

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?

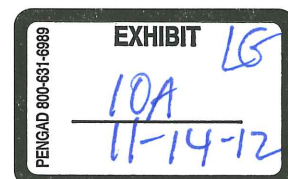
While working as a counselor to abused and neglected children at Safe Harbor Domestic Abuse Shelter, I spent a lot of time in family court. After working at the shelter a year, I made the decision to attend law school. Prior to entering law school, my goal was to steer my career towards being a family court judge. I have spent the past 11 years litigating a variety of cases, including family court cases. My diverse experience in the different areas of law has made me a well-rounded litigation attorney, which would be beneficial as a judge.

Family Court Judges have a hard job, mentally and physically. Many times they see people at one of the worst times in their life. They hear testimony and see physical evidence of some of the cruelest acts of mankind. The dockets are long and the cases are intense. I have spent a majority of my professional career witnessing some of these same situations and because of that, I have the experience to handle the mental and physical requirements of the job.

I want to be a Family Court Judge because I want to be a facilitator. I want to assist in the efficient handling of all family court cases, including DSS and private actions. Unfortunately, sometimes cases move at a slower than desired pace and many times the ones that pay are the children involved in the case.

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? No
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?

Ex parte communications should be avoided if at all possible. There are circumstances in which *ex parte* communications would be acceptable. If scheduling or administrative issues arise or if an emergency arises then *ex parte* communications may be warranted as long as the communication does not deal with any substantive issues



on the case and the judge promptly notifies all parties of the communication and allows a chance for their response.

Upon notice to the parties of the case, a judge may consult with an uninterested expert on the matters of a case. The judge must also convey to the parties the substance discussed with the uninterested expert and give the parties a chance to respond.

A judge may communicate with court personnel or with other judges in an effort to fulfill their duties and responsibilities.

A judge may also communicate with the parties in a case in an effort to mediate issues or settle matters so long as all parties consent.

In addition to the above exceptions, there are rules in South Carolina that allow *ex parte* communications in matters where irreparable harm, injury, damage or loss may occur. Supporting documentation must accompany the request in the form of an affidavit, a verified complaint or a certified writing by an attorney that efforts to give notice to the other party have been made or that such efforts should not be required.

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

I believe that a judge should recuse themselves whenever the appearance of impropriety exists. One of the responsibilities of a judge is to be fair and impartial. While a judge may not believe that a personal, professional or political relationship may influence their decision on a case, a judge has duty to uphold the integrity of the judiciary and enforce high standards of conduct. Therefore, if a situation presents itself that would manifest in the appearance of impropriety, then it would be best for the judge to recuse themselves.

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?

I believe a party's request for recusal is a serious matter that should be given deference when reviewing a motion. As I previously stated, the appearance of impropriety is concern that should be a serious consideration of any judge. At no time should a judge compromise the public's confidence in the judicial system. If I disclosed an appearance of bias and a party filed a motion for my recusal, I would grant the motion.

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

I believe if the bias of a judge on a matter is questioned the judge should recuse themselves from the case. A judge should always

be and always appear to be fair and impartial. The impression should never be allowed to exist that a party has influence with a judge because of a financial, social or political relationship.

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

Gifts that are resource materials related to the legal field would be acceptable so long as the gifts are not intended to influence. Social hospitality is acceptable so long as the event is a bar-related function or an activity encouraged to promote the improvement of the legal system.

Gifts, awards and social hospitality extended to a judge or a member of the judge's household are acceptable so long as it is not done nor perceived as being done to gain influence over the judge in judicial proceedings.

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

It is a judge's judicial responsibility to take action if the judge receives information that another judge has violated the Code of Conduct and such violation presents a question about the judge's fitness for office or if an attorney has violated the Rules of Professional Conduct as laid out in Rule 407 of the SCACR. The violations should be reported to the appropriate governing body and should remain privileged because such reporting is considered one of a judge's judicial duties.

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

I am a board member of Spartanburg County First Steps. This position was voted on by the Spartanburg County Delegation.

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?

In my family court experience, the judges have requested counsel for one of the parties to submit a proposed order once the other party has reviewed the proposed order. If the parties do not agree, then two proposed orders are submitted for review. I would adopt this approach and also make additions or deletions as needed for a final order.

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

Meeting deadlines is an imperative part of practicing and administering the law. Our office currently uses a "tickle system" both electronically and on a hard copy monthly calendar. I like to keep a

hard copy of deadlines in case there is ever an issue with the computer system. I would adopt this same method as a judge.

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?

Anyone that is assigned as a guardian *ad litem* in a case, whether a private action or not, should be required to provide an affidavit to the court outlining their qualifications and that they have complied with all of the requirements as set forth in the Guardian Ad Litem statute. The affidavit should be filed within a reasonable time of being appointed. I believe it would also be beneficial for guardian *ad litem*s to provide periodic reports to the parties of an action that are also filed with the court. Making these reports mandatory and required on a bi-weekly, monthly or bi-monthly basis would insure the guardian *ad litem* is adhering to their responsibilities under the statute.

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

A judge should decide matters in a case based on the law and not be influenced by their personal, political or social beliefs.

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?

The family court liaison meetings have been a great avenue for communication between the bench and bar. The meetings allow both sides to voice concerns and offer solutions. These types of meetings should continue and be utilized. Member of the bench should encourage bar members to attend and participate.

The Greenville County Bar just recently announced that through the coordinated efforts of the community, family court judges and attorneys a Supervised Visitation and Custody Exchange Program will be hosted by Pendleton Place in Greenville, SC. This is a difficult and timely endeavor that was able to be facilitated by coordinated efforts. The program will offer services to families as a whole as well as a location for supervised visitation while children are not under the care of their parents or guardians. This type of joint effort and communication should be practiced throughout the state by judges and attorneys.

As a family court judge, I would continue to encourage interaction between fellow judges, attorneys and community organizations so that the framework for successful programs can be developed. If these programs are successful, over time I believe there will be a decrease in the strain on family court dockets seen throughout the state.

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?

My close friends and relatives have always been respectful of my profession and I do not anticipate that would change if I were to serve as a family court judge. They have on occasion asked for me to review a document or asked for advice and I have done so without charge, but have never abused my willingness to help. If a situation arose where a close family member asked for legal advice or to review a document, I would do so to the extent allowed by the Code of Conduct.

When I began discussing applying for one of the Family Court At-Large seats, some asked how I planned to manage being a single mother and holding a position that would require travel. I am very blessed to have very supportive parents that live very close to me. As a practicing attorney that handles cases throughout the state, I travel in my current job. There have been times that I have driven to Charleston and back in the same day for a case so that I could attend an event of my daughter's, then drive back to Charleston the next morning. We make time for the things that are important to us. Being successful as both a mother and an attorney are important to me and I believe so far that I have achieved those goals. I do not anticipate it would be any different as a mother and a family court judge.

19. Would you give any special considerations to a *pro se* litigant in family court?

In my experience *pro se* litigants can be a difficult issue in cases. However, it is a reality that our court system faces. I am dealing with a *pro se* litigant case now in a contested child support case. In the hearings thus far, I have been grateful when the presiding judge has taken the extra step to make sure the *pro se* litigant understands what is taking place in the court room, what is required of them and what they can and cannot do when questioning witnesses.

When dealing with *pro se* litigants, family court judges must exercise more patience than normally expected of someone in their position. I would use the demeanor of family court judge's I have witnessed deal with *pro se* litigants as a model. The law is the law and must be applied appropriately whether a litigant is *pro se* or not. As a judge I would take into account that extra patience may be required to insure the *pro se* litigant understands the court room procedure and how the law is applicable to my decision in the 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?

According to the Canons of Judicial Conduct, a judge may hear a matter where they or a member of their family does not have more than a *de minimis* interest in a matter. If this became an issue, I would make all parties aware of the situation and would recuse myself if either party requested me do so.

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?

Approximately 30% of my practice is devoted to family law and of that 30% it is distributed as follows:

a. Divorce and equitable distribution: 30%

b. Child custody: 20%

c. Adoption: 20%

d. Abuse and neglect: 30%

e. Juvenile cases: I have very limited experience in this area of family law. While working for the Foothills Rape Crisis Center and Safe Harbor Domestic Abuse Shelter some of the juveniles were dealing with criminal issues and those were addressed in their counseling. In addition, some of the juveniles that have been a part of the DSS cases I have involved with have faced criminal prosecution, but I did not represent them on the criminal matters. This is an area of law that I am researching and studying so that I can competently handle these matters as a judge.

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

A judge should be patient, a good listener and open to the views of others. Punctuality is important so that court proceeds efficiently as possible. A judge must be courteous and compassionate, but know when it is appropriate to be stern. A family court judge sees a diversity of cases and therefore, should be able to communicate effectively with people of all educational and socio-economic backgrounds.

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?

Everyone should attempt to apply these rules seven days a week, twenty-four hours a day. Is it always possible? No, because no one is perfect. However, I attempt to apply these rules to my everyday life.

27. 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?

It is only human to be angered by some of the things we witness in this world. Judges are human and it should be anticipated that there will be moments while sitting on the bench that events of a case will anger you. However, it is how you deal with that anger that determines your capability as a judge. My personal beliefs must be set aside when hearing a case. As a judge, I will evaluate the facts of the case and make decisions based upon the evidence that is presented in conjunction with the applicable laws.

I am sure there will be times while sitting on the bench that I grow frustrated with a *pro se* litigant. Again, it is a human reaction. But, if I were to be impatient, it is important to maintain a calm and patient demeanor while handling the matter. Less is accomplished when anger and impatience take the lead.

28. How much money have you spent on your campaign? If the amount is over \$100, has that been reported to the House and Senate Ethics Committees?

At this time I have not spent any money towards my campaign. I do anticipate spending money on envelopes, stationary and stamps.

29. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? N/A
30. Have you sought or received the pledge of any legislator prior to this date? No
31. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No
32. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No
33. Have you contacted any members of the Judicial Merit Selection Commission? No

34. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted? Yes

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

Kelly Pope

Sworn to before me this 7 day of August, 2012.

Notary Public for South Carolina

My commission expires: 07/21/16