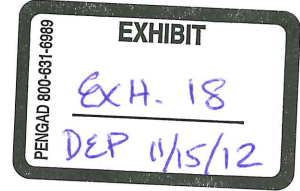


JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Family Court
(New Candidate)

Full Name: David Earl Phillips
Business Address: P.O. Box 8002
Anderson, South Carolina 29622
Business Telephone: (864) 260-4267



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

I believe families are the fabric of our community and that the Family Court Judges of our state have a great opportunity to positively impact each family that comes before the Family Court. I have represented people in Family Court throughout my career practicing law. I began handling private family court cases almost immediately after being admitted to the bar and have represented hundreds of people in diverse private family court matters including divorce, custody, child support, visitation, termination of parental rights and adoption cases. In 2000, I served as the juvenile public defender for Anderson County and personally observed homes and families in crisis. In August 2006, I began serving Anderson County as the juvenile prosecutor for the Tenth Circuit Solicitor's Office. I also have experience representing individuals involved with the Department of Social Services. I believe I can bring this broad range of experience to the Family Court bench, like so many others have throughout the Family Court's history, and positively impact our community by serving the families of our state who are in crisis.

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 except as allowed by rule or statute. During the course of my practice, I have seen the need in emergency situations for *ex parte* communication between a lawyer and the court. My experience has demonstrated such circumstances to be few in number when compared to the large number of cases filed in the Family Court, and the scope of the *ex parte* contact is limited to such communication as is necessary to present the need for emergency relief to the Family Court Judge.

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

A judge should disqualify himself in a proceeding where his impartiality might reasonably be questioned. Family Court Judges are elected by the General Assembly; therefore, the fact that a party is represented by a lawyer-legislator would not alone be a basis for recusal. I would, however, recuse myself in any situation that gave the appearance of impropriety.

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 would grant such a motion to avoid even the appearance of impropriety.

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

I would recuse myself from presiding over cases in which my spouse or close relative had any financial or significant social involvement. In cases where the social involvement was limited, I would disclose such a relationship to all parties. If anyone moved for my recusal, I would grant such a motion.

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

I would not accept gifts or hospitality from anyone who is not a close friend and would not accept any gift from anyone where the gift is not commensurate with the occasion or where accepting such a gift might reasonably appear improper. If an occasion arose where I had doubt as to the propriety of the situation, I would decline the gift and/or hospitality.

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

Misconduct should be reported, and I would do so.

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

I serve as a volunteer member of the board of directors of The Potter's House Family Counseling, a charitable organization which ministers to families (children and adults) in crisis. The organization conducts some fund-raising activities; therefore, I would resign as a member of the board of directors upon election to avoid any implication that my judicial office might be used to assist in the fund-raising efforts of this organization.

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 most cases, I would instruct the attorney for one of the parties to prepare a proposed order and provide it for review to all other litigants prior to submitting the proposed order to me for signing. I would then review the proposed order carefully before signing the order. In appropriate cases, I would draft the order personally.

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

I would maintain a computerized calendar and hold weekly meetings with my staff to be sure deadlines are met in advance.

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 upon appointment of a guardian *ad litem* include in the order of appointment instructions outlining the duties required in the guardian *ad litem* statutes. Additionally, I would require the guardian *ad litem* appointed to submit to the court and the parties an affidavit that he/she has the qualifications to serve in that capacity.

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

I would not engage in judicial activism. I would apply the laws enacted by our legislative branch as construed by our 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 plan to make myself available to speak to organizations and author materials for the benefit of the bar in the area of family 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 am blessed with a very supportive family. Prior to making my decision to seek judicial office, I discussed at length with my family that I would be required to travel to other jurisdictions across the state. My wife and children not only support me but encourage me daily in my pursuit of this office. I plan to communicate with them each day when away from home.

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

I would hold *pro se* litigants to the same rules attorneys are required to follow. I may at times remind *pro se* litigants of their right to seek the representation of a licensed attorney.

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. 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: 30%
 - b. Child custody: 20%
 - c. Adoption: 1%; I have represented clients in enough of these matters to feel comfortable with my knowledge of the law applicable to this type of action. I would maintain competence in this area of law by reviewing appellate court cases dealing with adoption and reviewing the relevant statutes regularly.
 - d. Abuse and neglect: 1%; Most of my experience in this area has come as the result of court appointment. I have represented defendants in lengthy trials in these matters. I have reviewed the relevant statutes and appellate court opinions in these areas to improve my knowledge of this important area of family law.
 - e. Juvenile cases: 20%
25. What do you feel is the appropriate demeanor for a judge?
A judge should be firm but fair and should also be civil to those who come before the court.
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 would always conduct myself according to these rules.
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 do not believe anger is appropriate in a court of law. As members of the bar, we are required to maintain civility in these matters.

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?

I have spent no money at this time on my campaign; however, I will timely supplement my response to this question.

29. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? Not applicable

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.

David Earl Phillips

Sworn to before me this 4 day of August, 2012.

Notary Public for South Carolina

My commission expires: 09/27/14