I don't.

6 CHAIRMAN CASKEY: Thank you. If you'll pass  
7 those to Lindi, we will do that.

8 (EXHIBIT NO. 6 - JUDICIAL MERIT SELECTION  
9 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THE  
10 HONORABLE ITTRESS J. JENKINS)

11 (EXHIBIT NO. 7 - JUDICIAL MERIT SELECTION  
12 COMMISSION SWORN STATEMENT OF THE HONORABLE  
13 ITTRESS J. JENKINS)

14 CHAIRMAN CASKEY: The Judicial Merit  
15 Selection Commission has thoroughly investigated your  
16 qualifications for the bench. Our inquiry has focused on  
17 the nine evaluative criteria, and has included a ballot box  
18 survey, a thorough study of your application materials,  
19 verification of your compliance with state ethics laws, a  
20 search of newspaper articles in which your name appears, a  
21 study of previous screenings, and a check for economic  
22 conflicts of interest.

23 We have received no affidavits filed in  
24 opposition to your election, and no witnesses are present  
25 to testify.

1           If you would like to make any brief opening  
2 statement, we'd be happy to hear those. Otherwise, we can  
3 proceed to questions from counsel.

4           JUDGE JENKINS: Well, I can just do a brief  
5 introduction, if that's okay.

6           CHAIRMAN CASKEY: Yes, sir.

7           JUDGE JENKINS: My name is Ittress Jenkins.  
8 I was born and raise -- not born -- but loved and raised in  
9 Charleston, South Carolina. My parents went to New York  
10 real fast, and had me, then came back on to Charleston. So  
11 that's why I can't technically say "born."

12           But I spent most of my life in Charleston.  
13 That's where I was reared. And I went to three different  
14 schools. I got a bachelors and masters in law degree, then  
15 came right back to Charleston. 'Cause I always said even  
16 though I liked the places I was at, I always wanted to live  
17 in Charleston.

18           Since then I've been practicing law for  
19 sixteen years. I started off on my own and I'm still a  
20 solo practitioner. And I've also been serving as a  
21 magistrate's judge for the past eight years.

22           Oh, the most I'm thing, I'm married to this  
23 great lady who hadn't decided to leave me yet. Her name is  
24 Loquita Bryant Jenkins. And we've been blessed to have  
25 great girls, 14 and 12, ones -- the older one's Nazia and

1 the other one is Nyla.

2 CHAIRMAN CASKEY: Judge, do you want to put  
3 on the record any chores you're going to do around the  
4 house this weekend?

5 JUDGE JENKINS: Yeah, would you show it to  
6 her? I was planning on watching football, so I'm not sure  
7 that's going to work.

8 CHAIRMAN CASKEY: Well, let me recognize Mr.  
9 John for some questions, please.

10 MR. JOHN: Good morning, Judge Jenkins.

11 JUDGE JENKINS: Good morning.

12 MR. JOHN: It's good to see you. Thank you,  
13 Mr. Chairman.

14 I note for the record that based on the  
15 testimony contained in the candidate's PDQ, which has been  
16 included in the record with the candidate's consent,  
17 Judge Ittress Jenkins meets the constitutional and the  
18 statutory requirements for this position regarding age,  
19 residence, and years of practice.

20 EXAMINATION BY MR. JOHN:

21 **Q. Mr. Jenkins, how do you feel your legal and**  
22 **professional experience renders you qualified and will**  
23 **assist you to be an effective circuit court judge?**

24 A. Well, of course being a practitioner, I  
25 understand what the attorneys are going through. I

1 understand what they -- what they do. I understand the  
2 preparation. I understand the dealing with clients.

3 As I said, I've been blessed and somewhat cursed  
4 that I had to start on my own sixteen years ago, so I've  
5 had an opportunity to be in most courts in South Carolina,  
6 as far as levels. So I've had some in magistrate's, I've  
7 had some in circuit, I also had some in federal.

8 Also, as a magistrate, I've had an opportunity to  
9 see how it really is when you're sitting on the bench and  
10 making decisions that affects people. I understand the  
11 weight of that decision. I understand the need to be  
12 approachable and the need to be a person.

13 I've kind of lived my life by a scripture, Micah  
14 6:8, that says, "Seek justice, show mercy, and walk  
15 humbly."

16 And I try to make sure that every time I approach  
17 myself, that I've built that philosophy, the time that I've  
18 been on the bench and as I've practiced.

19 **Q. At this stage in your career, why now for the**  
20 **bench?**

21 A. Honestly, when I started off as a magistrate's  
22 judge, it was just something that I wanted to serve.  
23 Because I was approached by a state senator about the need,  
24 I realized the magnitude and the effect that you can have  
25 by being on the bench, and by actually having somebody who

1 understands, somebody who has empathy, somebody who can  
2 approach a situation from a common perspective. And also  
3 somebody who can actually understand the legal  
4 ramifications and what goes on.

5 Everything from setting bonds to sentencing, it  
6 needs a certain type of person who understands the whole  
7 process, and understands the ramifications of society on  
8 your impact. So I think I have a lot to offer on the  
9 circuit level, 'cause I've seen an inkling of it from the  
10 magistrate's level.

11 **Q. Great. Thank you. The Commission received 98**  
12 **ballot box surveys regarding you, with 17 additional**  
13 **comments. The surveys, for example, contained the**  
14 **following positive comments:**

15 "I have found Judge Jenkins to be a wonderful  
16 magistrate judge to appear before from the standpoint of  
17 respect to the entire courtroom, demeanor, and  
18 thoroughness. He's an excellent lawyer and great member of  
19 our community."

20 **There were some concerns expressed about your**  
21 **professionalism. How would you respond to those comments?**

22 A. I don't know what particularly they're talking  
23 about. I will say this: On the magistrate's level we  
24 receive -- this week -- just yesterday, I heard fifty  
25 cases. And in my perspective, this is fifty people who'd

1 never really been in a court before.

2           So I will be a bit comfortable with those people,  
3 and trying to make them feel like the court is not a place  
4 where they're not going to be heard.

5           And I think some people see this job as you  
6 should be stoic. And I don't live by that philosophy. I  
7 do believe that when you come on the bench, the judge  
8 should be the most amicable person in the courtroom. The  
9 judge should be the most respectful person in the  
10 courtroom.

11           The judge -- a lot of times, a lot of people just  
12 want to be heard. And they want to feel like the judge  
13 heard them and the judge paid attention to their arguments  
14 even if -- especially when you're dealing with pro se  
15 litigants.

16           A lot of them aren't -- don't know the rules of  
17 evidence, they don't know that half of what they're saying  
18 is hearsay. But one thing I didn't want anybody to ever  
19 say was they left the courtroom and they didn't feel like I  
20 heard them and I listened to them.

21           So some people on the other side might see that  
22 as be being a bit too cordial and relaxed. But I just  
23 don't feel like the court is a place for me to come and try  
24 to establish myself as an authoritarian.

25           But I know, just like I hope they know when they

1 leave the courtroom, that what I say is an order and it is  
2 a rule.

3 **Q. Thank you for that response.**

4 MR. JOHN: I would note that the Lowcountry  
5 Citizens Committee reported that Mr. Jenkins is qualified  
6 in the evaluative criteria of constitutional  
7 qualifications, physical health and mental stability, well  
8 qualified in the evaluative criteria of ethical fitness,  
9 professional and academic ability, character, reputation,  
10 experience, and judicial temperament.

11 The committee went on to note that Mr.  
12 Jenkins is energetic, magnetic, smart, caring, insightful,  
13 experienced, personable, and serves as a judge now.

14 BY MR. JOHN:

15 **Q. Mr. Jenkins, are you aware that as a judicial**  
16 **candidate, you are bound by the code of judicial conduct as**  
17 **found in Rule 501 of the South Carolina Appellate Court**  
18 **Rules?**

19 A. Yes, sir.

20 **Q. Since submitting your letter of intent, have you**  
21 **contacted any members of the General Assembly?**

22 A. No, I haven't.

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

1 A. No, sir. I haven't.

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

5 A. Yes, sir.

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

10 A. No, sir.

11 Q. Finally, Have you reviewed and do you understand  
12 the Commission's guidelines on pledging in code section 2-  
13 19-70(E)?

14 A. I understand that code.

15 MR. JOHN: Mr. Chairman, I would note for  
16 the record that any concerns raised during the  
17 investigation by staff regarding the candidate were  
18 incorporated into the questioning of the candidate today.  
19 I have no further questions.

20 CHAIRMAN CASKEY: Thank you, sir. Do  
21 members of the Commission have any questions or comments  
22 for Judge Jenkins?

23 (Hearing none.)

24 CHAIRMAN CASKEY: Seeing none, that will  
25 conclude this portion of the screening process. Judge,



1 don't --

2 MR. STROM: Mr. Chairman.

3 CHAIRMAN CASKEY: Mr. Strom.

4 MR. STROM: Thank you. Judge, don't take  
5 that wrong at all. I love your charisma. I love your -- I  
6 love your energy. I love the way you came in here. And I  
7 think you would be a credit to the bench. So thank you. I  
8 believe when we have hard questions to ask people, we do  
9 that.

10 JUDGE JENKINS: Okay.

11 MR. STROM: But in this case, I think  
12 everybody else is comfortable with you.

13 JUDGE JENKINS: Okay. Okay. I'll take it.

14 CHAIRMAN CASKEY: Well, Judge, Mr. Strom  
15 took the comments that I was going to offer. And I  
16 encourage you not to reflect on the lack of questions as a  
17 negative. In fact, I would -- I would suggest that you  
18 perceive it as a positive thing.

19 I certainly appreciate your service to the  
20 state and for offering for future service as a judge on the  
21 circuit court.

22 I do need to take this opportunity to remind  
23 you that pursuant to the Commission's evaluative criteria,  
24 the Commission expects candidates to follow the spirit as  
25 well as the letter of the ethics laws, and that we will

1 view violations or the appearance of impropriety as serious  
2 and potentially deserving of heavy weight in the screening  
3 deliberations.

4 On that note, and as you know, the record  
5 will remain open until the formal release of the report of  
6 qualifications, and you may be called back at such time if  
7 that need were to arise.

8 Again, thank you for your service. And  
9 thank you for being here today.

10 JUDGE JENKINS: Okay. Thank you.

11 CHAIRMAN CASKEY: Drive safely.

12 JUDGE JENKINS: That's it? All right.

13 Well, I appreciate it. Thank you.

14 (Candidate excused.)

15 CHAIRMAN CASKEY: We will stand at ease as  
16 we await the next candidate. We have a slight scheduling  
17 change. The next candidate, Ms. Morrison, is still on the  
18 highway.

19 Mr. Rode, who was initially scheduled for  
20 1:30, is here. And we will bring him in and begin in just  
21 a few minutes.

22 (A recess was held from 10:35 a.m. to 10:39 a.m.)

23 CHAIRMAN CASKEY: We will go back on the  
24 record. Mr. Rode, we certainly appreciate you being here  
25 and indulging in our scheduling changes here. I know it's

1 not easy to be as flexible, coming from the Lowcountry. So  
2 we are grateful for your helping us with the unusual  
3 position of being ahead of schedule.

4 MR. RODE: No problem, Mr. Chairman.

5 CHAIRMAN CASKEY: Thank you. If you would  
6 please -- well, let me back up. You are applying for Seat  
7 4 for the circuit court bench of the 9th Judicial Circuit,  
8 correct?

9 MR. RODE: That's correct.

10 CHAIRMAN CASKEY: All right. Mr. Rode, if  
11 you would please raise your right hand.

12 WHEREUPON,

13 THOMAS J. RODE, being duly sworn and  
14 cautioned to speak the truth, the whole truth and nothing  
15 but the truth.

16 CHAIRMAN CASKEY: There's some documents in  
17 front of you. Would you take a moment to look at those?

18 MR. RODE: I flipped through these as we  
19 were getting started.

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

23 MR. RODE: Yes, they appear to be.

24 CHAIRMAN CASKEY: Are there any changes or  
25 updates that need to be made at this time?

1 MR. RODE: Not that I'm aware of. No, sir.

2 CHAIRMAN CASKEY: Do you have any objection  
3 to us entering those into the record as a part of your  
4 sworn testimony?

5 MR. RODE: No objection.

6 CHAIRMAN CASKEY: Thank you, sir

7 (EXHIBIT NO. 8 - JUDICIAL MERIT SELECTION  
8 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THOMAS  
9 J. RODE)

10 (EXHIBIT NO. 9 - JUDICIAL MERIT SELECTION  
11 COMMISSION PERSONAL SWORN STATEMENT OF THOMAS J.  
12 RODE)

13 CHAIRMAN CASKEY: The Judicial Merit  
14 Selection Commission has thoroughly investigated your  
15 qualifications for the bench. Our inquiry has focused on  
16 the nine evaluative criteria, and has included a ballot box  
17 survey, a thorough study of your application materials,  
18 verification of your compliance with state ethics laws, a  
19 search of newspaper articles in which your name appears, a  
20 study of previous screenings, and a check for economic  
21 conflicts of interest.

22 We have received no affidavits filed in  
23 opposition to your election, and no witnesses are present  
24 to testify.

25 Before I give you the opportunity to make

1 any brief opening statement you might want to, I see that  
2 you brought someone with you. If you want to introduce her  
3 to the Commission, we'd be delighted to meet her.

4 MR. RODE: Yes, Mr. Chairman. This is my  
5 wife, Julie Moore. She's a partner with Duffy and Young in  
6 Charleston, and also an attorney.

7 CHAIRMAN CASKEY: Ms. Moore, thank you for  
8 being here.

9 MR. RODE: And as far as I know is not here  
10 to offer testimony against me.

11 CHAIRMAN CASKEY: Ms. Moore, do you have any  
12 questions you want to ask --

13 MR. RODE: I object.

14 CHAIRMAN CASKEY: Thank you. Mr. Rode, if  
15 you'd like, we can -- you can certainly make an opening  
16 statement, or we can proceed with questions from staff  
17 counsel.

18 MR. RODE: In the interest of keeping with  
19 your schedule, I don't want to make any opening statement  
20 other than to say, you know, I really do appreciate all of  
21 the work that has gone into this from your end, from the  
22 Lowcountry and from the Bar's end. I've really been  
23 overwhelmed by the sheer manpower and effort that has gone  
24 into selecting great judges. And so I am thankful for  
25 that.

1                   CHAIRMAN CASKEY: Thank you, sir. I'll go  
2 ahead and recognize Ms. Foster at this time.

3                   MS. FOSTER: I note for the record that  
4 based on the testimony contained in the candidate's PDQ,  
5 which has been included in the record with the candidate's  
6 consent, Mr. Thomas J. Rode meets the constitutional and  
7 statutory requirements for this position regarding age,  
8 residence, and years of practice.

9 EXAMINATION BY MS. FOSTER:

10           **Q. Mr. Rode, how do you feel your legal and**  
11 **professional experience thus far renders you qualified and**  
12 **will assist you to be an effect circuit court judge?**

13           A. Yeah, so my legal experience has -- began as a  
14 law clerk to Judge Thomas on the South Carolina Court of  
15 Appeals. That gave me a fantastic opportunity to really  
16 cultivate a passion for the law and a passion for learning  
17 all about different areas of the law and how they all fit  
18 together.

19           That then progressed into my first adventure into  
20 private practice with the firm of Savage and Savage in  
21 Charleston, where I practiced predominantly criminal --  
22 criminal law, and because of my experience at the Court of  
23 Appeals, was able to sort of jump into that as kind of a  
24 high level and learn from, I think, one of the great  
25 criminal practitioner in South Carolina, from Andy Savage.

1           And then that firm sort of dissolved and then I  
2 transitioned into a more civil practice with Thurmond,  
3 Kirshner, and Timbes in Charleston. With some great  
4 partners there, I have been able to cultivate kind of a  
5 really broad civil practice.

6           And I think that, that's significant for two  
7 reasons. Number one, the breath of my practice has  
8 afforded me the ability to be able to know how to jump from  
9 one legal topic to the next legal topic to the next legal  
10 topic, which is something that I think is imperative for a  
11 circuit court judge.

12           The second thing that it has done is it's given  
13 me sort of a breadth of exposure to the different clientele  
14 and the people who are involved in the judicial process.

15           I have represented individuals, corporations --  
16 big ones, small ones, mom-and-pops. I've represented  
17 municipalities, counties, all of them. And what that has  
18 done has demonstrated to me, the factors and influences  
19 that effect those people that are involved in the system.

20           And I think that, that brings a particularly  
21 unique perspective to the circuit court bench.  
22 Particularly when I think about it in the context of the --  
23 of the 9th Circuit, where we're fortunate to have great  
24 judges.

25           Two of whom have sort of matriculated from a

1 criminal background through the solicitor's office, one  
2 brings experience from the family court bench, and another  
3 brings experience from time as a Master-in-Equity.

4           And I think that this knowledge of -- and all of  
5 them bring -- all of those, you know, forces combined  
6 create great -- great experiences and bring great strengths  
7 to the bench.

8           And I think that my experience and knowledge of  
9 kind of the modern practice of law really informs and  
10 educates how all of those decisions and actions from the  
11 perspective of a circuit court judge matriculate and effect  
12 people outside of the courthouse, and in the system, in an  
13 ever modernizing, you know, practice.

14           **Q. Thank you, Mr. Rode. Actually, you've answered**  
15 **my second question --**

16           A. Oh, okay.

17           **Q. -- in that as well. So Mr. Rode, the Commission**  
18 **received 176 ballot box surveys regarding you, with 36**  
19 **additional comments. The ballot box survey, for example,**  
20 **contained the following positive comments:**

21           Quote, "Thomas is well spoken, intellectual, and  
22 one of the most well-rounded attorneys I have had the  
23 chance to work with. Thomas will an incredible judge  
24 because he understands the law and can quickly and  
25 efficiently apply the facts to the case -- the law to the



1 facts of each case."

2 Another stated, "Thomas would be an excellent  
3 addition to the bench. He would fully dedicate himself to  
4 the position. He has a great temperament and a great  
5 mind."

6 MS. FOSTER: I would note that the  
7 Lowcountry Citizens Committee reported that Mr. Rode is  
8 well qualified in the evaluative criteria of ethical  
9 fitness, professional and academic ability, character,  
10 reputation, and judicial temperament, and qualified in the  
11 evaluative criteria of constitutional qualifications,  
12 physical health and mental stability, and experience.

13 BY MS. FOSTER:

14 Q. A few housekeeping issues, Mr. Rode. Are you  
15 aware that as a judicial candidate, you are bound by the  
16 code of judicial conduct as found in Rule 501 of the South  
17 Carolina Appellate Court Rules?

18 A. Yes, ma'am.

19 Q. Since submitting your letter of intent, have you  
20 contacted any members of the Commission about your  
21 candidacy?

22 A. I have not.

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

1 screening?

2 A. No, ma'am.

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

6 A. Yes, ma'am.

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

11 A. No, ma'am.

12 Q. Have you reviewed and do you understand the  
13 Commission's guidelines on pledging in code section 2-19-  
14 70(E)?

15 A. I have.

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

21 CHAIRMAN CASKEY: Thank you, ma'am. Do any  
22 members of the Commission have questions or comments for  
23 Mr. Rode? Mr. Safran.

24 EXAMINATION BY MR. SAFRAN:

25 Q. Good morning. Let me ask a couple of questions.

1 It looked like you started out, as you said, doing criminal  
2 law, then basically went to another firm that was kind of  
3 mixing that in with some personal injury, and then went on  
4 your own at a relatively early time. What did you learn  
5 from that experience?

6 A. Yeah, so that -- and I think what you're  
7 referring to is sort of there was a period of about a year  
8 where -- I think it was about probably 2012, somewhere in  
9 there. The Savage Law Firm, as it existed at the time that  
10 I worked there, dissolved. It was two partners and they  
11 dissolved. And so in that sort of time period, that really  
12 is what precipitated kind of my transition into civil  
13 practice.

14 Because a lot of the civil -- the partner that  
15 left, left a lot of civil files, and those sort of came to  
16 me. And then there became a time when I essentially split  
17 off from the Savage Law Firm, and kind of just operated on  
18 my own, doing really cases that were sent to me by Mr.  
19 Savage.

20 There was a moment where it looked like I was  
21 going to kind of join forces with another lawyer who worked  
22 right across the street, her name was Ellen Babb --

23 **Q. That's where it says Babb and --**

24 A. Yeah. And so there -- there was -- there was a  
25 brief moment where we were planning to sort of join forces.

1 She had some family things arise, and that didn't  
2 transpire. So that period was really maybe six weeks. I  
3 mean, it was a very, very short period of time.

4 But to get back to your question. It taught me a  
5 lot. It really set the stage for me understanding the cost  
6 of being a lawyer. And I think that, that is very  
7 significant.

8 And it's one of the reasons why I'm running for  
9 circuit court judge, understanding how rulings from the  
10 bench or the absence of rulings from the bench, or time and  
11 delay and effect not only the lawyers, but also all of the  
12 people involved in the system.

13 It's a difficult profession. And I respect it.  
14 And I respect all of those who do it.

15 Q. Well, I guess when you mention the cost of being  
16 a lawyer, I think it probably goes far beyond what you may  
17 be kind of looking at as the bottom financial line, but  
18 it's a -- it's a time cost. It's a personal cost.

19 I think what we look at a lot of times when we're  
20 trying to screen judges, particularly at the circuit court  
21 level, is the recognition that while you may want to be an  
22 outstanding lawyer and you -- obviously, to do that is  
23 you've got to devote the time to it -- there's still other  
24 things in life that have priorities too.

25 And there have been over the course of years,

1 maybe people who were sitting in those seats that you're  
2 looking to try to occupy, who aren't quite as cognizant of  
3 that.

4 Have you picked up a little bit in terms of the  
5 need, particularly from judges, that -- you know, within  
6 reason to recognize that there are some times people are  
7 going to have to ask, "I can't be here today. I need this  
8 time off."

9 And not for frivolous things, but things that,  
10 frankly, a lot of us down the road say, twenty years later,  
11 "Boy, I wish I'd have done that when I had the chance."

12 A. Right. Absolutely. I think two things I would  
13 say to your comments. One, I absolutely have come to  
14 appreciate those costs, right? Because in my practice,  
15 like I said, I've represented a lot of people, a lot of  
16 self-funded people.

17 I've represented insurance companies, and a lot  
18 of them pay the bills and don't ask. But then you have  
19 mom-and-pop businesses who, when you send a bill for having  
20 sat at a motion's hearing for four and a half hours, right,  
21 and to have a brief motion heard and you've got to explain  
22 that to the client, right, they actually feel it. So I  
23 think that time and practice has really informed things  
24 like that.

25 The second thing is of course there are going to

1 be those times. I think one of the many tenets of what I  
2 could call a judicial philosophy would be kindness. And  
3 this is a hard profession. From sitting as a judge, I  
4 think that it -- a judge shouldn't make it harder, right?

5 If you have the ability to accommodate lawyers, I  
6 think you can, right? And you should try. Now, sometimes  
7 that can't happen, right? I mean, and that's just the  
8 nature of what we do. Sometimes you have to miss the ball  
9 game or the dance recital, right? We hope to avoid that.

10 But that also comes with -- we're all in this  
11 together, right? From a practitioner's perspective, if a  
12 judge continues my case, it falls on the next guy, right?  
13 And so it's a balancing act every time, and I think that,  
14 that's -- that's something that a judge should keep in  
15 mind. And I think for the most part --

16 Q. Well, I get the sense that the firm you're in  
17 now, obviously, is a pretty well-oiled machine. You've got  
18 some very strong people in it, and I'm sure it's got a --  
19 to some extent, a big firm environment to it.

20 Are you able to carry over what you learned as  
21 far as the particular rigors of being in a sole practice?  
22 Particularly where you're doing things that are taking you  
23 in all different directions to where -- you know, again  
24 there needs to be some semblance of accommodation and  
25 sanity, you know, when you're getting pulled in all those

1 **directions. I mean, can you empathize with that at this**  
2 **point?**

3 A. I think I can absolutely empathize with that. I  
4 don't think that -- I think we have a small firm. I would  
5 -- I would classify it as a small firm. It is a very  
6 family-oriented firm.

7 And I certainly can empathize with all of those  
8 things, because on -- on a daily basis, right, we are -- we  
9 are trying to juggle all of those things from staff to --  
10 we just had a paralegal who left, and now we're -- we've  
11 got to find this -- somebody to fill in. I've got to play  
12 the paralegal role, right?

13 I think that happens all the time. And that is -  
14 - that is absolutely part of the modern practice of law. I  
15 think that, you know, it has changed even in my sixteen  
16 years. It is exceptionally fast -- fast-paced. And you --  
17 more is demanded of you, not necessarily from the court but  
18 from the client, from the bank, from the phone ringing,  
19 from the bills coming in.

20 All of that administrative stuff as well, all of  
21 that has expedited in speed. And it just -- it does, it  
22 makes the practice of law difficult. And I think that all  
23 of that informs, I think, a really -- a good basis that I  
24 think I would bring to the bench.

25 **Q. Okay. Thank you.**

1 A. Yes, sir.

2 CHAIRMAN CASKEY: Senator Rankin.

3 EXAMINATION BY SENATOR RANKIN:

4 Q. Good morning, Mr. Rode. Luke Rankin from Horry  
5 County. I can't help but note one of the letters of  
6 references from folks from my way -- in fact, two --  
7 Michael Timbes, a Conway product, and then Tommy Brittain  
8 got Conway-Horry blood as well. Both write great things  
9 about you.

10 In this role of interviewing folks, as this is a  
11 formal interview -- one of, I guess, multiple that you will  
12 have embarked on -- we're looking kind of for the  
13 Goldilocks good mix of experience.

14 Your -- in your PDQ, you describe your civil --  
15 your current civil practice, business-based -- basically,  
16 that includes multiple little roads within that, pardon the  
17 pun. Do you do construction litigation, which your firm is  
18 well known for? Is that --

19 A. A little bit --

20 Q. -- kind of mostly, or not really mostly?

21 A. So my firm, I'm sure, is known for construction  
22 litigation. We have a very, what I would say, successful  
23 construction practice. That is not primarily what I do. I  
24 do operate in what I would call the construction sphere.  
25 Some of that includes defect. A lot more of it includes



1 sort of the business side of construction.

2 Q. And in that, I've seen mechanic's liens. I see a  
3 variety of things. Are you representing the contractor,  
4 the subcontractor on an hourly basis, a retainer basis? Or  
5 are you pursuing litigation against someone who's not paid  
6 their bill?

7 A. Both. I represent both subcontract -- I  
8 representing both sides of that transaction. For instance,  
9 in the mechanic's lien context, both the builder side as  
10 well as the homeowner side.

11 Most often, I would say it's on an hourly basis.  
12 But there are -- there are certainly a portion of my book  
13 of business, as I'll call it, that is contingent-based.

14 Q. Your lack of criminal experience -- in fact, you  
15 write "zero." Other than the 2017 appeal that you, I  
16 guess, successfully argued or prosecuted before the Supreme  
17 Court, do you see -- not that you are a slow learner by any  
18 means, but do you see that as concern that some might have,  
19 that you're not time-and-trial ready with no legal  
20 experience in terms he criminal context?

21 A. Yeah, so to that -- what I would say is I do -- I  
22 think I have significant legal experience in the criminal  
23 context. I've tried several cases in general sessions.

24 Q. But you --

25 A. But not --

1 Q. Well, help me there. Because I didn't see that.

2 A. And my --

3 Q. Well, let me interrupt. How many have you  
4 actually tried to verdict?

5 A. In general sessions? I believe three.

6 Q. Forgive me for missing that. All right. Let me  
7 quickly flip to the civil context. Not motion -- not  
8 arguing it before the Court of Appeals or the Supreme  
9 Court, equally steeped with trial-like atmosphere, but to  
10 verdict in the civil trials, how many?

11 A. Also three, I believe.

12 Q. Six --

13 A. One in business court. Two -- two in common  
14 pleas.

15 Q. And I interrupted you. Continue on with your  
16 answer on the civil -- the criminal side.

17 A. Yeah, so on the -- to reference, I think, the  
18 zero percent that you were referring to. My understanding  
19 of that question was sort of the amount of experience I  
20 have of that in the last five years. I think it was framed  
21 in that context. And so that's why I put zero in there.  
22 My daily practice does not include criminal defense. Now,  
23 my firm --

24 Q. And your having coffee with Andy Savage would  
25 warrant probably five or six criminal trials to verdict.

1 **So I don't -- I'm not missing that.**

2 A. Yeah. And also Paul Thurmond in my office does a  
3 great amount of criminal work -- almost exclusively  
4 criminal work. So I do have exposure to it.

5 I think that, that's a great thing about kind of  
6 my small firm is, even though I have my areas of the law,  
7 I'm constantly talking with other people who have their  
8 motions, their trials. So I have a broader exposure than  
9 just the things that I do.

10 But that would be just my response to the  
11 criminal side of it. And I think even going back to my  
12 time at the Court of Appeals, you know, that was again  
13 inundated with a steady stream of criminal issues.

14 And so it's not a world or a process that's  
15 foreign to me, or a substance matter that's foreign to me,  
16 but it -- but as you have pointed out, it's not something I  
17 do daily in my practice.

18 **Q. The earlier question from Mr. Safran, I'll couch**  
19 **that as one of does the candidate have grace? Are they**  
20 **more Sadducaical? Pharisaical? A rule-follower? The rule**  
21 **is the rule, and by God, there's no exception? Did you**  
22 **understand that question that perhaps was better asked --**  
23 **you understand my question now?**

24 A. I under -- I understand your question now. And I  
25 will answer that by saying when I started at the Court of

1 Appeals on my very first day, Judge Thomas has a plaque up  
2 in her office with a quote from -- I believe it's the Book  
3 of Micah, and she told me that is her judicial philosophy.  
4 And it says, "Do justice, love kindness, walk humbly."

5 We have talked a lot about that while I worked  
6 for her. Since then, and even during this race, I've  
7 talked with her. I think that informs a lot of the way I  
8 practice law, as well as what I would say would be my  
9 judicial philosophy.

10 And in that is "do kindness," right? And it goes  
11 back to, I think, what Mr. Safran was asking me, when you  
12 can -- there is no -- I don't think there is a need to make  
13 the practice of law harder. It's already hard.

14 There are times where kindness has to follow the  
15 law, right? Like, it can't trump the law. But there's no  
16 reason that those two things can't exist together.

17 And so add that to humility, which I think is one  
18 of the most, I think, important characteristics of a judge,  
19 and one that I think is embodied by all of the judges I  
20 would emulate. And I think that would be the answer to  
21 your question, is I think where I can do kindness.

22 **Q. Your predecessor in this race, Judge Jenkins,**  
23 **invoked that. It's Micah 6:8, "Do justly, walk humbly with**  
24 **thy God and" -- let's see.**

25 A. "Love kindness."

1 Q. "Do justice, love mercy, and walk humbly with thy  
2 God." And so Micah 6:8 -- in prior transcripts, I could  
3 whip that out.

4 CHAIRMAN CASKEY: It's a personal favorite.

5 Q. It is actually -- and juries appreciate it too.  
6 I've used it with many juries. But my point to you is,  
7 that is a great philosophy. Judge Thomas has it right.

8 Not that you, again, ignore the rule or ignore  
9 the law. But in the vein of the -- not the appellate but  
10 in the give-and-take of someone who literally,  
11 legitimately, has an excuse and can't do something.

12 Ultimately, it's going to be your successful  
13 continuance or -- perhaps it's a discovery motion -- again,  
14 any number of touches that you will have to either do --  
15 express kindness and humility. But not be abused by the  
16 same token.

17 There's a perpetual not ready, drag blank-person  
18 who you've got to threaten them to get them to come.  
19 That's not one who more than a couple of times gets your  
20 grace.

21 So that's not probably dispositive here, but that  
22 temperament is kind of what we're drilling down on. And if  
23 you were a hard-and-fast, the rule is a rule is a rule, we  
24 got another case, we got to move, that does not show any  
25 humanity, then that's not the making of a good judge.

1 You've been before those, perhaps.

2 A. I think we all have, sir.

3 Q. Yeah. My final question -- again, you've been  
4 around with a lot of great lawyers, you've got great  
5 letters of reference. And you've worked for certainly one  
6 of the -- our favorites on the Court of Appeals.

7 Who from any walk -- particular court, Supreme  
8 Court, Court of Appeals, magistrate's -- it could be  
9 circuit or family court, wherever, whomever -- who would  
10 you like to most be compared to, if you're successful in  
11 your career hereafter?

12 A. That's a difficult question. And I answer that -  
13 - and it's difficult because there's so many judges that  
14 bring so many things to the table, each of which sort of  
15 has a -- has a thing that I would emulate, right?

16 Like top of mind, obviously, would be Judge  
17 Newman, just for his demeanor, right? In our circuit,  
18 Judge McCoy for her work ethic. Justice Kittredge, Justice  
19 Few for their scholarship, their love of studying the law.  
20 Judge Thomas, obviously, for all of those reasons and more.

21 And personally -- I think from a personal  
22 perspective, that list wouldn't be complete without a  
23 friend of mine -- excuse me -- Tonya Gee, just for her --  
24 like passion and like sheer positivity.

25 Yeah, I could probably go on. But those would be

1 -- those would be judges that if I were compared to, I  
2 would -- it would make me feel good.

3 CHAIRMAN CASKEY: Ms. McIver.

4 MS. MCIVER: Thank you, Mr. Chairman. Mr.  
5 Rode, I just wanted to comment on some of the letters of  
6 reference that you have. You've spoken to your experience  
7 with Andy Savage on the criminal side, and your work for  
8 the Court of Appeals, as well as your current work with  
9 Timbes and Thurmond.

10 And several of the people you mentioned,  
11 including Tonya Gee, were classmates of mine and of Scott  
12 Talley's. And so we appreciate that when we read these  
13 letters, I'm not going to say more carefully than others,  
14 but with lots of interest for what our former classmates  
15 have to say.

16 And you're obviously well respected in your  
17 community, not only by the plaintiff's bench but by the  
18 defense bench. And also by well respected mediator, John  
19 Mastantuno, and what he had to say about your work ethic  
20 and your character, your temperament, and your preparation,  
21 and just glowing comments. So I want to commend you for  
22 that.

23 One of my classmates Ainsley Tillman --  
24 Ainsley Fisher, she was in law school, married to Matt  
25 Tillman, who's also a classmate of ours -- she spoke to

1 your humanity.

2                   One of the things that Senator Rankin was  
3 talking about was the humanity that's demanded from this  
4 position. And one thing that she pointed out was that she  
5 -- she had done some work and you had appealed, I think it  
6 what it was -- oh, no, you moved to dismiss her whole  
7 appeal.

8                   She said she felt intense pressure, and your  
9 deftly-written motion to dismiss hit hard. And she said  
10 but before she heard from the Court of Appeals, she got a  
11 message from you that said, "Good work."

12                   And she said, "Those two words were so  
13 simple, "Yet, I could only name a few times when I've ever  
14 heard them said by opposing counsel."

15                   So I think that's one instance of your  
16 interview that I just wanted to point out. And also  
17 Ainsley tends to be a bit humorous at times, and one of the  
18 things that I thought might be worth mentioning just for a  
19 bit of levity is, she says that, "Thomas is smart. He's  
20 reasonable. He's a good planner. He's good-natured. He  
21 is responsive. He is diligent. He wants justice. He  
22 wears his mustache well."

23                   And so --

24                   MR. RODE: And I agree with her on all  
25 counts.



1 MS. MCIVER: I thought you might. And now  
2 it is preserved for the record, and everyone can have the  
3 benefit of her comments. Thank you for your willingness to  
4 serve.

5 MR. RODE: Thank you.

6 MS. MCIVER: Thank you, Mr. Chairman.

7 CHAIRMAN CASKEY: Any other members of the  
8 Commission?

9 (Hearing none.)

10 CHAIRMAN CASKEY: Well, on that last  
11 comment, I will -- at the risk of self-aggrandizement,  
12 refer you to the statehouse manual, in hard copy only, to  
13 locate my affinity for a well-worn mustache.

14 Mr. Rode, this will conclude this portion of  
15 the screening process. I certainly appreciate you and  
16 Julie both being here today.

17 One final note, I need to remind you that  
18 pursuant to the Commission's evaluative criteria, the  
19 Commission expects candidates to follow the spirit as well  
20 as the letter of the ethics laws, and we will view  
21 violations or the appearance of impropriety as serious and  
22 potentially deserving of heavy weight in the screening  
23 deliberations.

24 On that note, and as you may know, the  
25 record will remain open until the formal release of the

1 report of qualifications, and you may be called back at  
2 such time if the arises.

3           Again, thank you for offering for service to  
4 the State of South Carolina. I certainly wish you all the  
5 best. And travel safely on the way back.

6           MR. RODE: Thank you, Mr. Chairman. Thank  
7 you, members of the Commission.

8           CHAIRMAN CASKEY: Thank you.

9           (Candidate excused.)

10           CHAIRMAN CASKEY: We'll stand at ease, as  
11 the next candidate is in. And then after that, I  
12 anticipate taking a lunch break.

13           (A recess was held from 11:10 a.m. to 11:12 a.m.)

14           We will go back on the record with our next  
15 candidate. Ms. Elizabeth Morrison, who is a candidate for  
16 Seat 4 of the circuit court bench for the 9th Judicial  
17 Circuit. If you would please, ma'am, raise your right  
18 hand.

19           WHEREUPON,

20           ELIZABETH MORRISON, being duly sworn and  
21 cautioned to speak the truth, the whole truth and nothing  
22 but the truth.

23           CHAIRMAN CASKEY: There should be some  
24 documents in front of you. If you would just please review  
25 those.

1 MS. MORRISON: I have Exhibit 10, 11, and  
2 12, which appear to be my amendments to my PDQ, my circuit  
3 court and candidate statement, and my original PDQ.

4 CHAIRMAN CASKEY: Do you have any objection  
5 to our making those documents a part of the record of your  
6 sworn testimony?

7 MR. MORRISON: No objection.

8 CHAIRMAN CASKEY: If you'll please hand  
9 those to Ms. Putnam.

10 (EXHIBIT NO. 10 - JUDICIAL MERIT SELECTION  
11 COMMISSION PERSONAL DATA QUESTIONNAIRE OF  
12 ELIZABETH MORRISON)

13 (EXHIBIT NO. 11 - JUDICIAL MERIT SELECTION  
14 COMMISSION AMENDMENT PERSONAL DATA QUESTIONNAIRE  
15 OF ELIZABETH MORRISON)

16 (EXHIBIT NO. 12 - JUDICIAL MERIT SELECTION  
17 COMMISSION PERSONAL SWORN STATEMENT OF ELIZABETH  
18 MORRISON)

19 CHAIRMAN CASKEY: The Judicial Merit  
20 Selection Commission has thoroughly investigated your  
21 qualifications for the bench. Our inquiry has focused on  
22 the nine evaluative criteria, and has included a ballot box  
23 survey, a thorough study of your application materials,  
24 verification of your compliance with state ethics laws, a  
25 search of newspaper articles in which your name appears, a

1 study of previous screenings, and a check for -- a check  
2 for economic conflicts of interest.

3 We have received no affidavits filed in  
4 opposition to your election, and no witnesses are present  
5 to testify.

6 If you have a brief opening statement, we'd  
7 be happy to hear from you. Otherwise, we'll proceed with  
8 questions from staff counsel.

9 MS. MORRISON: Well, just briefly. I'd like  
10 to say thank you for this opportunity. This has been a  
11 really wonderful process. You hear a lot of scary things  
12 when you tell people that you're going to go through this  
13 process, especially for the first time.

14 But every step of the way, every person I've  
15 met with has been just wonderful, very engaged, and taken  
16 their position very seriously. And I really appreciate  
17 y'all's time today.

18 CHAIRMAN CASKEY: Thank you. We certainly  
19 appreciate the kind remarks. We know that our staff works  
20 industriously, and it's much appreciated. And so at this  
21 time, I'll recognize Ms. Symmes.

22 MS. SYMMES: Thank you, Mr. Chairman. I  
23 note for the record that based on the testimony contained  
24 in the candidate's PDQ, which has been included in the  
25 record with the candidate's consent, Elizabeth Fulton

1 Morrison meets the constitutional and statutory  
2 requirements for this position regarding age, residence,  
3 and years of practice.

4 EXAMINATION BY MS. SYMMES:

5 **Q. Ms. Morrison, how do you feel your legal and**  
6 **professional experience thus far renders you qualified and**  
7 **will assist you to be an effective circuit court judge?**

8 A. I believe I am in my eleventh year of practice,  
9 and about 95 percent of that has been within the courtroom.  
10 Not just in the 9th Circuit, but across the entire state.

11 I've had the ability to represent both plaintiffs  
12 and defendants in civil litigation. I've had experience,  
13 tangentially, with some criminal proceedings as well.

14 My practice has evolved, since day one as a young  
15 attorney in a two-person firm, being thrown out to the --  
16 to the wolves. Which I don't know that it happens as much  
17 as it used to, but, hopefully, will continue.

18 And I have just -- every opportunity I've had to  
19 sit in a courtroom, I learn, I observe, I try to make the  
20 next appearance better. And as I have grown in my  
21 practice, I have taken more opportunities to see  
22 proceedings from the bench versus from the tables.

23 **Q. Thank you. Ms. Morrison, the Commission received**  
24 **106 ballot box surveys regarding you, with 9 additional**  
25 **comments. The ballot box survey, for example, contained**

1 the following positive comments:

2 "Ms. Morrison is a bright and very meticulous  
3 attorney who would be a phenomenal judge. In private  
4 practice, I have observed Ms. Morrison being professional  
5 and cordial to all counsel and litigants. She is always  
6 prepared and knowledgeable. Ms. Morrison is by far and  
7 away the strongest and most qualified applicant seeking to  
8 fill this seat. She is smart, experienced, fair, balanced,  
9 and treats everyone with respect."

10 Three of the written comments expressed concerns.  
11 Ms. Morrison, comments indicated that you do not have the  
12 relevant criminal experience. What response would you  
13 offer to the Commission regarding this concern?

14 A. I would recognize that, that has been the number  
15 one thing I've heard throughout this process, and something  
16 that I've been taking very seriously.

17 Unfortunately, some health concerns have pushed  
18 some things out a little bit for me. But I am planning on  
19 doing more within the bond court, to experience that within  
20 Charleston County, to have more of an opportunity to  
21 observe criminal trials.

22 I recently changed jobs, and am right across the  
23 street from the Charleston County courthouse, so I intend  
24 to take more advantage of that. Also, exploring CLEs on  
25 criminal practice.

1           However, I also reiterate that a lot of my civil  
2 practice has related criminal aspects in terms of civil  
3 sexual assault claims, dram shop liability, assault and  
4 battery.

5           So I've had a chance to familiarize myself with  
6 those processes, and will just continue to work toward  
7 that.

8           **Q.    Thank you.**

9           MS. SYMMES: I would note that the  
10 Lowcountry Citizens Committee found Ms. Morrison qualified  
11 in the evaluative criteria of constitutional  
12 qualifications, physical health and mental stability and  
13 experience, and well qualified in the evaluative criteria  
14 of ethical fitness, professional and academic ability,  
15 character, reputation, and judicial temperament.

16 BY MS. SYMMES:

17           **Q.    Ms. Morrison, are you aware that as a judicial**  
18 **candidate, you are bound by the code of judicial conduct as**  
19 **found in Rule 501 of the South Carolina Appellate Court**  
20 **Rules?**

21           A.    Yes.

22           **Q.    Ms. Morrison, since submitting your letter of**  
23 **intent, have you contacted any members of the Commission**  
24 **about your candidacy?**

25           A.    No.

1 Q. Since submitting your letter of intent, have you  
2 sought or received the pledge of any legislator either  
3 prior to this date or pending the outcome of your  
4 screening?

5 A. No.

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

9 A. Yes.

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

14 A. No. No.

15 Q. Have you reviewed and do you understand the  
16 Commission's guidelines on pledging in code section 2-19-  
17 70(E)?

18 A. Yes.

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

24 CHAIRMAN CASKEY: Thank you, ma'am. Do  
25 members of the Commission have any comments or questions at



1 this time? Chairman Rankin.

2 EXAMINATION BY SENATOR RANKIN:

3 Q. Ms. Morrison, welcome.

4 A. Thank you.

5 Q. I've tried to read through this before, and now  
6 skimming it again. You've got someone who describes, what  
7 I am sensing in this brief little time here, your  
8 enthusiasm for life, your embracing with levity and a  
9 smile, what this writer, Elizabeth Wieters, "The most  
10 positive person I've ever worked alongside," and how you  
11 handle the most onerous, stressful or tiresome situations  
12 with, an exclamation, how fun or how interesting.

13 So that is certainly a great mind set to life.  
14 And then particularly in judging others -- other peoples'  
15 lives and their conflicts.

16 I am curious why, why, why would you ever want to  
17 do this? And would that not diminish that spirit of  
18 optimism, enthusiasm, and zest?

19 A. I don't think so. A long time ago, I was told,  
20 you know, "Why do you do the things you do?" And a lot of  
21 it comes down to is I'm addicted to public service. And I  
22 think there is no better calling to public service than  
23 being a judge.

24 I understand that when you're on the bench, you  
25 have to have much more levity, more of a straight face.

1 But the challenges that come to ruling on matters, on  
2 hearing matters, on, you know, the day-to-day processes of  
3 handling a docket, I think if you can't be happy in the  
4 morning, and approach everything optimistically, then  
5 what's the point?

6 And every day I wake up and just love the law. I  
7 know that's so cheesy to say. And I am 38 years old and a  
8 millennial, but practicing law for eleven years, I have had  
9 some really horrible cases, but it has never diminished my  
10 commitment to the law.

11 And I want to bring maybe some more optimism to  
12 the bench and -- and be that type of voice, especially  
13 within the 9th Circuit, which is one of the more active  
14 circuits in the state.

15 **Q. I look at your -- your work history. Edward**  
16 **Pritchard is one of your guys, my God, how did you work so**  
17 **long with him and still maintain the smile today?**

18 A. I don't know if you realize, but I -- we actually  
19 had to have a little bit of a legal battle when I left.  
20 But we are still great friends. He sent me a gift for when  
21 my son was born. We talk pretty regularly. I learned a  
22 lot from him, but I enjoyed being his colleague to this  
23 day.

24 **Q. The chairman is now going to bring Mr. Pritchard**  
25 **here, via screen.**

1                   CHAIRMAN CASKEY: I don't think that I have  
2 launched any nuclear missiles.

3           Q.    He's going to make a few remarks about your  
4 candidacy. And I'm certain that for the record, we all  
5 know Edward Pritchard. He wakes up in the morning with a  
6 warm feel of battle, so --

7           A.    A hundred percent.

8           Q.    You got -- I know him too well. And that is a --  
9 that is a compliment to him. He will be highly praised.

10           I am curious, though, in your supplemental there  
11 was a little bit of a job as to -- as to who you are  
12 presently employed with. Because it looks like you've got  
13 two firms. And help me ferret that out.

14           A.    My apologies. I never do anything rational in  
15 terms of timing. I resigned from my firm, Hall Booth  
16 Smith, which is a 450-person law firm, headquartered in  
17 Atlanta.

18           The day after I resigned, I found out that my  
19 breast cancer had returned, so I jumped right into a new  
20 position with the law firm of Whelan Mellen and Norris, all  
21 attorneys previously with Nelson Mullins in Charleston.

22           And the reason for the change was, I realized  
23 that working for a big firm was not for me. Prior to Hall  
24 Booth Smith, I worked for Edward and Thomas, and loved the  
25 small firm feel, loved the ability to be more localized.

1           And so I now have more control over my clients,  
2 more control over the type of work I can do, and there's  
3 just something about being on Broad Street that you just  
4 can't -- can't describe versus being just kind of in an  
5 office building somewhere.

6           So and with this position, it's going to allow me  
7 to explore more criminal -- criminal law and opportunities  
8 as well. So there was an error. I forgot to change. I  
9 departed Hall Booth Smith in September. I still have great  
10 respect for all of my colleagues there.

11           I get the impression they feel the same for me,  
12 'cause we still talk and get lunch. And I joined Whelan  
13 Mellen and Norris, pretty much the very next day.

14           **Q. Married to a lawyer, a son 13 months old as of**  
15 **this writing, who has the name of a lawyer. You're a**  
16 **lawyer and you've got a lot of energy. And I really**  
17 **appreciate it. It just pours through.**

18           **Those that won't pay attention, perhaps, any more**  
19 **than the written record here, you've got it going on.**

20           A. I thank you. And my husband -- or my husband's a  
21 corporate lawyer, so he knows nothing about the courtroom.  
22 Which I think makes for a good marriage, 'cause we don't  
23 know what the other person's ever talking about. And my  
24 son is actually now 17 months as of yesterday, so --

25           **Q. On his way to his graduate degree in some great**

1 **school.**

2 A. Most likely, if my husband has anything to say  
3 about it.

4 **Q. Thank you.**

5 A. Thank you.

6 CHAIRMAN CASKEY: Mr. Strom.

7 MR. STROM: Thank you, Mr. Chairman. Ms.  
8 Morrison, I just want to echo what Senator Rankin. You  
9 know, you're a breath of fresh air. We've got --  
10 unfortunately, it looks like we've got about nine people in  
11 this race, and a lot of people with a lot of experience.

12 And I will tell you, I don't know how this  
13 will work out this time, but we'd love to see you back if  
14 it doesn't work out this time.

15 MR. MORRISON: Thank you. That's exactly  
16 how I feel. You know, I -- as I said, I'm 38 years old.  
17 You know, when you talk about your plans, I said, okay,  
18 when I turn 40, that's when I'm going to get serious. And  
19 then this brand new seat opened up, an open position. And  
20 I said let's see where this goes, let's see the process,  
21 let's see if I am what they're looking for and what my  
22 colleagues think about me. So again, I will just  
23 reiterate, I have really enjoyed this process.

24 MR. STROM: Thank you. Thank you for  
25 offering. Thank you, Mr. Chairman.

1 CHAIRMAN CASKEY: Ms. Blackley.

2 MS. BLACKLEY: Thank you for coming. I just  
3 have to say to you, you are a breath of fresh air.

4 MR. MORRISON: Thank you.

5 MS. BLACKLEY: Your excitement, your  
6 personality, your character -- and I don't know you at all,  
7 this is my first time meeting you, but I mean I am feeling  
8 nothing but positive vibes. And I also want to state that  
9 I'm wishing you well --

10 MR. MORRISON: Thank you.

11 MS. BLACKLEY: -- and will be sending up  
12 prayers for you, for a complete, full healing.

13 MR. MORRISON: I appreciate that. Thank  
14 you.

15 CHAIRMAN CASKEY: Any other comments or  
16 questions?

17 (Hearing none.)

18 CHAIRMAN CASKEY: Ms. Morrison, I certainly  
19 join in the comments of my colleagues in our admiration and  
20 appreciation of you. The comments in the ballot box, which  
21 can't be disclosed for reasons of confidentiality, all  
22 speak to the reputation that you've earned among your  
23 colleagues and peers. And I think you should be very proud  
24 of what you're doing, and I would encourage you to keep it  
25 up, because it is a credit to the profession. And so I

1 really want to commend you for that.

2 This will end this portion of our screening  
3 process. I do need to remind you that pursuant to the  
4 Commission's evaluative criteria, the Commission expects  
5 candidates to follow the spirit as well as the letter of  
6 the ethics laws, and that we will view violations or the  
7 appearance of impropriety as serious and potentially  
8 deserving of heavy weight in the screening deliberations.

9 On that note, and as you may know, the  
10 record will remain open until the formal release of the  
11 report of qualifications, and you may be called back at  
12 such time if that need were to arise.

13 Again, I want to thank you for service to  
14 the state. And I wish you all the best as you travel back  
15 home safely.

16 MR. MORRISON: Thank you so much. Thank you  
17 for this opportunity. I appreciate it.

18 CHAIRMAN CASKEY: Thank you, ma'am.

19 (Candidate excused.)

20 CHAIRMAN CASKEY: We will go ahead and  
21 proceed with the next candidate, if staff would help Judge  
22 Van Slambrook come on in. We'll stand at ease until he's  
23 here.

24 (A recess was held from 11:28 a.m. to 11:32 a.m.)

25 CHAIRMAN CASKEY: We will go back on the

1 record. Here before us is another candidate for Seat 4 of  
2 the circuit court of the 9th Judicial Circuit. Judge  
3 Martin, good afternoon, sir.

4 JUDGE MARTIN: Good afternoon.

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

7 WHEREUPON,

8 THE HONORABLE DANIEL E. MARTIN, JR., being  
9 duly sworn and cautioned to speak the truth, the whole  
10 truth and nothing but the truth.

11 CHAIRMAN CASKEY: Thank you, sir. There  
12 should be some documents in front of you. If you would  
13 take a moment to look at those.

14 JUDGE MARTIN: Yes, sir. I'm familiar with  
15 all of these documents.

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

19 JUDGE MARTIN: Yes, they are.

20 CHAIRMAN CASKEY: Are they correct? Or do  
21 they need any updates?

22 JUDGE MARTIN: They are correct. They need  
23 no updates at all.

24 CHAIRMAN CASKEY: Do you have any objection  
25 to our making these documents a part of the record of your



1 sworn testimony?

2 JUDGE MARTIN: No, sir.

3 CHAIRMAN CASKEY: Thank you. I'll ask staff  
4 to do that now.

5 (EXHIBIT NO. 13 - JUDICIAL MERIT SELECTION  
6 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THE  
7 HONORABLE DANIEL E. MARTIN, JR.)

8 (EXHIBIT NO. 14 - JUDICIAL MERIT SELECTION  
9 COMMISSION AMENDMENT PERSONAL DATA QUESTIONNAIRE  
10 OF THE HONORABLE DANIEL E. MARTIN, JR.)

11 (EXHIBIT NO. 15 - JUDICIAL MERIT SELECTION  
12 COMMISSION SWORN STATEMENT OF THE HONORABLE  
13 DANIEL E. MARTIN, JR.)

14 CHAIRMAN CASKEY: The Judicial Merit  
15 Selection Commission has thoroughly investigated your  
16 qualifications for the bench. Our inquiry has focused on  
17 the nine evaluative criteria, and has included a ballot box  
18 survey, a thorough study of your application materials,  
19 verification of your compliance with state ethics laws, a  
20 search of newspaper articles in which your name appears, a  
21 study of previous screenings, and a check for economic  
22 conflicts of interest.

23 We have received no affidavits filed in  
24 opposition to your election, and no witnesses are present  
25 to testify.

1           If you would like to make a brief opening  
2 statement, we'd be happy to hear from you. Otherwise, we  
3 would have staff counsel proceed with the questions.

4           JUDGE MARTIN: I'm ready to proceed.

5           CHAIRMAN CASKEY: At this point, I would  
6 recognize Ms. Baker.

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

14 EXAMINATION BY MS. BAKER:

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

18           A. Well, prior to getting on the family court bench,  
19 I had a general practice of law which included criminal,  
20 civil, probate, real estate. Quite a varied practice that  
21 allowed me to travel throughout the state, represent many,  
22 many clients. And having been on the bench for the last  
23 twelve years, I've gotten to see that side of the legal  
24 practice -- or profession, rather.

25           And I think that having all the experience

1 private practice for more than twenty-plus years, and then  
2 being on the bench for twelve years, has given me insight,  
3 allowed me to see what a good judiciary looks like, what  
4 lawyers expect from judges, and what judges expect from  
5 lawyers. And I just think that I have the skills  
6 necessarily to bring that to another level on the circuit  
7 court.

8 **Q. Thank you, Judge. And, Judge, why do you now**  
9 **want to serve on the circuit court?**

10 A. Well, I'll be honest with you. I've served for  
11 the last twelve -- almost thirteen years on the family  
12 court. And I really love that job. And if this panel and  
13 the members of the General Assembly would allow me to  
14 continue to do that job, I would do that until I'm no  
15 longer eligible.

16 Having said that, I think that what I've learned  
17 in the last twelve or thirteen years on the bench is that I  
18 could probably carry what I know, my skills, my talents, my  
19 experience to another level.

20 South Carolina is growing. And that's obvious  
21 because you're adding more seats to the circuit court. I  
22 think that I'm able to bring what I know to the bench, and  
23 I think that would be a benefit to the state.

24 **Q. Judge Martin, the Commission received 428 ballot**  
25 **box surveys regarding you, with 105 additional comments.**

1 The ballot box survey, for example, contained samples of  
2 the following positive comments:

3 "Outstanding qualifications. Outstanding person.  
4 Excellent temperament. Patient, thoughtful, and well  
5 reasoned decisions. Judge Martin is a judge's judge. He  
6 is fair, warm, and very bright. I enjoy trying cases in  
7 his courtroom and appreciate his attention to the rules."

8 Seven of the written comments expressed some  
9 concerns. A few expressed concerns that you have poor  
10 judicial temperament for the bench. What response would  
11 you offer to these concerns?

12 A. Well, that's a surprise. I think most people  
13 would probably tell you I'm just the opposite of that. I'm  
14 never bothered by what I -- what I hear. I try not to  
15 outwardly express even what I'm thinking.

16 In fact, I've had lawyers come up -- come up to  
17 me, afterwards, saying, "Judge, we just can't figure what  
18 you're about to do or what you're about to say, because you  
19 don't show that while you're on the bench."

20 But I can't think of any particular incident  
21 where I did not demonstrate that I have the proper judicial  
22 temperament. So I really -- unless they can give you a  
23 specific incident, I really don't know how to respond to  
24 that.

25 Q. Thank you. And a second concern indicated that

1 you lacked experience or have the qualifications to be a  
2 circuit court judge. What response would you offer to  
3 those concerns?

4 A. Well, I've been on the family court for twelve  
5 years, and I imagine some lawyers may never have seen me do  
6 anything but that. If they're lawyers that just joined our  
7 Bar within the last ten years, they would think that all I  
8 ever did was family court law.

9 But I've been in practice for well over thirty  
10 years. And most of those years was in circuit court and  
11 doing other things besides family law. So I think that my  
12 experience would probably show that's -- that, that's not a  
13 valid concern.

14 Q. Thank you. Judge Martin, in your PDQ, you  
15 indicated that there had been lawsuits filed against you,  
16 and those were covered in prior screenings. Further, you  
17 are SLED report indicated that there was two cases filed in  
18 2022, but it's been determined that these matters involved  
19 a different Daniel E. Martin, specifically the estate of a  
20 Daniel E. Martin. Is that correct?

21 A. That's correct. I pulled those up myself. And  
22 that person, whoever he was, is deceased. And it's not me.

23 MS. BAKER: I would note that the Lowcountry  
24 Citizens Committee reported that Judge Martin is qualified  
25 in the evaluative criteria of constitutional

1 qualifications, physical health and mental stability, and  
2 well qualified in the evaluative criteria of ethical  
3 fitness, professional and academic ability, character,  
4 reputation, experience, and judicial temperament.

5 The committee further commented, "Fabulous  
6 person. Excellent temperament. Well balanced,  
7 compassionate, thoughtful. Excellent candidate."

8 BY MS. BAKER:

9 Q. Judge, I have a few housekeeping issues. Judge  
10 Martin, are you aware that as a judicial candidate, you are  
11 bound by the code of judicial conduct as found in Rule 501  
12 of the South Carolina Appellate Court Rules?

13 A. I am aware.

14 Q. Judge Martin, since submitting your letter of  
15 intent, have you contacted any members of the Commission  
16 about your candidacy?

17 A. I have not.

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

22 A. I have not.

23 Q. Are you familiar with Section 2-19-70 of the  
24 South Carolina Code, including the limitations on  
25 contacting members of the General Assembly regarding your

1 screening?

2 A. I am.

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

7 A. Absolutely not.

8 Q. Have you reviewed and do you understand the  
9 Commission's guidelines on pledging in South Carolina Code  
10 Section 2-19-70(E)?

11 A. I've read them all. Yes.

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

17 CHAIRMAN CASKEY: I would recognize Mr.  
18 Safran.

19 EXAMINATION BY MR. SAFRAN:

20 Q. Judge, I appreciate you being here.

21 A. Yes, sir.

22 Q. I don't think I've ever had the pleasure of  
23 appearing in front of you. But in reading the ballot box  
24 surveys -- and, again, we take them with a grain of salt,  
25 as you'd might expect -- the thing that really impresses me

1 is the repeated use of "fair," "calm demeanor," "patience,"  
2 "great temperament."

3           You're a little younger than I am, so I think  
4 you've been practicing long enough to have been in front of  
5 some judges that might not have given you the same  
6 impression as what I'm just telling you --

7           A. I won't call any names. But, yes, sir.

8           Q. But you've been there.

9           A. Yes, sir.

10          Q. And I'm assuming you -- it left a mark on you,  
11 where you kind of said, "When I have my day."

12          A. Absolutely, it did. As a young lawyer there were  
13 a couple of times that I was in front of judges who I  
14 thought could have handled things a little bit differently.

15                 And practicing law is very hard, and your clients  
16 look to you for your professionalism, your expertise. And  
17 when you're dressed down by a judge, your client looks at  
18 you and says, "Well, maybe I've gotten the wrong lawyer.  
19 Maybe this is not the person who should be representing  
20 me."

21                 That's actually not really happened to me. But I  
22 saw other lawyers that it did happen to, and it just -- it  
23 was unnecessary. I thought that it made that lawyer's life  
24 a little bit harder.

25                 And even though at that time, I never aspired to



1 be on the bench, I always said to myself, if I was in that  
2 position, that's not a person I would be. That's nothing I  
3 would do.

4 Q. Well, apparently, you never have been. Because  
5 it seems like you went the other direction completely. I'm  
6 assuming there have been, from time to time, circumstances  
7 where some folks who were appearing in front of you,  
8 lawyers, maybe crossed the line. I mean, I don't think you  
9 could have been on the bench for twelve years without that  
10 happening.

11 A. That actually happens a lot in family court.

12 Q. How do you handle those kind of situations?  
13 'Cause, obviously, on the one hand, you remember kind of  
14 how it felt. But on the other hand, you've got to maintain  
15 order and decorum and control. So how do you go about  
16 doing that?

17 A. Sometimes I will take a little break and ask the  
18 lawyers to approach the bench, have a little sidebar, and  
19 let them know that I thought what was said was  
20 inappropriate and unnecessary, and I don't expect it again  
21 in my courtroom. Normally, that resolved the matter.

22 I've had to hold a lawyer in contempt. I've had  
23 to do that a few times with litigants who just showed no  
24 respect at all for a -- for not just me, but for the court  
25 itself. And on the few occasions where I've done that,

1 I've kind of sat them down for a little bit, allowed them  
2 to come back and apologize. And if they were sincere, I  
3 would -- I would vacate my ruling on that.

4 But for lawyers, most times it just takes them  
5 knowing, directly from the judge, off the record, not in  
6 front of their clients, that, that behavior is  
7 inappropriate.

8 Q. And what I'm understanding is, is that in family  
9 court, even though you're dealing with a different subject  
10 matter, you're still making rulings on evidence.

11 A. All the time.

12 Q. You still have to basically consider, at least in  
13 certain instances, expert-type of evidence, and make  
14 determinations on that.

15 A. Absolutely.

16 Q. And so, again, the other thing I'm hearing is --  
17 at least based on the questions that -- or the responses  
18 that I've gotten, but knew it even before, is that we're  
19 not really having a heck of a lot of jury trials these  
20 days. Has that been your understanding too?

21 A. Yes, sir. Mediation and arbitration has resolved  
22 a lot of cases. It makes the system move a little bit  
23 quicker. No question about that.

24 But judges are actually put on the spot of having  
25 to make a lot more rulings, a lot of non-jury matters. And

1 in family court, that's all we do. Because we don't have a  
2 jury, so we have to make decisions.

3 People would be surprised that in family court,  
4 we have trials that last weeks at a time. And, you know,  
5 you could maybe -- you may have a two- or three-week trial  
6 during which there's going to be a myriad of objections and  
7 issues concerning evidence.

8 Discovery is always an issue. But the court  
9 often has -- oftentimes has to make rulings on all of those  
10 issues.

11 **Q. And I understand there will be questions, I'm**  
12 **sure about this, but you do juvenile criminal stuff?**

13 A. Yes, sir.

14 **Q. And in private practice did you do at least some**  
15 **amount of criminal at least during your career?**

16 A. I did. I've had a few jury trials, guilty pleas,  
17 and represented quite a few in family court in juvenile  
18 matters.

19 **Q. Okay.**

20 A. Yeah.

21 **Q. Thank you very much.**

22 A. Yes, sir.

23 CHAIRMAN CASKEY: Senator Talley.

24 EXAMINATION BY SENATOR TALLEY:

25 **Q. Good morning, Judge.**

1 A. Good morning.

2 Q. **Good morning.**

3 A. Yes, sir.

4 Q. **I've never appeared in front you in the family**  
5 **court. But recently you were assigned some general**  
6 **sessions terms and you spent a couple of weeks with us in**  
7 **Spartanburg --**

8 A. Yes, sir.

9 Q. **-- as I recall. Are you still doing that?**

10 A. No. The Supreme Court asked me to do that for  
11 about three months. And that ended in August -- the end of  
12 August.

13 Q. **How did you enjoy that?**

14 A. It was interesting. I did mainly general  
15 sessions. And you have to be real sensitive, because  
16 you're dealing with a lot of emotion. Because you may have  
17 a bond hearing, and you've got a person who is accused of a  
18 crime, and the presumption of innocence is there. You have  
19 to weigh whether in setting a bond this person is going to  
20 pose a risk to the community or is a flight risk.

21 You have to be sensitive to the families that may  
22 be there because they've lost a loved one who's a victim of  
23 a crime. So it's a little bit different from family court,  
24 but it was very interesting. And I found it to be pretty  
25 appealing.

1 Q. I chuckled earlier. I think it -- how it came  
2 about, maybe through the these papers, questioning -- your  
3 comment about your demeanor being hard to read. And based  
4 on my experience in front of you in Spartanburg, I would  
5 agree with that comment.

6 A. Thank you, sir. Thank you.

7 CHAIRMAN CASKEY: Senator Rankin.

8 EXAMINATION BY SENATOR RANKIN:

9 Q. Do I understand play poker, do you by chance?

10 A. No, sir. I don't play poker at all.

11 Q. Looks like you'd be a good poker player. I want  
12 to just comment about the -- I don't believe -- perhaps I'm  
13 missing this. But the slate of 80-plus candidates we have  
14 here, you enjoy some of the highest marks for the  
15 attributes we're looking for in terms of those evaluative  
16 criteria.

17 And I just distill it into the Golden Rule and --  
18 I mean, I am looking hard to find somebody that says  
19 something along the lines of -- that one abhorrent observer  
20 who must have been in the wrong state, and it must have  
21 been another Martin they were talking about. But I want to  
22 commend you, though, truly, for being a judge's judge.  
23 You're a judge's son.

24 A. Yes, sir.

25 Q. Correct?

1 A. Yes, sir. That's correct.

2 Q. And your son is also a judge's son.

3 A. Yes, sir.

4 Q. And we hear great things about him, and what he's  
5 doing down in the solicitor's office in Charleston.

6 A. Yes, sir.

7 Q. And I remember your father well, from way back.  
8 And he is with us? Is he --

9 A. Absolutely. He's 91. My mother is 91. They've  
10 been married since 1960. I go and see them almost every  
11 day. But, yeah, they're both doing well and they're both  
12 in good health.

13 Q. Great. Great. Well, that bodes well for you in  
14 your longevity --

15 A. I hope so.

16 Q. And so the -- looking back again. You've been  
17 screened twice before, or maybe three times before --

18 A. Three times.

19 Q. -- I ever got to this position. And most  
20 recently, in '21 for the family court spot, correct?

21 A. That's correct.

22 Q. So this process for you -- not Ms. Baker's fine  
23 handling and interaction with you -- but overall, do you  
24 recommend there would be something different that we should  
25 do for the candidates or for the process?

1           **And this is not a baited question, so don't feel**  
2 **like I'm trying to lure you into troubled waters.**

3           A.    Are you talking about the process in general?

4           **Q.    Process in general.  Yes, sir.  The JMSC process**  
5 **and our touches on vetting candidates.**

6           A.    Well, I was at a Inns of Court meeting last  
7 night, and there were three judges who were present --  
8 Judge Scarborough, who's a Master-in-Equity, Judge McCoy,  
9 and another judge who's a probate judge.

10           And they were kind of just talking about the  
11 system and how it's set up.  And I tend to agree with their  
12 thoughts.  I know South Carolina and Virginia are the only  
13 two states that select judges the way that we do.

14           I can't think of a better way to do it, because  
15 the idea of a public election is just -- I don't know that  
16 you get your best talent.  People are beholden -- maybe I'm  
17 talking too much.  I don't know.  I think people are --  
18 would be beholden to those who contribute significantly to  
19 those campaigns.  So I don't think that, that's a better  
20 way to go.

21           The vetting is strenuous, but I think it's  
22 necessarily that you do.  You don't want people going onto  
23 the bench for the wrong reasons.  People who have a clouded  
24 background, who may not serve well on the bench, there's a  
25 -- there's a rare occasion when you see anything about your

1 judges here being unethical or immoral or doing something  
2 improper, especially at the circuit court and family court  
3 level.

4 And I think that bodes well and speaks to the  
5 process, the way that it is. I know that everyone's not  
6 happy with it. I know it's not a perfect system. But I  
7 don't know one that could be better.

8 It's a lot of paperwork. But I think that's  
9 necessary. I find a code of ethics in terms of how we  
10 cannot approach legislators to be intact and proper. And  
11 that, I wouldn't change.

12 I guess people who don't get through the process  
13 feel like it's unfair. I've had one person say to me that  
14 with the Bar -- the way the Bar screens was a little  
15 unfair. I didn't find it to be that way, but that person  
16 did. But overall, I couldn't -- I can't think of a better  
17 way to do what you guys do.

18 **Q. Well, and by that same token, I can't think of a**  
19 **better person for doing what you're doing. And without --**  
20 **I don't believe we've met, other than formally here, two**  
21 **years ago.**

22 **A. Yes, sir.**

23 **Q. It is a breath of fresh air to be affirmed so**  
24 **widely and broadly by those who you interact with. And**  
25 **you, sir, are a great example for what our judiciary is**



1 supposed to look like, and does. Folks that want to take  
2 the time to see it working, just need to come to your  
3 courtroom.

4 A. Thank you.

5 Q. And so I appreciate your willingness to offer for  
6 the circuit court as well.

7 A. Thank you very much. I appreciate it.

8 CHAIRMAN CASKEY: Senator Sabb.

9 SENATOR SABB: Thank you, Mr. Chairman.

10 Good morning.

11 JUDGE MARTIN: Yes, sir. Good morning.

12 SENATOR SABB: We might end up the morning  
13 with you, and curve over into the afternoon. I don't know.  
14 But I'm really glad to hear that your mom and dad are in  
15 good health and doing well.

16 As we were kind of talking about it, I  
17 reflected on two of my early cases in my career, that I  
18 tried in front of your dad. And he only had to call me  
19 down one time. And he did it in such a calm way. And in  
20 so many ways, your demeanor is reflective of his. And I  
21 just thought that you had the perfect demeanor.

22 And both of the cases that I've tried in  
23 front of him were hotly contested, hotly litigated cases.  
24 And he just did a superb job. And it's my hope that you  
25 would continue to be what they call a "chip off the old

1 block" --

2 JUDGE MARTIN: Yes, sir.

3 SENATOR SABB: -- and just follow in your  
4 dad's footsteps. I am aware of a couple of the comments  
5 that questioned your experience in matters other than  
6 family court. It's clear that those person are not  
7 familiar with your career at all.

8 One of the things that, quite frankly, I  
9 have an appreciation for, with the work you all did with  
10 Larry Blanding's case --

11 JUDGE MARTIN: Yes, sir.

12 SENATOR SABB: -- years ago. And, you know,  
13 I look at, you know, that era in a number of ways as I  
14 evaluate it. But I think your willingness to not only try  
15 the case on the trial court level, but to see the  
16 injustices in the trial and to appeal it, successfully, I  
17 think from a historical standpoint, has the kind of  
18 significance that it's my hope that something that I do  
19 would have that kind of significance before I finish  
20 practicing law. Because it's only Blanding's case and B.J.  
21 Gordon's case that ultimately shed light on some of what  
22 was going on wrong in those trials.

23 And so I just wanted to express my  
24 appreciation for your work. I also wanted the record to  
25 reflect that as part of the screening process. And good

1 luck to you in this.

2 JUDGE MARTIN: Thank you, Senator.

3 CHAIRMAN CASKEY: Representative Rutherford.

4 REPRESENTATIVE RUTHERFORD: Good afternoon,  
5 Judge -- or good morning, still.

6 JUDGE MARTIN: Yes, sir.

7 SENATOR SABB: We'll go into the afternoon.

8 REPRESENTATIVE RUTHERFORD: Yes, sir. Yes,  
9 sir. I was going to ask Senator Sabb what year was that he  
10 tried that case in front of your father. But I know it's  
11 probably in the '30s, so I wasn't going to talk about it.  
12 But I am one of the few people that has been in front of  
13 you on the circuit court bench.

14 JUDGE MARTIN: Yes, sir.

15 REPRESENTATIVE RUTHERFORD: I'm also one of  
16 the few people that I think believes that the criminal law,  
17 and the practice of criminal law, deserves to be protected,  
18 and we don't need to pretend like it's just some subset.

19 But I do believe that your work in family  
20 court, at least for -- on the criminal side, gives you a  
21 great deal of experience on how to deal with the criminal  
22 cases in general sessions court.

23 I understand that there is -- there are  
24 those on the civil side that would still complain, but at  
25 least that part of the job, I think you have certainly



1                   CHAIRMAN CASKEY: And as I have looked  
2 through your record, it's clear to me that the most  
3 negative articulating of your candidacy is the detriment  
4 that it would be to the family court bench.

5                   The comments in the ballot box -- and I know  
6 you don't get to see it because of our provisions regarding  
7 anonymity -- but you have earned a reputation for a keen  
8 intellect, a just disposition, and really a tribute to the  
9 legal profession and to our bench, as others have stated.

10                  So I commend you for that. I thank you for  
11 that. As our judiciary and our profession are under attack  
12 at times, it's comforting to be able to have clear examples  
13 of how it does work well. And so I thank you for that and  
14 all you're doing.

15                  So with that, Judge, this will conclude this  
16 portion of our screening process. I do need to take this  
17 opportunity to remind you that pursuant to the Commission's  
18 evaluative criteria, the Commission expects candidates to  
19 follow the spirit as well as the letter of the ethics laws,  
20 and we will view violations or the appearance of  
21 impropriety as serious and potentially deserving of heavy  
22 weight in the screening deliberations.

23                  On that note, and as you may know, the  
24 record will remain open until the formal release of the  
25 report of qualifications, and you may be called back at

1 such time if the need were arises.

2 Thank you for your service to the state, and  
3 thank you for offering for this position.

4 JUDGE MARTIN: Thank you all. And have a  
5 good day.

6 CHAIRMAN CASKEY: Yes, sir.

7 (Candidate excused.)

8 CHAIRMAN CASKEY: We will go ahead and  
9 screen the next candidate, Judge Van Slambrook, before  
10 we're in a position to do something else. So we'll just  
11 stand at ease.

12 (A recess was held from 11:59 a.m. to 12:00 p.m.)

13 CHAIRMAN CASKEY: We will go back on the  
14 record. Thank you for being here today. We certainly  
15 appreciate your flexibility in scheduling. As I noted in  
16 an earlier screening, we are in the unusual position of  
17 being ahead of schedule. So we are much appreciative for  
18 your flexibility.

19 My understanding is you are here screening  
20 for Seat 4 of the circuit court bench for the 9th Judicial  
21 Circuit. Is that right?

22 JUDGE VAN SLAMBROOK: that's correct.

23 CHAIRMAN CASKEY: If you would, sir, please  
24 raise your right hand.

25 WHEREUPON,

1 THE HONORABLE DALE E. VAN SLAMBROOK, being  
2 duly sworn and cautioned to speak the truth, the whole  
3 truth and nothing but the truth.

4 CHAIRMAN CASKEY: Thank you. There should  
5 be some documents in front of you. If you'll take a moment  
6 to review those.

7 JUDGE VAN SLAMBROOK: I recognize these as  
8 the statements and the personal data questionnaire.

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

12 JUDGE VAN SLAMBROOK: Yes, it.

13 CHAIRMAN CASKEY: All right. Are there any  
14 updates needed or changes to be made?

15 JUDGE VAN SLAMBROOK: None that I'm aware  
16 of.

17 CHAIRMAN CASKEY: Do you have any objection  
18 to our -- to us entering those into the record of your  
19 sworn testimony?

20 JUDGE VAN SLAMBROOK: No objection  
21 whatsoever.

22 CHAIRMAN CASKEY: Thank you, sir.

23 (EXHIBIT NO. 16 - JUDICIAL MERIT SELECTION  
24 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THE  
25 HONORABLE DALE E. VAN SLAMBROOK)

1 (EXHIBIT NO. 17 - JUDICIAL MERIT SELECTION  
2 COMMISSION SWORN STATEMENT OF THE HONORABLE DALE  
3 E. VAN SLAMBROOK)

4 CHAIRMAN CASKEY: The Judicial Merit  
5 Selection Commission has thoroughly investigated your  
6 qualifications for the bench. Our inquiry has focused on  
7 the nine evaluative criteria, and has included a ballot box  
8 survey, a thorough study of your application materials,  
9 verification of your compliance with state ethics laws, a  
10 search of newspaper articles in which your name appears, a  
11 study of previous screenings, and a check for economic  
12 conflicts of interest.

13 We have received no affidavits filed in  
14 opposition to your election, and no witnesses are present  
15 to testify.

16 Before giving to the opportunity to make any  
17 brief opening remarks that you who choose to do so, I'd  
18 give you an opportunity to introduce the gentleman who's  
19 come in with you.

20 JUDGE VAN SLAMBROOK: This is -- this is  
21 John West, an attorney from Moncks Corner.

22 CHAIRMAN CASKEY: Thank you for being here,  
23 today, Mr. West. As I mentioned, if you'd like to make any  
24 brief opening remarks, you can certainly do that. Or, we  
25 can proceed the questions from Ms. Crater.



1 JUDGE VAN SLAMBROOK: I'll waive any opening  
2 statement, and ready to proceed.

3 CHAIRMAN CASKEY: All right. Thank you,  
4 sir. Then at this time, I would recognize Ms. Crater.

5 MS. CRATER: I note for the record that  
6 based on the testimony contained in the candidate's PDQ,  
7 which has been included in the record with the candidate's  
8 consent, Judge Van Slambrook meets the constitutional and  
9 statutory requirements for this position regarding age,  
10 residence, and years of practice.

11 EXAMINATION BY MS. CRATER:

12 Q. Judge Van Slambrook, how do you feel your legal  
13 and professional experience thus far renders you qualified  
14 and will assist you to be an effect circuit court judge?

15 A. I've practiced in a general practice for thirty-  
16 one years before I became the Master-in-Equity for Berkeley  
17 County. The last five years, while I was practicing, I  
18 served as a municipal court judge doing primarily criminal  
19 jury trials for the City of Goose Creek.

20 Like I said, it was a general practice that  
21 included domestic cases, criminal cases, civil cases,  
22 social security cases -- a broad range of cases. I got to  
23 serve as the judge, that peaked my interest, and that's why  
24 I ran for the Master-in-Equity position.

25 While Master-in-Equity, I hear non-jury trials on

1 a variety of matters -- mostly regarding real estate and so  
2 forth, and any other matters that are referred to me, which  
3 run the gamut.

4 I also have been appointed as a special circuit  
5 court judge. As special circuit court judge, I review a  
6 lot of the more mundane matters, orders for publication,  
7 default matters and so forth, that come through in that  
8 matter. So I'm involved in that as well.

9 And, occasionally, I have referrals for specific  
10 matters, I'll be requested to do just the motions for a  
11 complicated case or hear a -- an emergent temporary  
12 restraining order or something of that nature. So I've got  
13 a pretty broad background.

14 I've been doing it for the last year or so, the  
15 minor settlements and wrongful death settlements. Those  
16 are particularly conducive to the -- to the WebEx hearings.

17 So I'm involved and get to associate and deal  
18 with the attorneys on those matters, as well as being  
19 involved and understanding what's going on in that nature  
20 and that type of practice as well.

21 Also, I serve as the judge for the Berkeley  
22 County Adult Drug Court. And that's a position where we  
23 weekly have screenings and engage with the folks -- the  
24 participants in that program. I've done that for several  
25 years.

1           It's a particularly rewarding experience, and I  
2 think very necessary for the folks in Berkeley County. Not  
3 always successful in that regard, but I think the  
4 culmination of all of that makes me extremely well suited  
5 to serve in kind of the stepped-up -- the next capacity as  
6 a circuit court judge.

7           Q.    Thank you. Judge Van Slambrook, the Commission  
8 received 289 ballot box surveys regarding you, with 53  
9 additional comments. The ballot box survey, for example,  
10 contained the following positive comments:

11                   "Extremely knowledgeable. Has experience,  
12 integrity, and temperament to be an excellent circuit court  
13 judge. A credit to the bench. Does not play politics and  
14 does not play favorites. Goes by the book. And fair,  
15 thoughtful, and thorough."

16                   Neither of the two negative comments refer to any  
17 pattern of concern.

18                   Judge Van Slambrook, you have indicated in your  
19 PDQ, that a lawsuit was filed against you in 2020, in the  
20 case of Nehemiah Bryant v. Dale Edward Van Slambrook, et  
21 al, in the Berkeley County Court of Common Pleas, relating  
22 to a foreclosure action you presided over. Could you  
23 please explain the nature or disposition of the lawsuit?

24           A.    That resulted -- that suit resulted from a  
25 defendant in a foreclosure action that for lack of better

1 terminology, it was a sovereign citizen, who usually  
2 represent themselves in response to the -- to the  
3 foreclosure actions, and have a variety of arguments, and  
4 sometimes when not successful will file suit against  
5 everyone involved, the judge, the various lawyers.

6 And as far as I know, if not disposed of, it's  
7 probably -- it either has been, or will be, disposed of in  
8 some summary fashion.

9 **Q. Thank you, Judge Van Slambrook.**

10 MS. CRATER: I would note that the  
11 Lowcountry Citizens Committee reported that Judge Van  
12 Slambrook is qualified in the evaluative criteria of  
13 constitutional qualifications, physical health and mental  
14 stability. The committee found him well qualified in the  
15 evaluative criteria of ethical fitness, professional and  
16 academic ability, character, reputation, and judicial  
17 temperament.

18 The committee reported he is extremely well  
19 qualified, excellent judicial temperament, steady and  
20 ready, compassionate, smart, and a great candidate.

21 BY MS. CRATER:

22 **Q. Judge Van Slambrook, I just have a few**  
23 **housekeeping issues to go over with you. Are you aware**  
24 **that as a judicial candidate, you are bound by the code of**  
25 **judicial conduct as found in Rule 501 of the South Carolina**

1 Appellate Court Rules?

2 A. Yes, 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. No, I have not.

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

11 A. No, I have not.

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

15 A. Yes, I'm aware.

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

20 A. I am not aware.

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

24 A. Yes, I am.

25 MS. CRATER: Mr. Chairman, I would note for

1 the record that any concerns raised during the  
2 investigation by staff regarding the candidate were  
3 incorporated into the questioning of the candidate today.  
4 Mr. Chairman, I have no further questions.

5 CHAIRMAN CASKEY: Thank you, ma'am. Are  
6 there comments or questions for Judge Van Slambrook from  
7 members of the Commission? Chairman Rankin.

8 SENATOR RANKIN: Thank you.

9 EXAMINATION BY SENATOR RANKIN:

10 Q. Judge, welcome back.

11 A. Thank you, sir.

12 Q. I want to know whether your power is paid up-to-  
13 date, or is Mr. West here to serve a cutoff notice on you  
14 from Santee Cooper?

15 A. I think I'm up-to-date.

16 Q. I am glad to see you with him, and a great guy to  
17 have in your company. I am just reminding myself, you and  
18 I had met each other -- I think this is -- is this the  
19 fourth screening? Perhaps, Master-in-Equity, a couple of  
20 times for the circuit, and then --

21 A. It's probably the fourth time I've been up here.

22 Q. I know you well. The ballot box surveys and the  
23 reference letters all attest to the -- to the person that I  
24 have found you to be, here, I should say. I know you well  
25 only from this context. And I'm curious about one thing.

1 **Are you still biking?**

2 A. I am -- I am still biking. Not quite with as  
3 much skill or endurance as I did a few years ago.

4 **Q. And I will leave it at that.**

5 SENATOR RANKIN: That's all I have, Mr.  
6 Chairman.

7 CHAIRMAN CASKEY: Thank you, sir. Any other  
8 comments or questions? Mr. Safran.

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

10 EXAMINATION BY MR. SAFRAN:

11 **Q. You and I go way back.**

12 A. Yes. Way, way back.

13 **Q. Yeah. I mean, I think the Stone Age is probably**  
14 **a good way to put it. It's impressive to see the kind of**  
15 **comments that are made, particularly in a circumstance**  
16 **where people can throw the stones and sling the arrows, and**  
17 **in this situation, they're just not there.**

18 **And, you know, when they say "consummate,"**  
19 **"professional," "fair," "hate to lose him, if it happens."**

20 **I mean, obviously -- and you've paid your dues.**  
21 **There's no question about that. And I think in your**  
22 **practice, you know, with the Steinberg firm for all those**  
23 **years, I think you did a little bit of everything, didn't**  
24 **you?**

25 A. Yes. It's possible --

1 Q. I mean, something you -- you've got civil, you've  
2 got criminal, and you've actually held some court, and  
3 already as you said, as a special judge. So you've  
4 actually been in that arena more than once. Is that fair?

5 A. Yes, that's a -- that's a good way to put it.

6 Q. I mean, you've been wanting to do this for quite  
7 a while. And I think we screened you -- maybe my first  
8 time here would have been the -- some years ago, maybe. At  
9 least six, seven years ago.

10 A. I think you're -- I think you're right on that.

11 Q. I mean, do you have any concern of qualification  
12 about your capacity to be able to do this, and really hit  
13 the ground running?

14 A. No -- no genuine or significant concern.  
15 "Significant" is probably a better one. You know, I  
16 haven't been exposed, over the last several years, to the  
17 depth that I would like as far as the criminal cases. I  
18 get to observe the pleas, I get to observe the trials.

19 I keep up with, you know, all manner of things  
20 that would be related to the criminal cases. But I'm just  
21 not as exposed, so if there was any lack of depth, it might  
22 be in the -- in the -- in the criminal area. But not  
23 extensively, you know.

24 Because I did have a background and I -- and I'm  
25 still involved in the criminal aspect through the drug



1 court, and the familiarity and the dealings with the  
2 solicitors and the public defenders in that regard.

3 Q. Well, and just -- you know, for the record, I  
4 would like to say that what I have always felt is that, at  
5 least when you're looking for a judge, there are a lot of  
6 things you particularly see here.

7 What we see on here in terms of how you behave is  
8 really paramount. Experience is also right up there, and,  
9 candidly, you've got it.

10 And, you know, I think for so many years, people  
11 like Mr. Strom and I, Mr. Sabb, we saw people who basically  
12 wanted to become judges as kind of the crowning point of a  
13 career. And I get the sense that's what you want to do.

14 And, frankly, I think that it's admirable. It's  
15 something that really, to me, is kind of how it's supposed  
16 to work. And so I commend you for coming back. And I wish  
17 you every bit of luck in succeeding.

18 A. Thank you.

19 CHAIRMAN CASKEY: Any other comments or  
20 questions? Senator Sabb.

21 SENATOR SABB: Thank you, Mr. Chairman.  
22 I just really want to ditto the comments of Mr. Safran.  
23 And I've observed you over the years, and I agree with all  
24 of those raving comments. And I, too, am heartened by the  
25 fact that you offered.

1 JUDGE VAN SLAMBROOK: Thank you, Senator.

2 CHAIRMAN CASKEY: Thank you. I would join  
3 in that. I mean, I am also in a position of so many  
4 superlative comments in the ballot box, that it's a -- it's  
5 a reassuring thing that -- you know, I only wish that we  
6 could share all of these with you.

7 Obviously, we can't, for reasons of  
8 confidentiality, but you certainly earned a reputation that  
9 is a credit to yourself and to the legal profession. So  
10 thank you for that.

11 And with that, this will conclude this part  
12 of the screening process. I do need to take this  
13 opportunity to remind you that pursuant to the Commission's  
14 evaluative criteria, the Commission expects candidates to  
15 follow the spirit as well as the letter of the ethics laws,  
16 and we will view violations or the appearance of  
17 impropriety as serious and potentially deserving of heavy  
18 weight in the screening deliberations.

19 On that note, and as you may know, the  
20 record will remain open until the formal release of the  
21 report of qualifications, and you may be called back at  
22 such time if the arises.

23 I want to again thank you for your service  
24 to the state, and thank you for offering for continued  
25 service to the State of South Carolina, sir.

1 JUDGE VAN SLAMBROOK: Thank you all. And I  
2 appreciate you all having me here today. Thank you all.

3 CHAIRMAN CASKEY: Thank you very much.

4 (Candidate excused.)

5 CHAIRMAN CASKEY: At this time, the pending  
6 question on motion of Senator Talley, which is seconded by  
7 Senator Rankin, is the Commission going into executive  
8 session. All in favor signify by saying "aye."

9 (At this time the members audibly say "aye.")

10 CHAIRMAN CASKEY: All opposed "no"?

11 (Hearing none.)

12 CHAIRMAN CASKEY: The "ayes" have it. We  
13 will step into executive session for a legal briefing, and  
14 ask all of the folks who are not supposed to be here for  
15 that, to step out. And we will be back shortly.

16 (Executive session from 12:16 p.m. to 1:31 p.m.)

17 CHAIRMAN CASKEY: Good afternoon, everyone.  
18 We are now out of executive session. For the record, while  
19 we were in executive session, no decisions no made and no  
20 votes were taken.

21 We are now going to resume with our  
22 screenings of candidates for office before us this morning  
23 -- or this afternoon, we have Mr. John Williams, who is a  
24 candidate for Seat 4 of the circuit court bench in the 9th  
25 Judicial Circuit. Did I get all that right, Mr. Williams?

1 MR. WILLIAMS: Absolutely.

2 CHAIRMAN CASKEY: If you would please raise  
3 your right hand.

4 WHEREUPON,

5 JOHN O. WILLIAMS, II, being duly sworn and  
6 cautioned to speak the truth, the whole truth and nothing  
7 but the truth.

8 CHAIRMAN CASKEY: Thank you. There's some  
9 documents in front of you. If you would just take a moment  
10 to review those. Are those the personal data questionnaire  
11 and the sworn statement that you submitted to the  
12 Commission?

13 MR. WILLIAMS: Yes, sir. They appear to be.

14 CHAIRMAN CASKEY: Are they correct? Do you  
15 need to update them in any way?

16 MR. WILLIAMS: Not that I know of. They are  
17 correct as far as I know.

18 CHAIRMAN CASKEY: Thank you. That was a  
19 poorly-worded question on my part. Do you have any  
20 objection to us making those a part of the record of your  
21 sworn testimony today?

22 MR. WILLIAMS: That's fine.

23 CHAIRMAN CASKEY: Thank you, sir.

24 (EXHIBIT NO. 18 - JUDICIAL MERIT SELECTION  
25 COMMISSION PERSONAL DATA QUESTIONNAIRE OF JOHN O.

1 WILLIAMS, II)

2 (EXHIBIT NO. 19 - JUDICIAL MERIT SELECTION  
3 COMMISSION SWORN STATEMENT OF JOHN O. WILLIAMS,  
4 II)

5 CHAIRMAN CASKEY: The Judicial Merit  
6 Selection Commission has thoroughly investigated your  
7 qualifications for the bench. Our inquiry has focused on  
8 the nine evaluative criteria, and has included a ballot box  
9 survey, a thorough study of your application materials,  
10 verification of your compliance with state ethics laws, a  
11 search of newspaper articles in which your name appears, a  
12 study of any previous screenings, and a check for economic  
13 conflicts of interest.

14 We have received no affidavits filed in  
15 opposition to your election, and no witnesses are present  
16 to testify.

17 If you would like to make a brief opening  
18 statement, you are certainly welcome to. Otherwise, we  
19 will go straight to questions from staff counsel.

20 MR. WILLIAMS: I can waive an opening  
21 statement. I just thank you for your time.

22 CHAIRMAN CASKEY: I appreciate that, sir.  
23 And in that case, I'll recognize Ms. Hall.

24 MS. HALL: Thank you, Mr. Chairman. I note  
25 for the record that based on the testimony contained in the

1 candidate's PDQ, which has been included in the record with  
2 the candidate's consent, John O. Williams, II, meets the  
3 constitutional and statutory requirements for this position  
4 regarding age, residence, and years of practice.

5 EXAMINATION BY MS. HALL:

6 **Q. Mr. Williams, how do you feel your legal and**  
7 **professional experience thus far renders you qualified and**  
8 **will assist you to be an effect circuit court judge?**

9 A. Thank you. So I would say that my legal  
10 experience has been fairly varied. I started out as a law  
11 clerk. I was a prosecutor for a while and I was public  
12 defenders. I was in private practice for a few years, and  
13 I've been a county attorney now for most nine years.

14 And I think that provides a unique set of  
15 experiences and background that parrot well with what a  
16 judge is going to see on a daily basis. They're going to  
17 see very different cases. And that's exactly what I've  
18 been experiencing in my career, very different cases.

19 And, you know, day-to-day it's very different,  
20 and certainly year-to-year is very different.

21 **Q. Thank you. Mr. Williams, the Commission received**  
22 **116 ballot box surveys regarding you, with 24 additional**  
23 **written comments. The ballot box survey, for example,**  
24 **contained the following positive comments:**

25 **"John Williams was born for this position. He is**

1 intelligent, moral, kind, candid, and adheres to the rule  
2 of law. He understands public service and private  
3 practice. And I honestly cannot think of a more well-  
4 rounded and well-liked attorney than John Williams."

5 Five of the written comments expressed concerns.  
6 The main focus of these concerns was your lack of  
7 experience in circuit court. What response would you offer  
8 to this concern?

9 A. Well, if the concern is that I'm 40 years old,  
10 there's not much I can do about that. What I can control  
11 is what I've done with my time. I certainly don't have  
12 forty years of legal experience, but I think that I've had  
13 a pretty wide breadth of experience in the time that I've  
14 had, nearly fifteen years.

15 Like, I don't want to restate what I -- what I've  
16 -- my past or my resume, but I have been involved in both  
17 general sessions, I've been involved in the magistrate's  
18 courts, I've been involved in common pleas and class  
19 actions.

20 I mean, it's just the different types of cases  
21 that I've been exposed to and been a part of is -- I would  
22 say is probably above average in breadth of experience.

23 **Q. Thank you. On to the Citizens Committee report.**

24 MS. HALL: I would note that the Lowcountry  
25 Citizens Committee report found that Mr. Williams is well

1 qualified in the evaluative criteria of ethical fitness,  
2 professional and academic ability, character, reputation,  
3 and judicial temperament, and qualified in the evaluative  
4 criteria of constitutional qualifications, physical health,  
5 mental stability, and experience.

6 The committee added, "Very good character.  
7 Personable. Varied experience as a county attorney. A  
8 good reputation. Not much experience recently in the  
9 circuit court."

10 BY MS. HALL:

11 Q. Just some housekeeping issues now. Mr. Williams,  
12 are you aware that as a judicial candidate, you are bound  
13 by the code of judicial conduct as found in Rule 501 of the  
14 South Carolina Appellate Court Rules?

15 A. Yes.

16 Q. Since submitting your letter of intent, have you  
17 contacted any members of the Commission about your  
18 candidacy?

19 A. No, I have not.

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

24 A. No, I have not.

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



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

3 A. Yes, I have reviewed that.

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

8 A. No, I have not.

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

12 A. Yes, I do.

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

18 CHAIRMAN CASKEY: Thank you, ma'am. Do any  
19 members of the Commission have questions or comment for Mr.  
20 Williams?

21 (Hearing none.)

22 CHAIRMAN CASKEY: I don't know if this is a  
23 hold-over from lunch fatigue, or a reflection of what has  
24 happened just a few times, which is that questions don't  
25 readily present themselves.

1                   Sometimes questions are -- I don't know what  
2 the right word would be, but generated out of cause for  
3 concern. And so the fact that there aren't any questions  
4 right now, I don't think you should perceive as a negative.  
5 Senator Rankin.

6                   SENATOR RANKIN: And not a question but a  
7 ditto to that, and more of just a expression of  
8 appreciation for your doing it. The question about your  
9 age, raised by the anonymous contributor, begets for me --  
10 and these folks are so tired of my old stuff, Ronald Reagan  
11 and Dukakis. And, again, you could have certainly turned  
12 that around. You won't hold other folks' old age against  
13 them -- or their age against them.

14                   But, anyway, I appreciate you, as a young  
15 man offering for this position. And regardless of how it  
16 works out, you are on your way. So thank you.

17                   MR. WILLIAMS: I appreciate that, Senator.

18                   CHAIRMAN CASKEY: Anything else?

19                   (Hearing none.)

20                   CHAIRMAN CASKEY: So, Mr. Williams, let me  
21 also extend my appreciation to you for your flexibility in  
22 scheduling. As I noted earlier today, we are in the  
23 unusual position of being ahead of schedule, and so your  
24 willingness to accommodate that is much appreciated by this  
25 commission.

1           And I think we have another 56 candidates to  
2 go before we get to the end of our work, so --

3           MR. WILLIAMS: Well, thank you. Because you  
4 all -- you all committing a lot more time to these hearings  
5 than I am.

6           CHAIRMAN CASKEY: Well, thank you,  
7 nonetheless. This does bring us to the end this portion of  
8 the screening process. I need to take this moment to  
9 remind you that pursuant to the Commission's evaluative  
10 criteria, the Commission expects candidates to follow the  
11 spirit as well as the letter of the ethics laws, and that  
12 we will view violations or the appearance of impropriety as  
13 serious and potentially deserving of heavy weight in the  
14 screening deliberations.

15           On that note, and as you may know, the  
16 record will remain open until the formal release of the  
17 report of qualifications, and you may be called back at  
18 such time if that need were to arise.

19           Thank you again for being here today. Thank  
20 you for offering for service to the State of South  
21 Carolina.

22           MR. WILLIAMS: Thank you, Mr. Chairman, and  
23 members of the committee.

24           CHAIRMAN CASKEY: Thank you.

25           (Candidate excused.)

1                   CHAIRMAN CASKEY: All right. We will stand  
2 at ease for a few minutes. If Ms. Putnam will go and grab  
3 our next candidate and the other associated individuals.

4                   (A recess was held from 1:40 p.m. to 1:45 p.m.)

5                   CHAIRMAN CASKEY: Good afternoon, everyone.  
6 We are here to proceed with our screening. Before us, we  
7 have retired Chief Justice Jean Toal, who is an applicant  
8 for the position of Retired Judge or Justice of the Supreme  
9 Court. Madam Chief Justice, if you would please raise your  
10 hand.

11                   WHEREUPON,

12                   THE HONORABLE JEAN HOEFER TOAL, being duly  
13 sworn and cautioned to speak the truth, the whole truth and  
14 nothing but the truth.

15                   CHAIRMAN CASKEY: Thank you, ma'am. There  
16 should be some documents in front of you. If you would  
17 take a moment to review those, please.

18                   JUSTICE TOAL: Yes, sir. I am familiar with  
19 both of them.

20                   CHAIRMAN CASKEY: Are the personal data  
21 questionnaire and the sworn statement before you, the  
22 documents that you have submitted to the Commission?

23                   JUSTICE TOAL: Yes, they are.

24                   CHAIRMAN CASKEY: Do the need to be updated  
25 or changed?

1 JUSTICE TOAL: Not in any way.

2 CHAIRMAN CASKEY: Do you have any objection  
3 to us entering those into the record with your sworn  
4 testimony today?

5 JUSTICE TOAL: I do not.

6 (EXHIBIT NO. 20 - JUDICIAL MERIT SELECTION  
7 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THE  
8 HONORABLE JEAN HOEFER TOAL)

9 (EXHIBIT NO. 21 - JUDICIAL MERIT SELECTION  
10 COMMISSION SWORN STATEMENT OF THE HONORABLE JEAN  
11 HOEFER TOAL)

12 CHAIRMAN CASKEY: Thank you, ma'am. As  
13 staff does that now, I'll just note that the Judicial Merit  
14 Selection Commission has thoroughly investigated your  
15 qualifications for the bench. Our inquiry has focused on  
16 nine evaluative criteria, and has included a ballot box  
17 survey, a thorough study of your application materials,  
18 verification of your compliance with state ethics laws, a  
19 search of newspaper articles in which your name appears, a  
20 study of previous screenings, and a check for economic  
21 conflicts of interest.

22 We have received two affidavits filed in  
23 opposition to your election. However, one was dismissed by  
24 the Commission pursuant to our rules. One witness is  
25 present to testify. And as per our procedure, we will

1 begin with her. And so if you would kindly have a seat  
2 there, we will invite her forward.

3 Ms. Meisner, if you would please come to the  
4 podium.

5 CHAIRMAN CASKEY: And if you would first  
6 raise your right hand.

7 WHEREUPON,

8 RHONDA MEISNER, being duly sworn and  
9 cautioned to speak the truth, the whole truth and nothing  
10 but the truth.

11 CHAIRMAN CASKEY: Would you please spell  
12 your -- state your first and last name, and spell your last  
13 name for the record.

14 MS. MEISNER: It's Rhonda Meisner. And it's  
15 M-e-i-s-n-e-r. That's Mike, echo, India, November, echo,  
16 Romeo.

17 CHAIRMAN CASKEY: I think you forgot a  
18 Sierra in there.

19 MS. MEISNER: Did I?

20 CHAIRMAN CASKEY: That's all right.

21 MS. MEISNER: Sorry. But good catch.

22 CHAIRMAN CASKEY: Thank you. We try. Ms.  
23 Meisner, before we being, I just want to take a moment to  
24 remind you, that the purpose of our commission is to  
25 evaluate the statutory and constitutional qualifications of

1 a candidate along the nine evaluative criteria.

2 We're not here to re-litigate any issue.  
3 And we have your complaint, and that is entered to a part -  
4 - entered into the record already. And so what is most  
5 useful for us as a commission who is going to ultimately  
6 generate a report to the General Assembly, is information  
7 that you can provide that is additive to what we already  
8 have; that is, your complaint we've already entered into  
9 the record.

10 And so while I understand that some factual  
11 foundation is necessarily for us to understand your  
12 complaint, it's not necessary to go into everything. And I  
13 certainly don't want to be rude or -- in any way, and not  
14 show full appreciation for your commitment to helping the  
15 state understand your views on the candidate.

16 But if we start to go too far, one way or  
17 the other, I may from time to time need to step in and help  
18 guide us back to our purpose and mission which is, again,  
19 the assessment of the candidate vis a vis those nine  
20 evaluative criteria. Is that clear as mud?

21 MS. MEISNER: I believe I've understood what  
22 you were saying.

23 CHAIRMAN CASKEY: All right. Thank you,  
24 ma'am. We'd be happy to hear from you. I'm sorry, let me  
25 recognize Ms. Webb first.

1 MS. WEBB: Good afternoon, Ms. Meisner. Ms.  
2 Meisner, the Commission has before it, your affidavit of  
3 complaint, which I respectfully have requested be made part  
4 of the record at this time. Which Lindi is handing to the  
5 court reporter.

6 (EXHIBIT NO. 22 - JUDICIAL MERIT SELECTION  
7 COMMISSION WITNESS AFFIDAVIT OF RHONDA MEISNER)

8 MS. WEBB: And just for your information,  
9 your home address has been stricken from that, so it will  
10 not be included in that report.

11 MS. MEISNER: Okay. Good. Thank you.

12 MS. WEBB: Yes, ma'am. The purpose of  
13 today's hearing is for the Commission to review the  
14 qualifications of the candidates, to determine if Justice  
15 Toal is qualified to serve as an active retired judge.

16 And you have been told, the Commission is  
17 not here to re-litigate a case, and they do not have the  
18 ability to change the results of your case.

19 Ms. Meisner, you believe submitted your  
20 affidavit, which the Commission members have before them,  
21 and have reviewed prior to this hearing. Is there anything  
22 else that you wish to testify to, specifically regarding  
23 Justice Toal's ethics, competency or character, that has  
24 not already been covered in the documents before the  
25 Commission?



1 MS. MEISNER: Well, I do feel like that I  
2 need to give some background. And I think that I -- I  
3 would like to give some additional information, absolutely.

4 MS. WEBB: Okay. You may go ahead and do  
5 so.

6 MS. MEISNER: First of all, I'm sure on the  
7 face of it, to question the qualifications of the former  
8 Chief Justice of the South Carolina Supreme Court, seems  
9 ridiculous.

10 And I have testified against another judge  
11 before this committee, which I appreciated the fact that  
12 y'all were here, still, at 8:00 or 9:00 -- whatever time it  
13 was that you took the testimony.

14 But power corrupts. Absolute power corrupts  
15 absolutely. And we have a corruption problem in South  
16 Carolina. I know that some of the legislator --  
17 legislators are trying to get things together. But I'm  
18 going to give you a simple illustration that happened to  
19 me, yesterday.

20 I was driving down the road, I almost got  
21 into the intersection, and the car that was at the  
22 intersection kind of gave me a funny look. And then she  
23 realized that I was a friend. And she was like, "Oh,  
24 sorry."

25 But I had a birthday cake for another friend

1 in the car. Initially, she was very angry about my slight  
2 mistake, and wanted to reprimand me. But once she realized  
3 that I was someone that she was familiar with, she  
4 understood that, that wasn't a problem.

5 The courtroom is not a place where pandering  
6 to power or looking at things from the venue of "I know  
7 these people. These people are the right people."

8 It is my understanding of the rules -- and I  
9 am -- I do want to put this on the record, because I feel  
10 like it's important to have the recording. But there is  
11 still an outstanding motion from January the 11th, that has  
12 not been ruled on. It's a Rule 60(b) motion.

13 That motion was put in the mailbox -- or  
14 purportedly put in the mailbox for Justice Toal. And the  
15 issue is this: It was -- it was assigned to another judge,  
16 only like -- I think in June or July of this year. And I  
17 said, "Well, you know, you can't hear that. That has to go  
18 before Justice Toal."

19 There's a significant backdoor scheduling of  
20 hearings, scheduling of motions, scheduling of all kinds of  
21 things. Those things are part of the judicial corruption  
22 that I see in South Carolina. I am not saying that Justice  
23 Toal is part of that. But I was told --

24 CHAIRMAN CASKEY: Ms. Meisner, if I could  
25 just interrupt you. I can appreciate your concerns about

1 systemic-level issues. I don't support or deny those  
2 allegations.

3                   The purpose of our proceeding today, though,  
4 is to evaluate, specifically, Chief Justice Toal. And I  
5 would just ask that if you could tailor your remarks to,  
6 specifically, the conduct that you allege Chief Justice  
7 Toal has undertaken that is violative of the qualifications  
8 standards, if you would.

9                   MS. MEISNER: Yes. I was told that I would  
10 be able to give a background and some information about the  
11 basic -- my basic complaints with the system. So I  
12 apologize if I did not do exactly what I was supposed to  
13 do.

14                   CHAIRMAN CASKEY: Yes, ma'am. Again, if  
15 there is a background relative to the specific allegations  
16 or complaints of Chief Justice Toal, that is where some  
17 latitude is certainly available. But to wax poetic about  
18 system-wide practices is for another -- another venue.

19                   MS. MEISNER: Okay. In any event, related  
20 to this particular interchange, I was -- I was informed  
21 that the court -- actually, one of the court members --  
22 Athena is her name. I don't know her last name. She is  
23 the one who picks the cases for Justice Toal to hear. I  
24 believe that to be unconstitutional because --

25                   REPRESENTATIVE RUTHERFORD: Mr. Chairman,

1 she's again going off topic. And that's also in her  
2 complaint. So what she's saying now, it's also in her  
3 written matters, so it doesn't need to be gone back over  
4 now.

5 CHAIRMAN CASKEY: Okay. Ms. Meisner, I'll  
6 try again. I want to give you the full opportunity to be  
7 heard. And I know this is difficult to do, and I don't  
8 envy your position, because it's not easy to come into a  
9 room like this and stand at a podium and do all of this,  
10 with folks looking on at you.

11 So I'm happy to extend the grace necessary  
12 to get there, but I need you to be headed straight to what  
13 Chief Justice Toal has done, or not done, that is again  
14 violative of our constitutional and statutory requirements  
15 for being a judge in this state.

16 MS. MEISNER: And, again, during the  
17 explanation -- in my interchange with Justice Toal, when we  
18 entered the room, she called my name.

19 And I said, "Yes, Chief Justice."

20 And she said, "What did you say?"

21 And I said, "I said, 'Yes, Chief Justice.'"  
22 And so I immediately proceeded up to the podium. It was my  
23 motion and I was going to tell her that the other side had  
24 not -- they had not served their notice of the motion  
25 hearing, and that I didn't feel like their motion was

1 properly before it.

2 But she said, "What is this all about?"

3 So I started to proceed to tell her. And  
4 she said, "What? What are you talking about? I don't  
5 understand what you're saying."

6 And then she immediately, without me being  
7 able to explain, although the complaint was right there  
8 before her, turn to the defendants -- and it's a very  
9 powerful law firm here, Moore Bradley Myers -- and said,  
10 "Tell me what she's talking about."

11 Now, it is -- it is clear the Chief Justice  
12 of the South Carolina Supreme Court can understand what --  
13 what I am saying. I don't think that I am unclear. I  
14 don't think that I do not have the ability to speak.

15 But in several -- at least two occasions,  
16 she either did not hear me, or pretended not to hear me. I  
17 don't know which. That's not my call. But in any event,  
18 it was in -- in my opinion, it was a clear indication that  
19 she didn't want a record of what was going on.

20 And it was summarily dismissed, despite the  
21 fact that I felt like everything in the complaint was  
22 legitimate under South Carolina law, and as a minority --  
23 South Carolina accepts the minority view that this case  
24 could have been brought in circuit court.

25 So I felt like that I was not heard. And I

1 think that under the canons of ethics, I should have been  
2 able to present my case and tell the Court what this case  
3 was about.

4           They had a soliloquy -- the defendant  
5 attorneys had a soliloquy about me, personally, and -- you  
6 know, that I was litigious, that I was this. They had  
7 several things that they were going over. And I objected.

8           And I said, you know, Justice Toal -- or  
9 "Your Honor," I said, "This is very similar and akin to the  
10 Alex Murdaugh case."

11           Which, you know, it -- ten months later, or  
12 however many months later we are -- almost a year later,  
13 he's getting a new trial based on irregularities in the  
14 jury polling positions.

15           But my -- my analogy was that there is  
16 corruption within the system that is -- that is leading  
17 these judges to not have the full picture and -- and,  
18 basically, falling to their friends for -- for the  
19 adjudication of issues. That can't be the way South  
20 Carolina works.

21           We can't have a state where -- whether  
22 you're an attorney or not, when you come in you should have  
23 a fair hearing. So I think that, that was an issue.

24           The real issue is during the hearing, after  
25 I made the analogy with Justice Toal -- which by the way,

1 FITSNews has made that -- that very same analogy that I  
2 made -- she said, "You shut your mouth" or "you hush your  
3 mouth."

4 I can't remember if it was "shut" or "hush."  
5 I think that it is okay to make an analogy of something  
6 that is germane in your case related to another case that  
7 is being adjudicated where an attorney has been found,  
8 basically, doing misdeeds.

9 And whether he is guilty or innocent -- at  
10 the end of the day, of course, that's not my call. Then  
11 the jury's call. An attorney can still be -- just because  
12 they're at another does not make them ethical, it does not  
13 mean they don't lie. It doesn't mean that they don't try  
14 to take advantage of people. It doesn't mean all these  
15 things. One only needs to look at the Supreme Court  
16 reprimands to know that, that is the case.

17 CHAIRMAN CASKEY: Sorry to interrupt you.  
18 But I would agree, wholeheartedly, with those last couple  
19 of statements about qualification or licensure as a lawyer  
20 doesn't make -- doesn't make you any of those thing,  
21 certainly. So I'm not challenging you there.

22 I am, though, going to point you back  
23 towards the purpose of this commission. And I think your  
24 comments about your exchange with the Chief Justice are  
25 instructive and useful for us to evaluate.

1                   And so if you can focus there, we would be  
2 happy to continue to hear from you for a bit. If we're  
3 going to, you know, talk about broader -- broader  
4 observations, then we'll probably have to end the  
5 discussion.

6                   MS. MEISNER: Okay. So in the same hearing  
7 as -- as I said, Justice Toal said she could not hear or  
8 understand my position. I believe I'm capable of  
9 explaining my position and I -- and I -- and I think that  
10 the main issue that it is my understanding that -- that  
11 this position -- I don't know if it's a part-time position  
12 or a full-time position that is being put forward.

13                   But certainly, Justice Toal is -- is -- is  
14 not working full-time in that capacity. And we have a huge  
15 backlog of cases, so I feel like that this needs to be used  
16 for the other thing.

17                   In conclusion -- because obviously, you  
18 know, when I -- when I leave, I know that people are going  
19 to say, "Oh, everything is great." I did not know that  
20 there was another complaint. If it was just missed, that's  
21 one thing.

22                   But I think it is important that -- justice  
23 can be blind but it cannot be -- it cannot be unequal in  
24 its administration. And I believe that -- that my ability  
25 to have that hearing was -- was unfair.



1                   So and I just -- I just would encourage  
2 anybody that's watching this on the review, to look at my  
3 complete complaint.

4                   CHAIRMAN CASKEY: Yes, ma'am. And let me  
5 just take a moment to thank you for making the time to  
6 participate in this process. I think it's invaluable to  
7 have citizens, whether a lay-citizen or a lawyer-citizen,  
8 to participate and help this commission to understand the  
9 candidates that we're screening.

10                  So, you know, the time that you've taken to  
11 prepare these documents, and then be here today to share  
12 your perspective, is useful. And I appreciate that. So  
13 thank you for being with us.

14                  MS. MEISNER: Thank you. If I could say one  
15 more thing on a broader -- a broader scale.

16                  CHAIRMAN CASKEY: About ten seconds-worth is  
17 what we'll do. How about that?

18                  MS. MEISNER: Ten seconds. Okay. If it's  
19 at all possible, I do believe that y'all should vote to  
20 have the judges put back on the ballot for South Carolina,  
21 and have the people vote for the judges.

22                  CHAIRMAN CASKEY: Thank you, ma'am. I  
23 appreciate that.

24                  MS. MEISNER: Thank you.

25                  CHAIRMAN CASKEY: Thank you for being here.

1 Ms. Webb.

2 MS. WEBB: Justice Toal, if you'll now come  
3 forward. Good afternoon, Justice Toal.

4 JUSTICE TOAL: Good afternoon.

5 MS. WEBB: All right. Justice Toal, you  
6 have provided the Commission with a written response to the  
7 complaint, which the Commission members have before them,  
8 and have reviewed prior to this hearing. Is it your intent  
9 to have this published in the record?

10 JUSTICE TOAL: Yes, it is.

11 MS. WEBB: Perfect. I believe Lindi is  
12 handing a copy to the court reporter.

13 (EXHIBIT NO. 23 - WRITTEN AFFIDAVIT OF THE  
14 HONORABLE JEAN HOEFER TOAL)

15 MS. WEBB: And in order for us to do that, I  
16 believe we need to move to go into --

17 CHAIRMAN CASKEY: It's in.

18 MS. WEBB: All right. Perfect. Justice  
19 Toal, in addition to what we just submitted into the  
20 record, with your written response, is there anything else  
21 right now that you would like to add or address for  
22 Commission members regarding this complaint?

23 JUSTICE TOAL: Sure. A couple of things.  
24 First of all, I know how emotional and fraught family court  
25 matters can be. And this is a very clear example of how

1   fraught and emotional this particular domestic litigation  
2   has become.

3                   At the time I conducted this hearing,  
4   December the 2nd of last year, this matter had been in the  
5   family court for several years. A three-week trial had  
6   been held, and another week was scheduled to be held.

7                   I can't conceive of that. I would -- I  
8   don't try asbestos cases for three weeks. But that's one  
9   of the things that happens frequently, unfortunately, in  
10  family court. And it is exacerbated sometimes by the  
11  emotion, and often the pro se involvement on one or more  
12  parties in the matter.

13                   In this particular case, Ms. Meisner brought  
14  a suit in the circuit court. And that suit was against her  
15  husband, against his lawyers, against a expert he had hired  
16  to deal with an allegation about his cognitive situation,  
17  the lawyer for the expert, the guardian ad litem, the  
18  lawyer for the guardian ad litem, the process server --  
19  just about anybody you could have involved in the thing.  
20  In addition to that, she had filed a complaint against the  
21  judge who heard the case, and still has the case, Rosalyn  
22  Frierson.

23                   So this was a very fraught situation that  
24  then came to me. I explained in the submission I made to  
25  you, that I don't pick, nor does the clerk's office of

1 Richland County pick, any docket for a judge in senior  
2 service, which is what I'm applying to have renewed.

3 Judges in senior service serve only by  
4 appointment of the Chief Justice. That's in my  
5 constitution. So only the Chief can assign a senior judge  
6 to any activity. And when that judge is assigned, it is by  
7 a formal order of the Chief assigning the judge to a  
8 specific treatment.

9 In the case of this non-jury term, which  
10 included on it at least ten different motions dealing with  
11 Ms. Meisner's suit, and about seventy other non-jury  
12 matters of various sorts -- a big docket -- we were at that  
13 time short-handed of our regular judges in Richland County,  
14 due to the imminent retirement of Judge Manning, due to the  
15 vetting of DeAndrea Benjamin for a seat on the 4th Circuit,  
16 to which she was ultimately appointed, and due to a heavy  
17 criminal docket by Judge Newman in the Murdaugh case, and  
18 Judge Hood in cases in Richland County, and the imminent  
19 retirement of Allison Lee.

20 So these big motion calendars were sitting  
21 unattended. They are generally done by the chief  
22 administrative judge for common pleas. I was asked if I  
23 could help out, and I said, "Yes, I will if the -- if the  
24 Chief wants to appointment me."

25 The Chief Justice appointed me, and I then

1 was given a docket the day I came to court. I quickly got  
2 my computer working. And as I began to go through these  
3 motions, I looked on my computer at filings and tried to  
4 speed-read and get myself up to snuff about the matters I  
5 was hearing.

6 This particular matter took over an hour to  
7 hear. And it was just one of a whole huge bunch of cases.  
8 I think I gave it the fairness it dictates.

9 There is a recording of the hearing. I have  
10 listened to it, after having been supplied a link to it by  
11 the court reporter who took the -- this docket. So when I  
12 tell you what I think went on -- what I know went on, it is  
13 with that in mind, and with a examination of the common  
14 pleas file in this matter.

15 The first thing that Ms. Meisner covered in  
16 her testimony, today, was a complaint that she has a motion  
17 filed January the 11th, 2023, that (a) I should have heard,  
18 and (b) has been assigned to another judge, and (c) has  
19 some kind of backdoor assignment process at play that  
20 involves the clerk's office.

21 Number one, I have nothing to do with  
22 assignments of the motions calender.

23 Number two, The clerk's office has nothing  
24 to do with the assignment of any judge. That is all done  
25 by the Chief Justice.

1                   Number three, The motion to alter or amend  
2 my records -- and this is from the common pleas records --  
3 show that on December the 2nd, I heard these matters. And  
4 I signed a Form 4R that was prepared at the -- by the clerk  
5 as I dictated to.

6                   I rule from the bench on everything, and I  
7 file orders immediately. And if there's a need for any  
8 supplement, then I do that. But I -- when I leave court  
9 when you have a matter in front of me, I don't care what it  
10 is, I will have ruled. I just think that's the way you've  
11 got to do it, if you're a fill-in judge like I am.

12                   So I signed a Form 4. And the Form 4 really  
13 helped Ms. Meisner out. She won't see it that way. But  
14 she filed an absolutely baseless lawsuit involving claims  
15 of defamation, abuse of process, fraud, and all kinds of  
16 other things against all these parties that I had named,  
17 that are participants in her family court litigation.

18                   Of course they all had to hire lawyers, they  
19 all had to notify their carriers that they'd been sued, so  
20 it was quite a serious matter from the standpoint of these  
21 defendants know this matter.

22                   They then filed counterclaims, very serious  
23 counterclaims. And so the motions docket I had was motions  
24 to dismiss their -- the suit -- her suit and her motions  
25 with regard to their counterclaims.

1 I dismissed the entire group after hearing  
2 from her, very meticulously, on each of the causes that we  
3 were talking about.

4 She did give an explanation to begin with.  
5 I couldn't make heads nor tails of it. It was kind of a  
6 rambling thing about how terrible family court is and how  
7 corrupt things are and so forth.

8 I couldn't make much sense of it. So I did  
9 turn to the defense lawyers and say -- I asked her for a  
10 thumbnail sketch -- I asked you, "Now give me a thumbnail  
11 sketch and tell me what this is all about."

12 I got that settled. And then I went through  
13 each. And in each instance, I called on her to discuss the  
14 matter. I called on the other side to respond, and then I  
15 ruled. And at the end, I dismissed as non-meritorious,  
16 every one of her claims.

17 There is a statute that would have allowed  
18 them to pursue costs just on the basis of bringing a non-  
19 meritorious lawsuit, in addition to the claims they had by  
20 way of counterclaim.

21 But I looked at the defense lawyers, and I  
22 said, "Can I move further and bring this matter to an end?"  
23 -- or words to that effect. And one by one they withdrew,  
24 or let me put on the record "moot" their counterclaims.  
25 That was a big favor to her, because it ended the whole

1 thing.

2 She then filed, according to my records, a  
3 motion for -- to amend or alter my first writing, which was  
4 December the 15th and my December 20th Form 4 orders. And  
5 on January the 10th, 2023, at 9:57 a.m., an order was filed  
6 denying all those motions to alter or amend.

7 She may have filed another motion to alter  
8 or amend, I don't know. But you can't keep filing them.  
9 Once you -- once you rule, that's the end of it.

10 I don't know whether she's worried about her  
11 time to appeal has expired, and she hadn't done anything  
12 and she's trying to revive again this way. All I can tell  
13 you is I've gotten nothing else.

14 I rule on everything that comes to me, very  
15 promptly, to try to get things and keep them moving. So  
16 that is the situation.

17 I will assure you, on the oath that I take  
18 as seriously as anything in my life, that I've given to you  
19 to tell the truth; that there is nothing on that tape that  
20 approximates in any way, "shut up" or "hush up," or  
21 anything of that nature.

22 I don't say that to litigants. I did push  
23 her along. I was quite firm in my rulings. I was trying  
24 to move this thing along, in light of all the other things  
25 that we had to deal with that day.



1           The courtroom was quite crowded. I did,  
2 when she initially answered the call of the case, way back  
3 in the audience, I told her to come up, unmask, and speak  
4 at the microphones.

5           Yes, I do have a hearing deficit. And it's  
6 not the result of being 80. In my youth there were a  
7 limited amount of medications that were given to young  
8 people who suffered from sinus, throat, or pulmonary  
9 infections. And it was generally penicillin shots.

10           I suffered from those things, terribly, as a  
11 young child, and was given heavy doses of penicillin, very  
12 frequently, to try to arrest these infections.

13           Unfortunately, that was about what was  
14 available at that time in the late 40s and early 50s. It  
15 does -- the negative is it will attack a cranial nerve in  
16 some people. And by the time I was 30, I had profound  
17 hearing loss in certain hearing levels, and began to wear a  
18 hearing aide.

19           Thank God, the day of the old bell tone that  
20 you stuck in your pocket -- and that wasn't easy for a girl  
21 to do, since you don't usually wear that kind of clothing -  
22 - has now been replaced by wonderfully-digitized bilateral  
23 hearing aides.

24           I've worn hearing aides for fifty years.  
25 And it has not compromised my ability to be a trial lawyer,

1 an appellate lawyer, a legislator or a judge, I don't  
2 think. So I don't think anything I did that day was a  
3 result of my hearing her.

4 I'm sorry, deeply sorry, that she is so  
5 poisoned by the awful experience that the breakup of her  
6 marriage, and all the other things that are happening in  
7 that domain has caused her in terms of this other  
8 litigation.

9 It did come out in circuit court that she  
10 has been found a vexatious litigator by Cameron Currie in  
11 the United States District Court for the District of South  
12 Carolina. And the sanctions there are more severe than  
13 they are if you are found to be that way in my court.

14 In South Carolina, you can bring a vexatious  
15 litigator to court. But fortunately, I think the way I  
16 presided, and the swift -- swiftness with which I disposed  
17 of the matters in front of me, persuaded the lawyers that  
18 it was best to move the thing along and drop their  
19 counterclaims.

20 And I think that was an outcome that favored  
21 Ms. Meisner. I know she doesn't see it that way. And my  
22 heart breaks for somebody that has just been so frustrated  
23 by the system.

24 I apologize if my brusque tone offended Ms.  
25 Meisner. She is entitled to complete and full

1 consideration, as is everyone who appears before me in  
2 court. And if she ever appears before me again, I will  
3 assure you that this matter will not be any part of what I  
4 think about -- if I consider anything that's before me.

5 That said, I think that tells you about what  
6 I can tell you about the complaint. Let me just say this,  
7 before any further questions:

8 It has been a wonderful pleasure, since my  
9 retirement, to serve in senior active status. I mostly do  
10 circuit work. I do a lot of gnarly complex litigation that  
11 the Chief gives me, to try to straighten out as best I can.

12 I've done everything from the Santee Cooper  
13 and Dominion/SCE&G rate cases, some of which I still have a  
14 responsibility, the complex asbestos litigation, and many  
15 other things from the Freedom of Information Act to  
16 criminal trials to -- I've done a little bit of everything.

17 And I've also sat several times with my old  
18 court, which has been a great pleasure in my life too. So  
19 this has been a treat for me.

20 It's not a full-time job. We did not -- you  
21 know, you can't pay the senior active judge any more than  
22 the difference between what they make in retirement. And  
23 I'm one that maxed-out at past 32 years. So I already make  
24 as much as you can make in retirement.

25 All I can get is the difference between what

1 I make in retirement and what an active judge would make.  
2 And that is very narrow in my case.

3 So I don't do it for the money. Nobody that  
4 does senior service does it for the money. They do it  
5 because they want to be of service.

6 I serve a lot more than the two weeks a  
7 month I would need to serve to qualify as a full-time  
8 senior active. I probably, every day, deal in some measure  
9 through my law clerks, or through my iPad and my laptop,  
10 with matters pertaining to the cases that I am  
11 administering or trying. And I do it because I love it.

12 I'm a law geek. And a lot of these cases  
13 that involve complex insurance questions, and other things  
14 that most judges would love to not ever have to touch, are  
15 the kind of things I love to look at and that I've got a  
16 lot of experience with.

17 So that helps and is something that the  
18 Chief -- the Chief maybe can count is having somebody  
19 that's at least got the benefit of a lot of experience.

20 So thanks for the opportunity to tell my  
21 story. Macey, or Mr. Chairman, any further questions?

22 MS. WEBB: Thank you, Justice Toal. Mr.  
23 Chairman, I have no further questions.

24 CHAIRMAN CASKEY: Thank you, ma'am. And  
25 thank you, Madam Chief Justice. Do any members of the

1 Commission have any questions for the applicant as it  
2 relates to the complaint?

3 REPRESENTATIVE RUTHERFORD: I've got a  
4 comment.

5 CHAIRMAN CASKEY: Mr. Rutherford.

6 REPRESENTATIVE RUTHERFORD: Thank you,  
7 Chief, for coming in. And I remember, last December in  
8 Richland County, and how backed up the county was. And I  
9 don't believe that my comments would make any difference to  
10 the complainant, but I know that you were simply brought in  
11 to hear the excess of matters that were pending; that the  
12 clerk's office could not have selected anything because  
13 there was too much to select; that you sitting there was  
14 simply because had you not, it would have -- all those  
15 would have been pending, probably still to this day.

16 So I know that people think that everything  
17 about her system is corrupt. But that -- that placement of  
18 her lawsuit in front of you, certainly had nothing to with  
19 your request or the clerk's office figuring that they could  
20 somehow decide the outcome of her motion by placing it in  
21 front of you.

22 And I simply know that because I practice in  
23 Richland County. And unless the complainant believe that  
24 this is just for you to show up, for us to pat you on your  
25 back and send you on your way, and ignore complaints -- I

1 know that you remember, 'cause you reminded me of it three  
2 times, that the last time you ran for Chief Justice, I  
3 voted against you.

4           And so this is not simply a fan club for  
5 Chief Justice Toal, or for judges that appear in front of  
6 us.

7           As I said, you reminded me that I voted  
8 against you. And I did. And so she should not feel, nor  
9 any complainant feel, like this just a place for them to  
10 show up but we're going to just ignore them.

11           I've read the complaint. I heard what she  
12 said. And without you responding, I can tell anybody that  
13 is listening -- the four people or six people that may read  
14 this -- that, that's simply not how courts work. And it's  
15 simply not how you would work in an active retired status.

16           So again, I want to thank you for being  
17 here.

18           I also want to add my two cents, that what's  
19 troubling to me, if you were an architect, a doctor, an  
20 engineer, there is no way you would be standing, having to  
21 answer for something that you did back in December. But  
22 somehow our profession has made it so that even those who  
23 have reached the pinnacle of our profession still have to  
24 explain themselves and explain things that they've done,  
25 because we believe as a profession, seemingly, that it's

1 okay to make ourselves targets.

2           And you used the term "vexatious litigator."  
3 We have all seen it. And it instills a fear in all of us,  
4 that we're all of a sudden going to be on the end of a  
5 lawsuit.

6           We ought to be better than that. This  
7 process ought to somehow be able to take judges away from  
8 those that simply have a gripe, and get a chance to air  
9 their gripes any time they see fit.

10           And, again, you don't have to agree with me.  
11 But we get to the point where as lawyers we seem to take  
12 great pride in holding ourselves in such low esteem, that  
13 we allow people to throw rocks at us repeatedly.

14           And I for one am bothered by it. I for one  
15 am bothered by the fact that you had to spend thirty  
16 minutes explaining yourself to a number of people that  
17 understood it from the outset. And so I don't know what  
18 else to do about it, except to apologize to someone who  
19 doesn't need my apology.

20           You've certainly been doing this long  
21 enough, and all of us can sit here and listen talk for the  
22 next two hours, with all that you've learned and all that  
23 you could teach us. And none of my colleagues want to hear  
24 me talk, but I just think we get to the point we should be  
25 beyond people throwing rocks at us and having to feel like

1 we have to explain ourselves in situations where it simply  
2 should not be necessary.

3 So thank you, Mr. Chairman.

4 CHAIRMAN CASKEY: Ms. Meisner, I want to  
5 recognize that you have your hand in the air. It's not  
6 that I don't see you, but our rules preclude us from any  
7 sort of back and forth.

8 You had an opportunity to submit the  
9 complaint. We have that in the record. You had an  
10 opportunity to speak. We now have that and have that in  
11 the record.

12 The Chief Justice had an opportunity to  
13 submit a response to your complaint, and she's done that  
14 and it's now in the record. She's had an opportunity to  
15 respond, orally, to the complaint. She has done that.

16 And so our rules operate such that now,  
17 where there are no other witnesses to hear from, we will  
18 move on with the balance of our screening process.

19 But I do pause before we get to that, to  
20 take a moment to perhaps just repeat some of what  
21 Representative Rutherford said; and that is, that we  
22 appreciate that you have taken advantage of the  
23 opportunities to be heard.

24 And there won't be anything to see, today,  
25 with respect to our ultimate decisions. So that -- there



1 is no resolution that will be available for you today. And  
2 all I can offer is, again, my thanks to you as a citizen  
3 for participating in the process.

4 And regardless of the outcome, I hope that  
5 you know that, that is true. And if it does not work out  
6 the way that you would want, I could understand your  
7 frustration with that, but hope that you will understand  
8 that reasonable minds can sometimes differ in our  
9 conclusions. And if that were not the case, we wouldn't  
10 have need for courts or judges at all.

11 So thank you, ma'am. At this point, I'll  
12 recognize Ms. Webb, again, for some questions to the Chief  
13 Justice.

14 MS. WEBB: Thank you.

15 EXAMINATION BY MS. WEBB:

16 **Q. Once again, Justice Toal, you are being screened**  
17 **for reappointment as a retired judge on the circuit court**  
18 **bench. Why do you want to continue serving as a retired**  
19 **circuit court judge?**

20 A. I think I probably, in the preparatory comments I  
21 made to your inquiry, explained myself pretty well. But  
22 just to sum it up, I enjoy it very much. And I feel like  
23 I'm doing some good in helping out.

24 And it also puts me in the position now, as  
25 mostly doing circuit work, that I can respond to inquiries

1 from my fellow circuit court judges. Which I couldn't do  
2 as a member of the appellate court, but which I can now do.

3 And that's been a great joy to be able to have  
4 inquiries made and point them in the right direction,  
5 research-wise, to some of the questions they have about the  
6 cases that they hear.

7 **Q. Thank you. And Justice Toal, what do you think**  
8 **your reputation is among attorneys that practice before**  
9 **you?**

10 A. I think it's high. I think the vast -- that  
11 you're not going to ever please everybody. And there will  
12 be those, particularly in some of the very litigious  
13 dockets that I handle, who are not pleased with my rulings.

14 But, you know, I wouldn't have a job for 27 years  
15 if circuit court judges were always right. And we've got  
16 an appellate court system, and they look over my shoulder,  
17 as they should, so my miscues can be corrected.

18 But I think from what I know of the attitude of  
19 my fellow lawyers and my fellow judges, my reputation is a  
20 very favorable one.

21 **Q. Thank you. And, Justice Toal, the Commission**  
22 **received 1,082 ballot box surveys regarding you, with 119**  
23 **additional comments. The ballot box survey, for example,**  
24 **contained the following numerous, numerous positive**  
25 **comments about you:**

1            "A great personality and excellent judge. We are  
2 fortunate to have Justice Toal's continued service to our  
3 state. One of South Carolina's finest jurists in every  
4 relevant aspect. Justice Toal quickly moves the docket and  
5 reads every motion and document that comes before her. And  
6 Justice Toal still has the best legal mind and is a -- and  
7 is a -- and is a bright example of female leadership, as  
8 she continues to encourage female attorneys and judges."

9            And while the vast majority of all of those  
10 comments were all very, very positive and everyone was very  
11 appreciative of your continued service to the state, there  
12 were 34 written comments that expressed concerns.

13           One concern indicated that you can be rude toward  
14 attorneys and parties when taking the bench. What respond  
15 would you offer to this concern?

16           A. I can be brusque sometimes. And I accept that  
17 criticism as one that I need to be mindful of. I have very  
18 large dockets and I have -- the reason I can move as many  
19 cases that I do is because I have huge pretrial  
20 conferences, of which I may hear as much as 70 motions.

21           My front doorstep is full of reams and reams of  
22 paper, boxes upon boxes, which I sit and I read every  
23 single one of them. So, yes, I try to move the docket  
24 along. If things linger and slow down, I try to push them  
25 forward. But I think that's a valid criticism and worth my

1 taking note of.

2 Q. Thank you. And other concerns were around how  
3 you have handled the asbestos docket, and that you have  
4 shown favoritism towards the plaintiffs. What response  
5 would you offer to this concern?

6 A. I don't think I favor any side at all. I try to  
7 call them like I see them. But again, the beauty of that  
8 is there is a higher court if I'm wrong. So far, not one  
9 of my asbestos rulings has been reversed. And I've had  
10 many go up.

11 But that -- that's not to say I'm right all the  
12 time. And, you know, when they decide I'm wrong, they're  
13 going to tell me. Then I'll follow what they say.

14 Q. Thank you, Justice Toal.

15 MS. WEBB: I would note that the committee  
16 found Justice Toal qualified in the evaluative criteria of  
17 constitutional qualifications, physical health and mental  
18 stability. The committee found her well qualified in the  
19 evaluative criteria of ethical fitness, professional and  
20 academic ability, character, reputation, experience, and  
21 judicial temperament.

22 The committee stated in summary, "No  
23 question about her qualifications."

24 I would note for the record that any  
25 concerns raised during the investigation regarding the

1 candidate were incorporated into the questioning of the  
2 candidate today. And, Mr. Chairman, I have no further  
3 questions.

4 CHAIRMAN CASKEY: Thank you, ma'am. To  
5 members of the Commission have questions or comment for  
6 Chief Justice Toal? Chairman Rankin.

7 SENATOR RANKIN: I will be as brief as I  
8 can. And I want to tell you how much I appreciate you,  
9 with your age, which I'm shocked to hear, given the energy  
10 level that you have brought to this third branch of  
11 government for so long and so well.

12 Not always pleasing to me, perhaps. But  
13 that ain't what you were elected to do, to please me or  
14 anyone, but to please the system. And so your age is very  
15 close to mine.

16 And the term "legacy" is what these senior  
17 positions ought to be, a legacy judge in that -- not that  
18 you're creating one, but that you have already created it.  
19 And you have earned your stripes because of the legacy that  
20 you have created. And I am just tickled with the fairness.

21 And the litigant -- the complainant has  
22 chosen to leave the building, which is fine. But it is  
23 totally unfair that you would get brandished by a complaint  
24 covered by a quasi-news source and they could give a rat's  
25 ass to hear your explanation.

1                   And so that ain't -- we can't change that.  
2 That's unfair. But there will be a record here, I suspect,  
3 that will overwhelmingly affirm your handling of that  
4 complaint.

5                   So I just -- I'm proud of you. You don't  
6 need my pride. And you don't need the comments from those  
7 who have commented extensively about you in terms of your  
8 fairness, your tact, but perhaps your firm fist, with a  
9 silk glove, that you've brought to the court for so long.  
10 So kudos to you. And that is not a question. That is a  
11 statement.

12                   I have a question, though. Because you are  
13 of great source to us in terms of the history of the very  
14 body that you are presenting your candidacy for  
15 reappointment to.

16                   Chief Justice, how did we get here? How is  
17 it that the JMSC, and this process that fields complaints,  
18 that vets the candidates through multiple stages, how did  
19 we get here? And what can you tell us about its merits, or  
20 whether we need to get rid of it and go to public  
21 elections, as we heard from your complainant here?

22                   JUSTICE TOAL: Well, you know the  
23 foundation, of course, is election by joint assembly of the  
24 General Assembly. And we've had that system since we were,  
25 finally by the Crown, allowed to appoint judges during

1 Colonial times by the Colonial House Assembly.

2 That was a reaction to the Royal Crown  
3 judges who had been appointed, mostly people who couldn't  
4 make it for the English ends of court, and appointed as  
5 judges over here.

6 The Colonists were very dissatisfied with  
7 that quality of justice, and wanted some of their own who  
8 had been trained in England as lawyers, and then come back  
9 to practice in the Colonies.

10 And so we began with a system that was  
11 founded on selection by the Commons House, and now the  
12 General Assembly. Only Virginia now has that system.

13 But when judicial reform came in, in the  
14 70s, was when I came to the General Assembly, and I was  
15 fortunate enough to be able to floor-lead a lot of the  
16 implementing legislation.

17 The first thing was to do away with the  
18 hodgepodge system of county courts, and unify the whole  
19 system. We did that with the creation of a family court  
20 that subsumed those county courts.

21 And we still had the big dilemma that, that  
22 means a whole lot of people for the General Assembly to  
23 select. And many more, now that the system is so expanded  
24 with so many more judges.

25 So we came up with the idea that we ought to

1 have some screening process. And we developed a screening  
2 commission by statute to start the process of vetting the  
3 candidates so that you wouldn't just have this free-for-all  
4 with people soliciting your votes and you don't know who  
5 they are or what they are, and don't have any real  
6 organized way of finding out what their qualifications are.

7 That screening process worked. It had  
8 modifications. One of the big modifications came when the  
9 screening committee was finally put in the constitution. I  
10 remember that well because by that time I was Chief, and I  
11 wanted the Court of Appeals put in the constitution so it  
12 would be protected as a body instead of just being a  
13 creation of the legislature. That was done.

14 But I went to Chairman McConnell, and I  
15 said, "Senator, we really need protection for this vetting  
16 process as well, so that it can't just be thrown out  
17 because of a simple majority vote."

18 So the screening process itself was then put  
19 in the constitution, and certain refinements were made  
20 about how many could be reported out -- now it's three --  
21 and so forth. I'm sure there will be more evolutions, but  
22 the basic structure was placed in the constitution in order  
23 to protect the system itself from emotional modification  
24 based on the particular politics of the moment.

25 And so you've got a wonderful ability, now,



1 to take a long-term look at where you want the judiciary to  
2 go and how you want judicial reform to go. But a wiser  
3 person than me said, at the beginning of your -- this  
4 year's session of screening, my dear friend, John  
5 Kittredge, "Don't throw the baby out with the bath water."

6 I think he said that when he testified  
7 earlier before you. He'll be a great leader and a great  
8 source of advice. But the idea of a system that doesn't  
9 just change at the moment, based on the whims of the  
10 moment, is a good thing.

11 The idea of a system that is transparent  
12 enough for people to trust is the heart and soul of why we  
13 have a screening process, like the one you are now involved  
14 in.

15 You are the focal point in my view. So I  
16 don't resent one bit the requirement and the responsibility  
17 of having to come and stand before you and be questioned.  
18 That's what all judges should have to have done, and on a  
19 regular basis.

20 We put seniors in this -- it used to just be  
21 something the Chief could just appoint seniors from off the  
22 bench. And we put them in front of the screening process  
23 that there'd be kind of a neutral observer of whether they  
24 still got what it takes or past the expiration date.

25 So y'all got a little responsibility for my

1 path, too, to be sure that, that's okay. But this is good,  
2 decent, extremely important work that goes to the very  
3 heart of governmental stability for South Carolina. So God  
4 bless your effort.

5 CHAIRMAN CASKEY: Other members of the  
6 Commission? Mr. Strom.

7 MR. STROM: Thank you, Mr. Chairman. Chief,  
8 I just wanted to ask you, during your experience -- and  
9 obviously you were a Chief Justice a long time, you served  
10 with other Chief Justices around the country, you heard  
11 about their problems with public election and that kind of  
12 thing.

13 When I was a U.S. Attorney, you had -- my  
14 experience was there's a lot of public corruption all over  
15 the country with publicly-elected judges. Did you hear of  
16 a better way to do this? Or do you have any suggestions  
17 for the General Assembly, as the retired Chief Justice, of  
18 changes that would be made? Or do you think the system is  
19 working pretty well?

20 JUSTICE TOAL: Well, I think public -- I  
21 think public confidence is so important. And that's why I  
22 think taking a fresh look, always, at how our system works  
23 and what can be done to improve it needs to be done.

24 And I think that will be done. So I don't  
25 think that we should just simply sit on our laurels and say

1 we got a system that works great.

2 I will say I chaired the Conference of Chief  
3 Justices, and was a member of the conference for about as  
4 long as anybody who served, and we talked a lot about  
5 methods of judicial selection. And there are a lot of  
6 variations on a theme.

7 But popular election is a mighty tough way  
8 to select judges, because it is so money-driven in every  
9 state that has it, and so subject to the emotional whims of  
10 public sentiment. And that's -- that's the negative.

11 I was popularly elected for years as a  
12 member of the House of Representatives. I don't see  
13 anything wrong with popular election. And I don't think  
14 everybody that popularly elected is subject to the  
15 political whims.

16 I think we all stand on our own two feet and  
17 vote as we think we should when we are popularly elected.  
18 But a judge situation is different. And I think our system  
19 of selection, as well as vetting, is an extremely good part  
20 of it.

21 Should other components be added to it?  
22 Should other participants be added to it? That's for the  
23 General Assembly to decide. 'Cause there are a lot of  
24 variations on a theme.

25 But always take a fresh look. But as John

1 Kittredge says, "Don't throw the baby out with the bath  
2 water."

3 CHAIRMAN CASKEY: I'm sure there are other  
4 commissioners with questions. And with respect to my other  
5 commissioners, I feel a certain responsibility, having had  
6 tried to instruct Ms. Meisner in all the complaints that  
7 we've had, to keep our comments and focus on the evaluative  
8 criteria of the candidate; that there are opportunities to  
9 have a more full discussion about opportunities for reform.

10 And on behalf of Speaker Pro Tempore Pope, I  
11 will invite you to the House Ad Hoc -- whatever it's called  
12 -- Committee, where there will be boundless time for those  
13 discussions. So with that mind, I recognize Senator Sabb.

14 SENATOR SABB: Thank you, Mr. Chairman.  
15 And, Chief, good the see you. I just was reflecting, as  
16 particularly in your last two exchanges with Chairman  
17 Rankin and with Pete, and I just wanted to share something  
18 with you.

19 Some years ago, there was a -- an event  
20 planned, and I had never been to the destination. And  
21 every once in a while, my GPS doesn't work like it should.  
22 And unfortunately for me, I had somebody in the car with  
23 me, one Gilda Cobb-Hunter, who's more directionally-  
24 challenged than I am.

25 And so we were trying to find this location,

1 and just going from street to street. And then there was  
2 this big sign that we had missed twice, but I -- I delight  
3 now in reflecting on the sign that said "It's a girl  
4 again."

5 And so thank you for all you've done over  
6 the years. And that was a great moment for us all.

7 JUSTICE TOAL: Thank you.

8 SENATOR SABB: You got it right --

9 JUSTICE TOAL: Thank you, Senator.

10 CHAIRMAN CASKEY: Ms. Blackley.

11 MS. BLACKLEY: Good afternoon. You know I  
12 couldn't let you get out of here without saying something.

13 JUSTICE TOAL: One of the best clerk of  
14 courts ever.

15 MS. BLACKLEY: Well, I appreciate that. You  
16 helped along that route. I don't have a question. I just  
17 have a statement. I think you have done a wonderful job in  
18 your career.

19 And we are still blessed for you to honor us  
20 with your continued work. And you've actually helped me  
21 out so much in learning about our court system. I think  
22 it's probably is one of the reasons why I'm possibly even  
23 sitting on this commission. And I wanted to acknowledge  
24 that.

25 But I appreciate your service to our state.

1 And I mean, you're just as sharp as ever. It's wonderful.

2 JUSTICE TOAL: Thank you.

3 MS. BLACKLEY: Continue being you.

4 JUSTICE TOAL: Thank you.

5 CHAIRMAN CASKEY: Other members of the  
6 Commission with questions or comments?

7 (Hearing none.)

8 CHAIRMAN CASKEY: Let me just say, then,  
9 Madam Chief Justice, it is a privilege to get to be in this  
10 position, to do something that I certainly don't think I'm  
11 worthy or have earned the privilege to do and be here.

12 Because one of those benefits is that I get  
13 to look at the anonymous ballot box comments that have come  
14 in, voluminous comments. And keeping in mind that we have  
15 to weigh everything as best we can.

16 And I'm mindful of Ms. Meisner's  
17 perspective, but the overwhelming vast majority of comments  
18 from members of the Bar, who can neither gain nor lose from  
19 their comments about you to us are such that this is what  
20 we should want for our state in terms of our jurists. I  
21 think that anyone who aspires to the judiciary who look to  
22 you, and the performance that you have delivered to our  
23 state over the many decades, with great pride.

24 And I think you are a credit to the state.  
25 And I appreciate the opportunity to even be able to say

1 that to you.

2 JUSTICE TOAL: Thank you so much, Mr.  
3 Chairman. It means the world to me.

4 CHAIRMAN CASKEY: Thank you, ma'am. Well,  
5 this concludes this part of our screening process -- I'm  
6 new at this, and there is a much shorter script here for  
7 the end of our screening here today.

8 So that will conclude this portion of our  
9 screening process. Thank you for offering. And thank you  
10 for your service to the State of South Carolina.

11 JUSTICE TOAL: Thank you.

12 CHAIRMAN CASKEY: Yes, ma'am.

13 JUSTICE TOAL: Y'all take care.

14 (Candidate excused.)

15 CHAIRMAN CASKEY: With no further candidates  
16 on our agenda for today, we still stand adjourned until  
17 Monday morning at 9 a.m.

18 (OFF THE RECORD AT 2:43 P.M.)

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MY COMMISSION EXPIRES MARCH 8, 2027



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