

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?

During my time as a family court attorney, I've learned a great deal about the practice of family law and had the opportunity to observe numerous judges in the performance of their duties.

For the past 6 years, I divided my time between serving as a mediator and in other work, e.g. litigation, DSS or Guardian *ad Litem* work. The combination of my work as an attorney and as a mediator has provided me the foundation, background and knowledge to serve as a family court judge. The totality of my experience has also given the temperament and knowledge effectively to preside over proceedings and render decisions based upon a fair and consistent application of existing law to the case at hand without bias or prejudice.

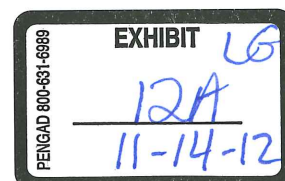
I have always been interested in serving on the bench in the family court. I believe public service is important and want the opportunity to serve my community in this position. I hope to have the chance to participate in providing litigants an impartial and honorable forum in which to resolve what can be very emotional disputes. After my time in practice and with the experience I have gained, I believe I am qualified for the position and have the requisite skills to make me a successful member of the family court judiciary.

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

If elected, while I am unable to predict the future, I have no plans to serve any less than the entire term.

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

At present, I am in private practice and plan to remain so unless elected to the position of family court judge. It would be my hope to remain a judge so long as I continued to be elected to the position, my personal circumstances allow me to do so and I maintain sufficient excitement and interest in the work to serve well and honorably. In the event I no longer held that position, I would likely return to private practice.



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 general position regarding *ex parte* communications is that such generally should be avoided. However, there are a limited number of occasions where such communications may properly occur. For example, in the family courts, it is common for an *ex parte* application to be made in certain limited cases where the urgency of the situation requires immediate action without time for notice to an opposing party. In these cases I believe the application should be closely scrutinized to see if the application establishes the emergent situation, delineates why such extreme (i.e. *ex parte*) relief is appropriate and addresses why some other relief is not more appropriate. If it is determined, on a case by case basis, that such relief is appropriate, I believe a post *ex parte* relief hearing on the matter should be set as soon as practicable to ensure that all parties ultimately do have an opportunity to be heard.

In administrative matters, or where there will be no substantive decisions or rulings made, I could envision such communications occurring (e.g., scheduling purposes). However, even in these situations, I believe prompt notice of the communication should be afforded to all other parties of record.

In summary, I can envision times where such communications are appropriate; however, my general rule would be to be ever mindful of such communications, be guarded in such and, if such communications were to occur, provide notice/opportunity be heard to other parties as necessary or to consider ethical reporting (see answer to question 10 below) where such contact was not appropriate.

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

My philosophy is that in such situations it is best to err on the side of caution and to avoid any appearance of impropriety in any judicial proceeding. The nature of the hearing may also dictate the issue of recusal. For example, in a situation where parties are before a court for the approval of an agreement and one of the attorneys previously practiced with the judge, I believe several things should be done. The judge should disclose the past relationship and give all parties the opportunity to be heard on the issue, including any requests that the judge excuse himself or herself from the case. I believe it would then be necessary for the judge, based upon the responses of the parties, personally to balance whether he or she

would be able to make an impartial decision and whether the failure to recuse could create any appearance of impropriety.

A second example would be in a situation where parties came before a judge in a contested matter. I believe here the same procedure regarding disclosure and the opportunity for the parties to be heard should be followed, but given that the judge would be deciding substantive matters of fact and law, as well as rendering a final decision, the court should give even closer scrutiny to the perceived conflict and consideration of the appearance of impropriety in considering recusal.

The reason I set out two examples is that the first deals with a situation where the parties are coming before the court for the approval of an agreement reached by the parties themselves. I believe that in such matters, where the court would not be making any substantive decisions, the appearance of impropriety is less likely. However, when a judge is in a situation where the decisions to be made will have substantive impact, I believe the risk of at least an appearance of impropriety is much higher.

I believe there is a delicate balance between recusal and a judge's remaining on the case. It is a reality that recusal will have to be addressed by family court judges, but I also believe that while there will likely be times where recusal is required or the better course of action, I also believe that for a judge automatically to default to recusal every time the issue is raised would tip the scale in such a fashion as to create other concerns, including prejudice to other parties. Recusal should be weighed very carefully, with a goal of ensuring all litigants receive the opportunity for a hearing before an impartial judge.

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?

In the abstract, this question is difficult to answer. It is my belief that full disclosure is always preferable. In situations where I do not believe the information disclosed would actually result in any bias on my part, I would inform the parties of the information and of my belief it will not impact my decision making. In my experience, often after consultation with my client, the client is comfortable consenting to a judge's continued involvement in a case. In such a situation, with both the parties and myself believing the disclosed situation would not result in any real bias, and assuming I also believed that the appearance of bias or impropriety would not be so strong as to create an external, public perception of a biased judicial system, I would not recuse myself. Where one or both of the parties requests recusal,

however, I may likely recuse myself to ensure both litigants feel comfortable with the forum and the process. It is possible that under certain circumstances, where one party seeks recusal but the other does not that I would have to give greater consideration to the recusal decision to ensure neither party is being wrongfully prejudiced by my recusal and to ensure that the concerns of the party seeking recusal appear genuine and not merely the means to seeking a different judge to decide the matter. As I stated in response to a previous question, I do not believe that merely because the issue of recusal has been raised means that recusal is automatic, but serious consideration must be given to any situation in which an appearance of bias exists.

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

On the issue of the financial involvement of a spouse or a close relative, I believe that a strong appearance of impropriety on the part of the judge exists when a case may have financial impact on the judge. Unless the financial involvement was *de minimis*, if any substantive decision is to be made, then I believe recusal, at any stage of the proceeding is likely warranted as soon as the interest may be known, as there may exist situations where the judge is not aware of the interest at the outset of a case. While this may cause delay for the parties, I believe that to ensure no appearance of impropriety in the judicial process a recusal is likely warranted.

On the issue of social involvement, I believe social relationships are not automatically as significant as that of financial gain. For example, it may be possible for a close relative/spouse to be involved in a social organization of which a party or attorney is also involved and the two have had no actual interaction. In this situation I believe that, with no financial involvement, such limited interaction may not automatically be the basis for any recusal. However, the more involved the attorney/party and/or the close relative/spouse were in the social setting, even if it was simply two people being friends, such could easily rise to the level of requiring recusal. In any event, such involvement should be disclosed to the litigants to provide them an opportunity to consider whether they are comfortable with the interest of the judge's family member or whether either wants to request recusal.

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

The acceptance of gifts and social hospitality may raise concerns of bias or favor, real or perceived. Avoiding any appearance of impropriety should be the goal of all judicial officers. Where preexisting, personal relationships exist between myself and an individual or group seeking to provide me with any gift or social

hospitality (unrelated to my judicial position), I would, in most instances, consider acceptance permissible. Where no preexisting, personal relationship exists, however, anything but the most *de minimis* gift or hospitality could create the appearance of impropriety. Acceptance or non-acceptance of even such minimal offers would be based on whether I would be receiving it from any person or group that regularly appears before me or has ties to my spouse or other close family members and the occasion of the gift (e.g., a small souvenir type gift in celebration of a number of years on the bench or similar professional accomplishment may be acceptable). If any question exists whether receipt of a gift or acceptance of social hospitality (e.g., meals, lodging, travel, parties, etc.) could appear improper, I would kindly decline or seek an ethical opinion on the propriety of acceptance.

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

If I found out that a judge or lawyer engaged in misconduct, I would discuss it with that individual and encourage him or her to self-report the misconduct and inform the individual that if he or she did not, I would do so. I would hope other judges and lawyers would take the same approach with me.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be evaluated? No.

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

In addition to my work as a lawyer, I published one novel and completed, but have yet to publish, a second. I plan on continuing to write and to pursue publishing opportunities as they may arise.

I am also a musician who performs at locations in Charleston County on occasion (I've performed twice in the past 12 months). While I do not actively seek out such performance opportunities, I am sometimes asked to perform and enjoy doing this. I have no plans to discontinue this activity, but also no plans to actively seek further engagements.

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

It has been my experience in the majority of the cases in which family court judges preside, the judges issue instructions for the orders, either orally at the hearings or in writing after having taken the matter under advisement. The judge typically then directs one of the attorneys to draft and circulate the order prior to submitting to the court. I would likely continue this practice; however, there are times when form orders may be appropriate and I can also envision times when the specifics for the order are such that I would need to draft (or

redraft if a party-drafted order is not appropriate or sufficient) court orders. I can also envision situations where orders would need to be drafted when *pro se* parties appear before me and form orders are not sufficient.

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

A system for tracking deadlines and other such time sensitive issues, such as the submission of outstanding orders, would have to be implemented. In order to keep from reinventing the wheel, I would plan on consulting with other family court judges to see what systems work best for them and then working either to adopt a similar system or adapt one to my own use.

I would envision that such a system would include calendaring deadlines (and reminders of approaching deadlines) that would first come to the attention of my staff who would have in place a procedure for dealing with such deadlines as they approached and bringing them to my attention. I would also review the totality of deadlines on a regular basis with my staff. I would work in conjunction with my staff, providing the assistance required, to make sure deadlines were promptly met.

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?

From the outset, I would expect the requirements of the Guardian *ad Litem* (GAL) statute to be met by any GAL and for parties to cooperate with the GAL. However, in order to insure that these requirements were met, I would make it known that if either the GAL or parties had any concern over the requirements of the statute, such concerns should be brought to my attention at any hearing in which I was involved.

While the GAL statute is quite specific as to the duties and requirements of GAL's, sometimes issues do arise. Presently there is no centralized procedure of which I am aware that allows for concerns to be raised in this regard, other than to the court. As a result of this, I believe that the best approach for dealing with GAL issues is for them to be raised as they occur so they can be addressed during the pendency of any matter and have them dealt with, if necessary, on the front end rather than after decisions are made by the court. Handling these issues in such a manner protects the best interest of the involved minor child or children and provides a mechanism for immediate and current attention.

Thus, I would allow for the GAL to bring to the court's attention any issues they may have for the same immediate resolution rather than dealing with it after the fact.

I would expect orders appointing GAL's to be clear, concise and to track the appropriate statute. As an additional safeguard, I would also ensure at any final hearing that I inquired into compliance.

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

My judicial philosophy centers on the belief that the role of the judiciary is to apply the law, with policy decisions generally left to the legislature. If laws are to be repealed, altered, amended or otherwise modified, the legislative process is where such changes should occur. As a trial level judge, the law I would be applying is that set out in statutes as well as case law, in which higher courts already interpreted and applied relevant laws.

I understand that as a court of equity, family courts are often asked to balance or weigh factors and, in doing so, a trial judge should look to how higher courts handled similar situations. Where no real guidance exists, a court should strive to do the best possible job at understanding and applying the laws and policies of the state as established by the other branches of government. Novel issues may come before a judge in which less guidance is available, but the judge's role is still one of applying the written law and overall policy as established by the legislature, any rulemaking bodies, and higher courts. A judge should not rely on his or her own personal beliefs or preferences.

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 always been a firm believer in the proposition that knowledge creates understanding. I believe that the family courts in South Carolina are often alien forums to the public, as well as to many others in the legal profession. I believe that any activity designed to create a better understanding of the family court process would only help to better the family court system.

It has been my belief for some time that children all too often are lost in the family courts. I believe that any work that can be done to help parties better understand the impact that family court proceedings have on children would be of a benefit.

As such I feel that working with the members of the bar and other organizations on these two issues, and possible educational programs related to them, would serve to better the family courts. If the opportunity presented itself in an appropriate fashion, I would certainly welcome the chance to speak or be involved in education on these and other points that would help to improve the family courts and the judicial system as a whole.

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?

As part of the application process for this position my spouse and I thoroughly discussed the impact the position could have on our relationship. I can certainly say that the position would confront us with issues and situations that were new to us, but as my spouse is also a practicing attorney, these issues would not be completely novel to us and given our understanding of each other, the strength of our relationship and our professional background, I believe we are equipped to handle these situations should they arise. As we do not currently have children, there would be no issue as to how the position would be explained or how children would relate to my being a judge.

With friends and relatives I do not believe that there would be any strain on the relationships, I would simply serve to be proactive in explaining that there would be a clear boundary between my personal relationship with them and my position as a judge. I would not expect any problems on this front.

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

It is a reality of the family courts that parties appear *pro se*. I believe that a balance exists between how a *pro se* party feels they are treated in court and how a judge should treat a *pro se* litigant. The duties of a judge are clear and defined. If a litigant makes the determination to proceed *pro se* then I would, as a judge, certainly ensure that the *pro se* party understands his or her right to counsel and would also ensure ample time to consult with counsel. I would not let a failure to consult unduly delay any proceeding or case. I would also explain that I would hold the *pro se* party to the same standards for courtroom conduct and expectations as any attorney appearing in the case. I would also explain that I, as a judge, could not assist them in the presentation of the case. I would endeavor to make my rulings in such a fashion as to ensure that the *pro se* litigant understood the rulings.

Ultimately the balance is to work to make sure the *pro se* litigant does not feel he or she has been mistreated yet at the same time working to ensure that the process is, for both parties, fair and without delay.

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?

In most instances, no. In the family court setting, where the litigants are individuals, it is difficult to envision how one would hold a *de minimis* financial interest in a party. Where an interest is held in, for example, a company or asset that is part of a marital estate, I would likely recuse and would certainly disclose that interest to the parties. I cannot say whether a case might exist in which I believe it appropriate to proceed, after full disclosure to and likely consent of the parties, because of the truly limited and small nature of any financial interest.

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?

I have not yet completed my requirements for the current 2012-2013 reporting period, but otherwise am current on all CLE requirements.

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: 30%

b. Child custody: 30%

c. Adoption: 5%

d. Abuse and neglect: 20%

e. Juvenile cases: 5%

f. The remaining 10% not included in the above constitutes my career legal work in other areas.

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

Judges should strive to be calm, polite and courteous, attempting to avoid over familiarity with litigants and attorneys that could appear to show favor to one party over another. Judges should be approachable and engaging in the courtroom. Judges should seek to avoid becoming angry (see answer to question 27) but be firm and decisive when necessary.

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?

In answering the prior question, I formulated my answer as to demeanor on the bench. Judges are human and simply because they are judges does not mean that they should have to live a life of isolation; however, there needs to be a clear line between the professional role of a judge and the personal life of a judge. A judge does not cease to be a judge just because his or her robe is removed

and the focus needs to be such that a judge should look at how an objective third party would view a situation in which a judge is interacting. The actions of one will reflect on all and a judge should be mindful of this and never engage in activities that would reflect poorly on the judiciary or judicial system.

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?

I believe that there are ways to show opinions and emotions in an appropriate fashion. I have been party to judicial proceedings where it was abundantly obvious the presiding judge was more than upset with a litigant or an attorney. I have also seen judges express emotions with parties and attorneys on occasion. I believe there is an appropriate time for emotions to be shared with litigants, even criminal defendants, so long as the message is conveyed in an appropriate fashion; however, for me anger connotes a personal investment in the process. I do not feel it is appropriate for a judge to be personally vested in a case. For me, I could see my becoming frustrated in a situation and conveying that to a party or defendant and explaining future consequences should the behavior continue. For example, in the context of a Rule to Show Cause or in a juvenile justice proceeding in the family court, there may have been conduct in which a party or a defendant engaged that created an emotional response on the part of the judge. I believe that it is appropriate and even constructive for the party or defendant to know of the judge's displeasure; however, I believe the key is for the judge to communicate the displeasure in an appropriate fashion with a goal of education in hopes of preventing future misconduct or inappropriate behavior.

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?

To date, other than postage involved in the receipt and ultimate submission of this application, no funds have been expended.

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?

I have spoken to two legislators prior to sending in my letter of intent, George Hearn and Leon Stavrinakis. This contact was done to learn about the process and to educate myself on what to expect as the preliminary stages of the process. I solicited no support or pledge from either and no support or pledge was given by either.

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.

Sean F Keefer

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

Notary Public for South Carolina

My commission expires: 12/15/20