

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

Family Court
(New Candidate)

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1. Why do you want to serve as a Family Court Judge?

I want to serve as a Family Court Judge because I am well qualified, would do a good job, and can be of benefit to the legal system. I often hear lay people complaining about the legal system. One person who has had some dealings with the Court as a litigant or juror may feel disrespected and another person may believe the judge or lawyers are "bought off". Having worked in the profession for twenty years, I know that the hard working and honest lawyers and judges far outweigh the occasional bad apple. I believe that every person has a right to a fair and speedy trial by an unbiased judge or jury. I believe that every person has the right to my respect – not because of some status he has or the amount of money in his bank account but because he is a person. My desire to serve as a Family Court Judge comes from my desire to serve in general. I believe that I would be a good judge in whom the public and the legal system would have full confidence.

2. Do you plan to serve your full term if elected? Yes

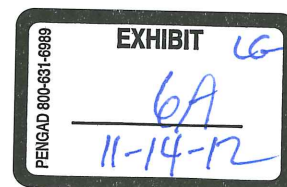
3. Do you have any plans to return to private practice one day?

I have no plans to return to private practice one day.

4. Have you met the statutory requirements for this position regarding age, residence, and years of practice? Yes

5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

My philosophy is that except in limited circumstances such as administrative matters, scheduling, true emergencies or when expressly authorized by law, *ex parte* communications should not take place or be considered by a judge. At the very minimum, this type of contact undermines public confidence in the judge and the justice system. *Ex parte* contacts are covered by Section 3B(7) of the Code of Judicial Conduct.



6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

The Code of Judicial Conduct provides that a judge shall disqualify himself or herself when, "(a) the judge has a personal bias or prejudice concerning a party or a party's lawyer...." Section 3E(1)(a). I would not generally have such bias or prejudice for or against any attorney, and no attorney who is a friend of mine would expect me to act in a biased manner. Recusal, however, may still be required by the general language of Section 3E(1) if impartiality is reasonably questioned. After disclosing on the record any information that I think might be relevant to disqualification, I would consider the nature and length of the relationship as well as the urgency of the matter and the availability of another judge as indicated in the commentary to Section 3E. I would not hesitate to disqualify myself if a party has a reasonable question as to my ability to conduct a fair trial.

Regarding lawyer-legislators, they have to earn a living too. Unless I have a close personal relationship with the lawyer-legislator and that relationship fell within the Code of Judicial Conduct such as Section 3E(1), I would not feel a reasonable question of impartiality would be raised. I do however, believe that a judge should be on guard against the perception of bias or prejudice and would therefore always seek to maintain the confidence of the public.

7. 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?

Section 3E of the Code of Judicial Conduct states, "A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned...." Generally the provision mandates recusal based upon the reasonable appearance of a question. If the disclosure, in fact, had the appearance of bias, I believe recusal would be required.

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

The involvement financially or socially of my spouse or close relative in a matter before me would raise a reasonable question as to my ability to be impartial. Appearances, in this case, would trump a subjective assessment of my impartiality. I would recuse myself.

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

Pursuant to Canon 4 of the Code of Judicial Conduct, I would respectfully decline gifts or social hospitality without an underlying

friendship outside of any judicial relationship. Only gifts or invitations consistent with the occasion and the non-judicial relationship are appropriate.

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

Section 3D of the Code of Judicial Conduct provides, "(1) A judge who receives information indicating a substantial likelihood that another judge has committed a violation of this Code should take appropriate action. A judge having knowledge that another judge has committed a violation of this Code that raises a substantial question as to the other judge's fitness for office shall inform the appropriate authority. (2) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct contained in Rule 407, SCACR, should take appropriate action. A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate authority."

Assuming that I had received information indicating a substantial likelihood of a violation on the part of a judge or a lawyer, I would address the information directly with the person and investigate in private to avoid scandal and protect the integrity of the judicial system. If I then had knowledge of a particular misdeed, I would urge the person to self-report and if he did not, I would be duty bound to report it myself.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be evaluated? Yes.
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?

Most judges before whom I have appeared have requested proposed orders from the prevailing party's attorney. I believe that this is the most efficient way to handle orders. The attorneys are the people most familiar with the facts of a case. Family court judges also have form orders for various case types, and I would utilize form orders where appropriate. Where circumstances such as time are an issue, I would draft the order. I enjoy writing.

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

As in the practice of law, deadlines are important. I would maintain a computerized and a back-up paper calendaring system of hearings and trials. The calendars would denote oral orders issued,

parties, attorneys and time to submit the proposed written order. My staff and I would monitor the calendars weekly to ensure that all work was being done in a timely manner.

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 only appoint qualified guardians ad litem. I would avoid using the same guardian too often so as to avoid complacency. I would be clear with my expectations of the GAL regarding such things as timely submission of reports to the Court, and I would monitor compliance with the statutory requirements throughout the case.

16. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?

Judges have no role in making or promoting what they believe to be public policy. The judge's responsibility is to interpret the law as established by the Legislature and Appellate Courts.

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 have taught "Law School for Non-Lawyers and have been involved with the local high school's mock trial teams. I think the public often has a negative impression of the legal system. I would hope to continue to assist the Bar in its ongoing efforts to demystify the legal system for the public.

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?

No. I have spoken with several judges and am fully confident that the pressures of serving as a judge would not strain my personal relationships. My wife is also a member of the Bar and was a law clerk for a Circuit Court judge. She is very supportive of my decision to run for this seat.

19. Would you give any special considerations to a pro se litigant in family court? While I honor and respect a person's right to represent himself in court if he so chooses, a *pro se* person should not have an unfair advantage over a represented litigant. *Pro se* litigants should be held to the same standard as all attorneys in the case. I would expect a *pro se* litigant to arrive at the appointed time and be prepared to go forward with his case.

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?

Canon 3 of the Code of Judicial Conduct does not require disqualification unless the interest is more than *de minimis*. However, I believe that the appearance of bias should be avoided and I would certainly entertain any motion for recusal and give serious consideration to any party's concerns. For example, I would probably not recuse myself and delay justice in a case involving Pangea Petroleum, Inc. of which I own \$.36 worth of stock.

22. Do you belong to any organizations that discriminate based on race, religion, or gender? No.

23. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes.

24. What percentage of your legal experience (including experience as a special appointed judge or referee) concerns the following areas? If you do not have experience in one of these areas, can you suggest how you would compensate for that particular area of practice?

a. Divorce and equitable distribution: 10% - For the first fifteen years of my practice, I handled hundreds of divorce and equitable distribution cases. Not all were tried, but if they were not tried, they were worked out through a thorough knowledge of the law.

b. Child custody: 5%- For the first fifteen years of my practice, I handled many custody cases. Not all were tried, but if they were not tried, they were worked out through a thorough knowledge of the law.

c. Adoption: <5% - I have handled many adoptions over the years.

d. Abuse and neglect: <1% - I represented DSS for the past three years handling the regular attorney's cases in which he had a conflict.

e. Juvenile cases: <1% - Because my wife was the assistant solicitor responsible for DJJ cases in the Eighth Circuit, I did not handle juvenile cases until the last couple of years. I have represented juveniles over the last couple of years.

25. What do you feel is the appropriate demeanor for a judge?

A judge should be punctual, courteous, open-minded, and respectful of all parties and attorneys. He or she should be decisive and clear in making rulings and must also be patient.

26. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?

I strive, sometimes without success, to put the Golden Rule into practice every day. The rules expressed above would apply always.

