



**JUDICIAL MERIT SELECTION COMMISSION**  
**Sworn Statement to be included in Transcript of Public Hearings**

**Family Court**  
**(New Candidate)**

Full Name: Richard Chadwick Smith

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1. Why do you want to serve as a Family Court Judge?  
I have always attempted to provide my clients with zealous representation in all matters. Representing clients has a tremendous impact on the client's life and the life of the client's family. However, representing a client does not provide the opportunity to affect positively the lives of numerous families and children. I respect our judicial system greatly and want to make a positive influence not only to our judicial system, but to the lives of all South Carolinians. The integrity of our judicial system is vital to our society, and judges must ensure that the integrity and independence of our judiciary is preserved. I believe, based upon my character and my extensive experience practicing before the Family Court, I would make a positive difference in the lives of children and families across South Carolina if I were elected as a Family Court Judge.
2. Do you plan to serve your full term if elected?  
I plan to serve my full term if elected.
3. Do you have any plans to return to private practice one day?  
I do not have any plans to return to private practice.
4. Have you met the statutory requirements for this position regarding age, residence, and years of practice?  
I have met the statutory requirements for the position of Family Court Judge. I am a citizen of the United States and of South Carolina; I am 47 years old; I am a licensed attorney who has been licensed for at least 8 years; and I am a resident of South Carolina and have been a resident for at least 5 years at the time of election to the position I am seeking.
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

A judge should not initiate, permit, or consider ex parte communications, and a judge should discourage ex parte communications. There are circumstances under which I could envision limited ex parte communications being tolerated such as ex parte communications for scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits, provided I reasonably believed that a party would not gain a procedural or tactical advantage from the ex parte communication. I would make provisions to notify promptly all other parties of the substance of the ex parte communications and permit the other parties to respond. I could envision ex parte communication being tolerated concerning the issuance of a temporary restraining order under limited circumstances; the issuance of an ex parte temporary order placing a child in the emergency protective custody of the South Carolina Department of Social Services, when the pleadings and affidavits submitted by SCDSS provide that probable cause exists to believe that, by reason of abuse or neglect, the child is in imminent and substantial danger; and other ex parte communications expressly authorized by law.

6. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

If I disclosed something that had the appearance of bias, but I believed it would not actually prejudice my impartiality, I would give great deference to a party who requested my recusal. I would disclose on the record the information I believed the parties or their lawyers might consider relevant to disqualification, even if I believed there was no real basis for disqualification. In an abundance of caution, I would grant the motion of the party requesting my recusal.

7. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

I believe that if my hearing a case created the appearance of impropriety because of the financial or social involvement of my spouse or close relative, I would be required to withdrawal from hearing the case.

8. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?

Neither my household family members nor I would accept a gift, bequest, favor, or loan from anyone if the gift, bequest, favor, or loan might be viewed as intended to influence me.

9. How would you handle a situation in which you became aware of misconduct or appearance of infirmity of a lawyer or of a fellow judge?

If I became aware of a situation of misconduct of a lawyer or a fellow judge, I would be required, as part of my judicial duties, to notify the appropriate authority.

10. Are you a member of any organization or association that, by policy or practice, prohibits or limits its membership on the basis of race, sex, religion, or national origin? If so, please identify the entity and explain if this organization practices invidious discrimination on any basis.

No.

11. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations? Please describe.

No.

12. Do you have any business activities that you would envision remaining involved with if elected to the bench?

No.

13. Since family court judges do not have law clerks, how would you handle the drafting of orders?

At the conclusion of a trial or hearing, I would instruct one of the attorneys involved to prepare a proposed order in accordance with my ruling. If I took a matter under advisement, I would notify, in writing, the attorneys involved and request that one of the attorneys prepare a proposed order in accordance with my written instructions. If a case had been extremely complex, I may personally draft the order.

14. If elected, what method would you use to ensure that you and your staff meet deadlines?

During my years in private practice and since joining SCDSS, my paralegals and I had various systems in place to ensure deadlines are met. I would use a calendar system, including reminder dates, warning dates, follow up dates, and due dates.

15. If elected, what specific actions or steps would you take to ensure that the guidelines of the guardian ad litem statutes are followed during the pendency of a case?

I would potentially question the litigants and the guardian ad litem regarding whether the guardian ad litem had conducted an independent, balanced, and impartial investigation; obtained and reviewed relevant documents; met with and observed the child; visited the parties' residents; interviewed parents, caregivers, school officials, law enforcement, and other relevant witnesses; considered the child's wishes, if appropriate; maintained a complete file; and presented to the Family Court and all parties a clear and comprehensive written report.

16. What is your philosophy on “judicial activism,” and what effect should judges have in setting or promoting public policy?  
I do not believe that a judge’s ruling should be based on personal or political considerations. Judicial decisions should be based on existing law. I believe that when judges take a role in setting or promoting a certain political agenda or public policy, the judge’s judicial activism assumes the role of the elected branches of government and leads to potential problems with separation of governmental powers.
17. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities would you plan to undertake to further this improvement of the legal system?  
I would plan to engage in activities to improve the law, legal system, and administration of justice through continuing legal education, bar associations, judicial conferences, and other organizations dedicated to the improvement of the law.
18. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you plan to address this?  
I do not feel that the pressure of serving as a judge would strain my relationship with my wife, my two children, my friends, or my relatives. I have learned to deal with stress through prayer, exercise, and family activities with my wife and my sons.
19. Would you give any special considerations to a pro se litigant in family court?  
Pro se litigants are still required to comply with the same substantive law and procedural requirements as represented litigants. A judge should facilitate the ability of every litigant involved in a case to be heard fairly. A judge should not give pro se litigants an unfair advantage or allow the appearance of partiality to a pro se litigant. However, I do believe it would be appropriate for a judge to provide brief information regarding a proceeding.
20. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?  
No.
21. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?  
No.
22. Have you met the mandatory minimum hours requirement for continuing legal education courses for the past reporting period?

Yes.

23. What do you feel is the appropriate demeanor for a judge and when do these rules apply?

A judge's demeanor and judicial temperament should be exemplary. A judge should be diligent, patient, courteous, fair, open-minded, firm, dignified, compassionate, and polite towards litigants, attorneys, court personnel, and anyone with whom the judge has dealings.

24. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or a pro se litigant?

I do not feel that it is ever appropriate to be angry with a member of the public who would appear before me, especially with a criminal defendant. Anger is never appropriate in dealing with attorneys or a pro se litigant. A judge must perform judicial duties in a fair and impartial manner.

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

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Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print name)

Notary Public for South Carolina

My commission expires: \_\_\_\_\_