

1 STATE OF SOUTH CAROLINA)

2 COUNTY OF RICHLAND)

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JUDICIAL MERIT SELECTION COMMISSION

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TRANSCRIPT OF PUBLIC HEARINGS

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BEFORE: G. MURRELL SMITH, JR., CHAIRMAN

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SENATOR LUKE A. RANKIN

10

SENATOR RONNIE A. SABB

11

SENATOR TOM YOUNG, JR.

12

ROBERT W. HAYES, JR.

13

REPRESENTATIVE J. TODD RUTHERFORD

14

REPRESENTATIVE CHRIS MURPHY

15

MICHAEL HITCHCOCK

16

JOSHUA HOWARD

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ANDREW N. SAFRAN

18

ERIN B. CRAWFORD, CHIEF COUNSEL

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DATE: November 14th, 2017

21

TIME: 9:30 a.m.

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LOCATION: Gressette Building

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1101 Pendleton Street

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Columbia, South Carolina 29201

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REPORTED BY: PATRICIA G. BACHAND, COURT REPORTER

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Court Reporter's Legend:

dashes [--] Intentional or purposeful interruption
 ... Indicates trailing off
 [sic] Written as said

1 CHAIRMAN SMITH: We want to welcome everyone
2 to the Judicial Merit Selection Commission. We're going to
3 begin for the day. And we have a number of incumbent
4 judges who are up for reelection, and then we have one, the
5 3rd Judicial -- no, we have -- yeah, in the 3rd Judicial
6 Circuit that we'll be handling today.

7 So before we get started, Mr. Howard moves
8 that we go in executive session. All in favor say "aye."

9 (At this time the members audibly say "aye.")

10 CHAIRMAN SMITH: All opposed?

11 (Hearing none.)

12 CHAIRMAN SMITH: The ayes have it. We're
13 going to go into executive session.

14 (Off the record from 9:49 a.m. to 10:30 a.m.)

15 CHAIRMAN SMITH: Good morning, Judge
16 Griffith.

17 JUDGE GRIFFITH: Good morning, Chairman.

18 CHAIRMAN SMITH: Give us one second. I
19 apologize for making you wait.

20 JUDGE GRIFFITH: Not a problem. It won't be
21 the first time today.

22 CHAIRMAN SMITH: As I say, we run on senate
23 time.

24 JUDGE GRIFFITH: Oh, that's what this is.

25 CHAIRMAN SMITH: All right. Judge Griffith,

1 will you raise you right hand for me, please, sir.

2 WHEREUPON:

3 THE HONORABLE EUGENE CANNON GRIFFITH, JR.,
4 being duly sworn and cautioned to speak the truth, the
5 whole truth and nothing but the truth, testifies as
6 follows:

7 CHAIRMAN SMITH: Judge Griffith, before you,
8 you have your personal data questionnaire and your sworn
9 statement. Are those the documents that you've submitted
10 to the Commission?

11 JUDGE GRIFFITH: Yes, they are.

12 CHAIRMAN SMITH: Are they both correct?

13 JUDGE GRIFFITH: To the best of my
14 knowledge, yes, sir.

15 CHAIRMAN SMITH: And is there anything need
16 to change or update at this time?

17 JUDGE GRIFFITH: I was reviewing it this
18 morning, and the home phone number shown on it, which is
19 blacked out on this copy, I've now cancelled that phone.
20 So other than that, no, sir.

21 CHAIRMAN SMITH: Do you have any objection
22 to us making these documents and any amendments, if
23 applicable, a part of the record of your sworn testimony?

24 JUDGE GRIFFITH: Absolutely not.

25 CHAIRMAN SMITH: All right. If you'll allow

1 Lindi to get that and mark it as exhibit, please, sir.

2 (EXHIBIT NO. 1 - JUDICIAL MERIT SELECTION
3 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THE
4 HONORABLE EUGENE CANNON GRIFFITH, JR.)

5 (EXHIBIT NO. 2 - JUDICIAL MERIT SELECTION
6 COMMISSION SWORN STATEMENT OF THE HONORABLE
7 EUGENE CANNON GRIFFITH, JR.)

8 CHAIRMAN SMITH: All right. Judge Griffith,
9 the Judicial Merit Selection Commission has thoroughly
10 investigated your qualifications for the bench. Our
11 inquiry has focused on nine evaluative criteria, and has
12 included a ballot box survey, a thorough study of your
13 application materials, verification of your compliance with
14 state ethics laws, a search of newspaper articles in which
15 your name appears, a study of previous screenings, and
16 checks for economic conflicts of interest.

17 We have received no affidavits today filed
18 in opposition to your election, and there are no witnesses
19 here to testify today. Do you wish to make a brief opening
20 statement to the Commission before we begin?

21 JUDGE GRIFFITH: I really enjoy the job.

22 CHAIRMAN SMITH: Thank you. That's a good
23 statement. Brevity is the soul of wit, sometimes, isn't
24 it? All right, Mr. Franklin's going to ask you some
25 questions.

1 EXAMINATION BY MR. FRANKLIN:

2 Q. Good morning, Judge Griffith.

3 A. Good morning.

4 Q. After serving eight years on the circuit court,
5 for the 8th Judicial Circuit, why do you want to continue
6 serving as a circuit court judge?

7 A. I've found that this job, the bench is a good fit
8 for my personality. I enjoy educating jurors. I enjoy
9 interacting with litigants. I'm very much a people person.
10 I was raised in a law family. It's just been a good fit.
11 And as I said earlier, I thoroughly enjoy doing what I'm
12 doing and interacting with people.

13 And it's just very rewarding. The challenges are
14 placed there, and it's rewarding with you can help people.
15 Even when they don't prevail, they feel like they were
16 listened to. And that to me is probably one of the most
17 important things I can do is to listen, even though they're
18 on the non-prevailing side. Particularly, the pro se
19 litigants, they appreciate that, I've observed. So that's
20 why I want to continue.

21 Q. Please explain one or two brief accomplishments
22 that you feel you have completed during your tenure, and
23 also a goal you would like to accomplish if reelect -- if
24 reappointed.

25 A. I'd like to get reversed less. Accomplishments?

1 I don't know. I don't think I'd ever thought about that.
2 I think, probably, interacting with the children, educating
3 youngsters would be one of focuses is, I'd like to go to
4 the younger elementary school and middle-schoolers and help
5 them understand the civic responsibility in treating each
6 other with the civility they're entitled to.

7 Because I see a lot of youngsters -- 17-, 18-,
8 and 19-year-olds -- that try to administer justice with
9 violence. And that is probably something I'd like to help
10 impact and minimize. That would probably be a goal I'd
11 have.

12 **Q. You indicated in your PDQ, that at some point you**
13 **were named as a -- in a lawsuit in Lexington County, by a**
14 **plaintiff who claimed sovereign citizenry. The note that**
15 **you made referenced to that suit in your PDQ, quote, "out**
16 **of an abundance of caution." Please explain the nature or**
17 **disposition of the lawsuit.**

18 A. This gentleman owned a condominium for which he
19 did not feel responsible paying a mortgage, and it was
20 foreclosed upon. And there were named defendants who were
21 also creditors to him. And it went on and on. And every
22 time it was assigned to a judge, he didn't plead the judge.

23 And I happened to be the fourth judge that
24 finally got him in a courtroom and ruled on the case. And
25 it was -- I mean, it was -- factually, he had never paid.

1 He wasn't going to pay. He said that. So he was in
2 default, so it was an quite easy decision 'cause there was
3 nothing to challenge, other than he was challenging the
4 court's authority to hear his case.

5 So after ruling on that, he then named me in a
6 federal lawsuit, I believe, challenging my appointment and
7 authority as a judge, so I was told. I was never served
8 with the lawsuit, so that's why I said "out of an abundance
9 of caution."

10 I don't know that he ever filed it, because
11 filing fees were optional to him also. He was quite the
12 handful. I mean, he asked about the fringe on the American
13 flag behind me, "Why is the fringe -- he had all sort of
14 quirky things that he thought were impactful of my ability
15 to hear the case. So he was just quite well-read on the
16 sovereign citizenry websites.

17 **Q. Judge Griffith, what do you believe your**
18 **reputation is among court personnel, and attorneys that**
19 **practice before you?**

20 A. You know, that's probably one of the most
21 difficult things as a judge you do, 'cause everybody's nice
22 to you 'cause they want to feel that way. But the court
23 personnel that I've gotten to know, and I get a sincere
24 feeling for it, because I'm good at reading people, that I
25 believe that I am well thought of.

1 And I've had some acts of kindness done for me,
2 and that would tell me that I'm well thought of among the
3 litigants, as well as the court personnel.

4 And I'm always a focus -- I was a law clerk to
5 Judge Moore before he went to Supreme Court, and I remember
6 -- we didn't ever hold court in Greenwood while he was
7 running elsewhere. He knew the name of every single court
8 personnel. And I'm, "How do you do that?"

9 Well, he just got to know them. And so I made a
10 point to do the same thing. and I think that makes a
11 difference, 'cause you know who they are and where they
12 live, and if they're married or have grandkids and that
13 kind of thing. You interact with them.

14 And being a people-person, that comes easy to me.
15 So I think I'm well thought of in that regard.

16 **Q. Judge Griffith, the Commission received 437**
17 **ballot box surveys regarding you, with 17 additional**
18 **comments. The ballot box survey, for example, contained**
19 **the following positive comments:**

20 **"Judge Griffith has an excellent judicial**
21 **temperament and is a man of utmost integrity. Judge**
22 **Griffith is a practical, open-minded and fair judge. We**
23 **need to clone -- we need him to clone himself. Judge**
24 **Griffith's compassion, humor and kindness from the bench**
25 **towards attorneys, defendants and victims alike, is very**

1 rare and much appreciated by all." And "Judge Griffith
2 treats every individual he meets with kindness and respect.
3 He has a reputation for being exceedingly patient, and for
4 taking a practical approach when it comes to legal issues.
5 He is efficient with court time, but makes litigants feel
6 like they've had more than enough time to argue their
7 positions."

8 However, two of the written comments expressed
9 concerns, both of which seemed to relate to fairness, in
10 that you were swayed, allegedly, by political connections.
11 What response would you offer to this concern?

12 A. When you're presiding, you've got to make calls.
13 And, generally, you get under a minute to make decisions,
14 and there are -- and the next decision is before you,
15 before you know it. And I do my best to call it fairly. I
16 try to call the balls and strikes the way I see them. And
17 sometimes people just have bad cases, and if -- you've got
18 to rule against, and that's just the way it is.

19 And unhappiness of getting ruled against, I've
20 been in those shoes before. The seat I have, Judge Johnson
21 ruled against me several times. And I never enjoyed being
22 ruled against, but I respected him for making a proper
23 call. 'Cause I don't think he missed many with me either.

24 But I don't believe I'm swayed by influences of
25 that type. However, the perception could be there. And I

1 think that's one of our jobs is to try to minimize that
2 perception, that there's a favored side or something in the
3 courtroom, because I try to minimize that as much as
4 possible.

5 **Q. Judge Griffith, you have served as chief**
6 **administrative judge for the 8th Circuit for a number of**
7 **years, I believe it's six. What challenges do you face as**
8 **chief administrative judge?**

9 A. I think the biggest problem we have right now is
10 the General Sessions' docket in the 8th Circuit. It's not
11 in good shape, particularly in two -- the two bigger
12 counties. Having warm bodies and boots on the ground to
13 get things done, and people to talk to, is probably the
14 biggest challenge.

15 But getting that -- those two dockets, the
16 Greenwood and the Laurens docket in the 8th Circuit, which
17 they're far and away our biggest two counties, population-
18 wise and docket-wise.

19 Getting people into the courthouse, and status
20 conferences and communicating and talking, and to some
21 extent removing -- minimizing some of their acrimony they
22 have toward one another. Some of the counties you go to
23 and hold court, the public defender's office and the
24 private bar, and the prosecutors they disagree but they get
25 along.

1 In some counties you go to, they disagree and
2 don't get along, and those are the ones you have the most
3 trouble with. I try to get them in the same room and iron
4 out some of those hard feelings that have come about,
5 because you didn't provide me discovery in a timely manner,
6 you gave me late notice on that trial, that wasn't a fair
7 offer. Whatever it is, there's something there the
8 acrimony came from.

9 But that's probably the biggest challenge I face
10 in the 8th Circuit. And I don't know if it's good news or
11 bad news, but I'm going back to the 11th Circuit in January
12 to manage that general sessions roster, which is just fine.
13 But it's a different situation over there. So that's what
14 I think about the 8th Circuit.

15 **Q. And just for the record, I did some math. Since**
16 **2012 -- you mentioned that you wished you had been reversed**
17 **less. But since 2012, your cases have been appealed 52**
18 **times. Of those appeals 43 were affirmed on appeal, and**
19 **five were reversed, one was affirmed and part -- reversed**
20 **in part, and three were dismissed.**

21 **Now for a few housekeeping issues. Judge**
22 **Griffith, since submitting your letter of intent, have you**
23 **contacted any members of the Commission about your**
24 **candidacy?**

25 **A. No.**

1 Q. Since submitting your letter of intent, have you
2 sought or received the pledge of any legislator, either
3 prior to this date or pending the outcome of your
4 screening?

5 A. No, sir.

6 Q. Have you asked any third parties to contact
7 members of the General Assembly on your behalf, or are you
8 aware of anyone attempting to intervene in this process on
9 your behalf?

10 A. No, I have no idea of anybody doing that.

11 Q. Have you reviewed and do you understand the
12 Commission's guidelines on pledging and South Carolina Code
13 Section 2-19-70(E)?

14 A. Very familiar with that.

15 MR. FRANKLIN: I would note that the
16 Piedmont Citizens Committee reported that Judge Griffith as
17 well qualified in the evaluative criteria of ethical
18 fitness, professional and academic ability, character,
19 reputation, experience and judicial temperament, and
20 qualified in the remaining evaluative criteria of
21 constitutional qualifications, physical health and mental
22 stability.

23 I would also note for the record that any
24 concerns raised during the investigating -- investigation
25 regarding Judge Griffith, were incorporated into the

1 questioning of the candidate today. Mr. Chairman, I have
2 no further questions.

3 CHAIRMAN SMITH: Thank you, Mr. Franklin.
4 Judge I've neglected to recognize that you've brought
5 someone with you. Would you like to introduce her to the
6 Commission?

7 JUDGE GRIFFITH: That young lady is my
8 current law clerk. She recently married. It is Lauren
9 Glazer, now Trask. She used to be an intern for the
10 screening committee, and worked for several of the
11 attorneys here. And so she is currently by law clerk, and
12 was sworn in as a member of the Bar yesterday.

13 CHAIRMAN SMITH: Well, congratulations,
14 Lauren. And Ms. Crawford over here made sure that we I --
15 that we were going recognize you, so we appreciate you
16 being here. And thank you for your past work to the
17 Commission.

18 Is there any questions for Judge Griffith? Mr.
19 Sabb.

20 EXAMINATION BY SENATOR SABB:

21 **Q. Judge Griffith, first of all, thank you for your**
22 **service. And I've not had the fortune of appearing before**
23 **you, but I'm impressed by your demeanor. And you do come**
24 **across as a peoples' person, and so I'm curious about your**
25 **sentencing philosophy.**

1 One of the things that the General Assembly has
2 been focused on is reducing the prison population, and so
3 you've got a wide range of experience in terms of being a
4 trial lawyer, both civil and criminal. And now you've got
5 perspective from the bench, so I just wonder whether you
6 might share a few comments with us with regard to that.

7 A. It's pretty simple. I want to know prior record,
8 if there's a possibility -- I always think there's probably
9 not -- very, very few truly evil people in the world;
10 they're mostly people that make dumb decisions, or are
11 influenced by others to make dumb decisions, or get caught
12 up in an addiction situation.

13 I want to give anybody with a minimal prior
14 record an opportunity to learn from what they've done
15 wrong, and have a chance. So I'm probably on a
16 diversionary program, probationary counseling, let's find
17 out what the problem is so we can perhaps give you some
18 tools that you can better yourself.

19 Because when you're -- now, this is young people
20 18 to 25 -- I'm probably looking at the younger ones,
21 'cause that's half the roster I've got -- is I want them to
22 have an opportunity and to learn that they just screwed up,
23 but they have an opportunity to get out of that if they can
24 work.

25 And I preach from the bench education, education,

1 education to these youngsters that don't have it. And I
2 tell them regularly, "You get an education, you get a
3 skill, you can't lose it. Nobody can take it from you.
4 Nobody can trick you out of it. You can't have it
5 repossessed. It's yours. It's truly something that's
6 yours. And if it can benefit you becoming a better person
7 and a provider for your family, then that's what I want to
8 do."

9 Now, contrast that with somebody that comes in
10 and they've had three or four or five chances, and they're
11 continually going down the road of making bigger mistakes
12 and bigger problems, they're going to get less
13 consideration for that. And they're going to get a little
14 heavier handedness from me, because I believe they've had
15 their chances.

16 Repeat offenders, they need a little more
17 attention. And, unfortunately, cold steel sometimes is the
18 only thing to get that attention. But my philosophy is, if
19 you've got a minimal prior record, and you get a sense that
20 the victim wants to be repaid or made whole, if that's a
21 consideration -- sometimes it is on property crimes -- that
22 you can explain to them, "This is the way to go."

23 A little taste, you know, a short 45 days, 90
24 days, something minimal, probation, supervision, get back
25 on your feet and do things better -- do better the next

1 time. That's kind of my philosophy. The evil people,
2 they're easy. That's a lot easier to sentence somebody
3 that's truly evil.

4 SENATPR SABB: Thank you, Mr. Chairman.

5 CHAIRMAN SMITH: Thank you. Any further
6 questions?

7 (Hearing none.)

8 CHAIRMAN SMITH: Judge let me just say --
9 I'm looking though some of your comments, and the one thing
10 that strikes me, and it's a rarity what we see with sitting
11 judges, and you've been on the bench for eight years, is
12 that there's numerous positive comments, "A great judge, a
13 huge asset to South Carolina."

14 And the only -- and the only criticisms are
15 that there may be political connections or home-cooking,
16 but there's no -- there's no criticisms of your
17 temperament. And that's rare and that's a attestation of
18 the way you conduct your court.

19 So I want to congratulate you on that. I have
20 not appeared you, that I'm aware of, and as Mr. Sabb said,
21 but obviously where you're appearing, you're making a great
22 impact on the lawyers in the way they think of you. And I
23 think you ought to be commended for that.

24 So I appreciate what you're doing for South
25 Carolina and for the state and --

1 JUDGE GRIFFITH: Thank you.

2 CHAIRMAN SMITH: -- especially upholding the
3 esteem of the judiciary.

4 JUDGE GRIFFITH: Thank you.

5 CHAIRMAN SMITH: Mr. Rutherford.

6 REPRESENTATIVE RUTHERFORD: Mr. Chairman, I
7 have tried a case, it went for about two weeks in front of
8 Judge Griffith, and I can tell you he treated everybody in
9 the room with the utmost respect. The juries and -- the
10 jurors enjoyed it. Everybody enjoyed it. And if there was
11 any home cooking, I wasn't the benefit of it. So I don't
12 know where that came from. But Judge, you're doing a great
13 job. And I appreciate it.

14 JUDGE GRIFFITH: Thank you.

15 CHARIMAN SMITH: Senator Young.

16 SENATOR YOUNG: Thank you, Mr. Chairman.

17 EXAMINATION BY SENATOR YOUNG:

18 Q. Judge Griffith, I, too, want to just tell you how
19 much we appreciate your service. I've had the opportunity
20 to appear in front you, multiple times, and you've always
21 conducted yourself in just an outstanding manner from the
22 bench. And I've never heard anyone say anything negative
23 about you, to me, or in my presence.

24 And I would just ask you, if you could -- if you
25 could just tell us, if you were going to share some

1 thoughts with some new circuit judges, what would be some
2 of the things that you would tell those new circuit judges,
3 from the years that you've been on the bench so far?

4 A. Don't take yourself too seriously. You're just a
5 man, or a lady, making decisions that impact other peoples'
6 lives. And remember that. You're impacting people every
7 time they appear in front of you. And so they want to feel
8 -- you know, I said this earlier, everybody wants to feel
9 like they were heard. Whether they get ruled in favor of
10 or ruled against, they want to feel like they had a fair
11 shot.

12 And if you give them that, I always find people
13 feel, "Well, you know, I didn't win, but I know he heard
14 what I said. And I understand 'cause he kind of explained
15 why he had to do it this way or that way."

16 And so that probably to me -- and temperament, I
17 don't know. Hesitate before you respond. Don't jerk the
18 wheel and run the car in a ditch. I don't know exactly how
19 to explain that. But the being patient enough and let
20 everybody feel like they were heard is probably, to me, the
21 best advice.

22 It's something I noticed as a -- as a lawyer.
23 When I didn't get heard, I left the courtroom unhappy. And
24 I said, "If I'm ever becoming a judge, I'm not going to do
25 that to somebody." And I really made it a point to not do

1 that.

2 So that's probably my best advice to the judges
3 that I get to train. And I'm part of the committee that
4 now gets to train the younger judges, and so I do that. I
5 tell them that.

6 CHAIRMAN SMITH: Mr. Safran.

7 EXAMINATION BY MR. SAFRAN:

8 Q. Judge, we appreciate you being here. And you
9 just talked about something that I wanted to at least let
10 you touch on for the record. You were in the courtroom,
11 and you had, from what I see, a very long and multifaceted
12 practice over a period of years.

13 Explain to us how much you feel like that
14 prepared you to be the kind of judge, now, that everybody
15 has pretty glowing comments about. I mean, how essential
16 is that to being able to do what you're doing now, in the
17 way that you're doing it?

18 A. Oh, I think it made me who I am. I mean, my dad
19 was a -- was a lawyer for years. And he passed away at the
20 end of my second year of law school, and I was going to go
21 home and practice with him and he was going to teach me.
22 And went back to his empty office and cut the lights on and
23 waited for the phone to ring.

24 And a few months later, a lady came in and -- you
25 know, I was hungry. I wanted to be in courtroom. I wanted

1 to do something. I like the courtroom, because I had been
2 a clerk for two judges. But the lady came in, and she
3 said, "Are you the lawyer that's people pay along?"

4 I said, "Yes, I am."

5 "'Cause I don't have all the money, but can I pay
6 you along?"

7 "Sure." Well, I was in a position of being a
8 sole practitioner, you're doggone right she can pay along.
9 "Come on in here. I mean, what do you need?"

10 And so learning to figure out what peoples' needs
11 were is -- I realized pretty quick, they just wanted
12 somebody to listen and to believe they had their back. And
13 so I specialized in paying clients who could pay along, and
14 what came in the door is what I ended up taking.

15 And, you know, my practice grew. And I did city
16 attorneys' work, and I did some utility work, and then I
17 did a lot of criminal defense. And I got a lot better at
18 divorces than I wanted to be. But that's what a small town
19 practice does is, it gives you a huge variety of people.

20 And knowing they don't -- they walk in your door
21 'cause it was the worst thing going in their life, that
22 they had to come see you. And when they come in the
23 courtroom, I generally have an idea that they've got no
24 other choice but to be there. And they don't want to be
25 there, it's a trial.

1 And so my coming along as I did, I was kind of
2 forced to, I think that impacted the way I receive people
3 in the courtroom. Is that --

4 **Q. Yeah. For the better.**

5 A. Yes. I hope so.

6 **Q. And I guess there's the fact that you had the**
7 **opportunity to gain experience, over the course of years,**
8 **in all these different areas, did he make you a better**
9 **judge?**

10 A. I'd like to think so.

11 **Q. Well, apparently, the people who come in front of**
12 **you think so. So I mean, I'm assuming you feel like that**
13 **really is kind of invaluable --**

14 A. Yes.

15 **Q. -- is in order to be able to do what you do to**
16 **the level --**

17 A. You know, I've wondered. I've had other judges
18 ask me, from time to time, "Oh, I got a case coming in
19 about this, and so I've never done one like that. What do
20 you do? I didn't practice that."

21 I'll say, "Well, come here. I'll kind of lay it
22 out for you." You know, it's -- yeah, it helps a lot,
23 'cause I've see a lot.

24 **Q. Thank you very much.**

25 CHAIRMAN SMITH: All right. Any further

1 questions?

2 (Hearing none.)

3 CHAIRMAN SMITH: Judge Griffith, we
4 appreciate it. I'm glad that you're one of the judges who
5 are teaching -- or mentoring the new judges. And we've
6 heard from that, we heard from Justice Kittredge,
7 yesterday, about the importance of that, and the importance
8 of training our judiciary and upholding the integrity. And
9 I feel a whole lot better knowing that you're one of the
10 ones that are leading that.

11 So I would encourage you to keep that up.
12 You have a gift of having attorneys and litigants feel
13 welcomed, and knowing how to treat them. And it would be
14 great if you continued to impart that wisdom upon some of
15 the new judges that you may see coming though.

16 JUDGE GRIFFITH: I'll do my best.

17 CHAIRMAN SMITH: Thank you. All right.
18 Judge Griffith, this concludes the portion of your
19 screening process. I want to take this opportunity to
20 remind you that, pursuant to the Commission's evaluative
21 criteria, the Commission expects candidates to follow the
22 spirit as well as the letter of the ethics laws. And we
23 will review violations or the appearance of impropriety as
24 serious, and potentially deserving of heavy weight in
25 screening deliberations.

1 On that note, and as you know, the record
2 will remain open till the formal release of the report of
3 qualifications, and you may be called back at such time if
4 the need arises. I thank you for offering. And I thank
5 you for your service to the state of South Carolina.

6 JUDGE GRIFFITH: Thank you, sir. Thank you
7 all.

8 CHAIRMAN SMITH: Thank you Judge.

9 (Candidate excused.)

10 CHAIRMAN SMITH: Good morning, Judge
11 Sprouse.

12 JUDGE SPROUSE: Good morning.

13 CHAIRMAN SMITH: All right. Judge Sprouse,
14 will you raise you right hand, please.

15 WHEREUPON:

16 THE HONORABLE R. SCOTT SPROUSE, being duly
17 sworn and cautioned to speak the truth, the whole truth and
18 nothing but the truth, testifies as follows:

19 CHAIRMAN SMITH: Judge Sprouse, before you,
20 you have your personal data questionnaire and the sworn
21 statement that have been submitted to the Commission. Are
22 they both correct?

23 JUDGE SPROUSE: They appear to be so.

24 CHAIRMAN SMITH: And those are what you
25 submitted to the Commission, right?

1 JUDGE SPROUSE: Yes, sir.

2 CHAIRMAN SMITH: Do you have anything that
3 needs to be changed or updated at this time?

4 JUDGE SPROUSE: No.

5 CHAIRMAN SMITH: All right. If you'll give
6 that to Lindi for me, please. And they're already marked
7 as exhibits. We'll make them part of the record. Do you
8 have any objection to those documents and any amendments,
9 if applicable, to be made a part of the record of your
10 sworn testimony?

11 JUDGE SPROUSE: No.

12 (EXHIBIT NO. 3 - JUDICIAL MERIT SELECTION
13 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THE
14 HONORABLE R. SCOTT SPROUSE)

15 (EXHIBIT NO. 4 - JUDICIAL MERIT SELECTION
16 COMMISSION SWORN STATEMENT OF THE HONORABLE R.
17 SCOTT SPROUSE)

18 CHAIRMAN SMITH: All right. The Judicial
19 Merit Selection Commission has thoroughly investigated your
20 qualifications for the bench. Our inquiry has focused on
21 nine evaluative criteria, and has included a ballot box
22 survey, a thorough study of your application materials,
23 verification of your compliance with state ethics laws, a
24 search of newspaper articles in which your name appears, a
25 study of previous screenings, and checks for economic

1 conflicts of interest.

2 We have received one affidavit filed by
3 George Cleveland, in opposition to your election. However,
4 the Commission has dismissed that complaint. There are no
5 witnesses that are present to testify. Do you have a brief
6 opening statement that you wish to make to the Commission?

7 JUDGE SPROUSE: Yes, sir. I was elected in
8 May of 2014, took the bench in January of 2015, it has been
9 a tremendous experience. I travel the state. I've seen
10 some of the best lawyers in the state try cases. I've
11 gotten to see communities and courthouses I had never seen
12 before, and met some of the best people in the clerk's
13 offices throughout the state.

14 This has been truly a wonderful experience,
15 and that's why I'm seeking reelection. And I'll be happy
16 to answer any questions the Commission may have for me.

17 CHAIRMAN SMITH: And, Judge Sprouse, I see
18 you brought someone with you today. Would you like to
19 introduce them to the Commission?

20 JUDGE SPROUSE: This is Ford Thrift, my law
21 clerk, who had the pleasure of being down here, yesterday,
22 to be sworn in after passing the Bar. So we're very proud
23 of him.

24 CHAIRMAN SMITH: Congratulations, Ford.
25 Thank you for coming today.

1 MR. THRIFT: Thank you.

2 CHAIRMAN SMITH: All right. Any questions
3 for Judge Sprouse?

4 (Hearing none.)

5 CHAIRMAN SMITH: Oh, I'm sorry. I'm trying
6 to -- we're trying to move along. All right. Mr. Pearce
7 is going to ask you some questions, Judge Sprouse. You're
8 not going to get off that easy.

9 JUDGE SPROUSE: Oh, okay.

10 MR. PEARCE: Thank you, Mr. Chairman.

11 EXAMINATION BY MR. PEARCE:

12 Q. Judge Sprouse, good morning. Good to see you.

13 A. Good morning.

14 Q. I think you've addressed this, but just so you
15 have another opportunity: After serving as a circuit court
16 judge, since January of 2015, do you care to share with the
17 Commission why you want to continue to serve as a circuit
18 court judge?

19 A. Put simply, I really enjoy my job. This is --
20 this is, again, a job that I get to see really good lawyers
21 in action. It's a -- it's -- certainly, like any job,
22 there are days that are not enjoyable. But I have had a
23 wonderful experience up to this point. And I really wish
24 to continue, and hopefully will continue, in that.

25 Q. Do you care to share with us, briefly, one or two

1 **accomplishments you feel you've completed during your time**
2 **as a circuit court judge, and a goal that you would like to**
3 **accomplish if reelected?**

4 A. I believe that our court has become more
5 efficient. I have managed our dockets where our numbers
6 have improved. We are now first on the graph produced by
7 court administration. I just saw the October numbers that
8 just came out, and we're in the 94th percentile on our
9 benchmark on civil cases. We are at 74 percent on general
10 sessions, which is an improvement. We've still got a
11 little ways to go, but we're getting better.

12 CHAIRMAN SMITH: Judge, let me interrupt
13 you. I'm sorry. Did I swear you in?

14 JUDGE SPROUSE: Yes, sir.

15 CHAIRMAN SMITH: Okay. I'm sorry, they
16 don't have any confidence in my ability to lead. Sorry to
17 interrupt you. They were all bringing that to my
18 attention. I apologize.

19 BY THE WITNESS:

20 A. But our numbers are getting better. I think we
21 manage our dockets well, without being, for the lack of a
22 better term, tyrannical about it. We've made progress.
23 And we've got a new solicitor in place. We had an
24 unfortunate situation in our circuit, that our solicitor
25 was terminally ill when I took the bench. And she was a

1 wonderful person. She had cancer. And she died and we had
2 a campaign to get through. Now we have a new solicitor who
3 is doing a really good job.

4 We also have a new public defender and they are -
5 - they're doing a good job too. The two work well
6 together. And that's -- that's been very pleasing to me to
7 see that the public defender and solicitor are managing
8 cases well together. So we've still got some work to do,
9 but we're making good progress.

10 **Q. Judge, what do you think your reputation is among**
11 **attorneys that practice before you, as well as with the**
12 **court personnel who work with you?**

13 A. Well, I think it's as someone that's easy to work
14 with. Again, the attorneys can approach me if they have
15 problems. Again, we want to move dockets. But if an
16 attorney has an issue that they need a case continued, or
17 there's some problem, I'm certainly going to do my best to
18 accommodate that without letting the system be abused.

19 But I believe that the court is approachable. I
20 try to make the court to where the attorneys have a good
21 experience in court. Even if they don't prevail on an
22 issue, I make a point to make sure everyone is heard.

23 Nothing was more disheartening as an attorney, in
24 the years that I practiced law before becoming a judge,
25 than to go to court and feel like the judge had not paid

1 any attention at all to what we presented. And then having
2 a client ask you out in the lobby, or say, "Well, he didn't
3 even look at our stuff." You know, that's frustrating as a
4 lawyer. So I've made a point as a judge to, even if
5 someone's not going to prevail, to give them every
6 opportunity to be heard.

7 Q. Judge, this Commission received 329 ballot box
8 surveys regarding you. Sixteen of those surveys had
9 additional comments. The ballot box survey, for example,
10 contained the following positive comments:

11 "Excellent judge. Always respectful and fair.
12 Always a pleasure to appear in his court. Thoughtful.
13 Evenhanded. Listens. Extremely professional and liked by
14 all attorneys. Willing to listen respectfully to all
15 parties. Objective, knowledgeable, and courteous to the
16 litigants and the lawyers. Always prepared. Outstanding
17 courtroom demeanor," and "he has always been well prepared
18 and a true gentleman in both a professional and
19 nonprofessional setting."

20 In addition to the positive comments, one person
21 expressed concerns, saying that you seemed to play
22 favorites, or were arrogant. What response would you offer
23 to this one expressed concern?

24 A. I have no idea where that comes from. And it --
25 who know -- I don't -- obviously, it's an anonymous survey,

1 so I don't know who said that. It may have something to do
2 with a lawyer that's still angry about something that
3 happened years ago, or something from my firm. I don't --
4 I don't have any idea, but that's just -- I would think
5 that's a -- that's a complete aberration.

6 **Q. As you shared with us, Judge, you were last**
7 **screened in 2014. At the time you were screened, you said**
8 **that you believed it would be important for you to learn**
9 **more about the court system in the areas of case management**
10 **and roster management. What can you share with the**
11 **Commission, today, about that work that you undertook?**

12 A. Like I mentioned earlier, the first thing I did
13 when I took the bench is I looked at our numbers. And,
14 again, we were in a unique situation as far as general
15 sessions, because of the situation with our solicitor. So
16 that's been a little harder to work on.

17 We were already good on the common pleas' side.
18 One thing that I had found, that has been tremendously
19 helpful, is e-Filing. And I don't know if everyone here is
20 from a circuit that has gone to e-Filing. But it has been
21 a really good system for the -- I know, for the 10th
22 Circuit. And I know the people I talk to, statewide, like
23 it as well once they get used to it.

24 There's a learning curve. But it enables filings
25 from any location, it enables -- from the courts

1 perspective, if I have a hearing, I can look at the entire
2 file; it's at my fingertips without -- well, I'll just give
3 you an example:

4 When I started, my law clerk would have to go to
5 the clerk's office and roll the little cart up with all the
6 files on the cart. And even if they were a default
7 judgement case, sometimes the file -- especially, if it is
8 was a debt collection case, the file would be several
9 inches thick because of all the exhibits in it. And now
10 all of that's at your fingertips on your computer.

11 So that's made our case management system much
12 easier. And I understand it's in approximately half the
13 counties now are on e-Filing. The Chief Justice talked to
14 us the other day about it, and it's moving to other parts
15 of the state. And, again, once you get used to it, you'll
16 like it.

17 **Q. Also, Judge, at your screening you stated that**
18 **your commitment to the need of coordinating court terms**
19 **with clerk's accord and solicitors to ensure the common**
20 **pleas non-jury, or jury terms and general sessions terms**
21 **flowed well. How have you implemented your commitment to**
22 **this goal?**

23 A. Well, I tell the folks -- I sound like a broken
24 record. And of course I date myself when I use the term
25 "broken record." But if we don't use the time court

1 administration gives us, we're going to get it taken away.

2 So one thing we do is, we have a backup docket.
3 For instance, this week I was supposed to have a term of
4 common pleas in Anderson. Every jury trial has either
5 settled, or there's been some issue that they've been
6 continued. So we're proceeding to non-jury.

7 We're doing motions and settlement hearings and
8 various non-jury things that are on standby when the jury
9 docket falls apart. I found that's a very efficient way to
10 make use of the week so that -- and sometimes it's
11 unavoidable, you have a term of court that just falls
12 apart.

13 And I know court administration needs the court
14 reporters. if you have a term that falls apart, because we
15 have a dire shortage of court reporters statewide. But we
16 do our best to make use of the time that's given us.

17 **Q. Judge, thank you. I do have some housekeeping**
18 **issues to go over with you as well. Since submitting your**
19 **letter of intent, have you contacted any members of the**
20 **Commission about your candidacy?**

21 A. No.

22 **Q. Since submitting your letter of intent, have you**
23 **sought or received the pledge of any legislator, either**
24 **prior to this date or pending the outcome of your**
25 **screening?**

1 A. No.

2 **Q. Have you asked any third parties to contact**
3 **members of the General Assembly on your behalf, or are you**
4 **aware of anyone attempting to intervene in this process on**
5 **your behalf?**

6 A. No.

7 **Q. Have you reviewed and do you understand the**
8 **Commission's guidelines on pledging and the South Carolina**
9 **Code Section 2-19-70, subpart E?**

10 A. I am.

11 MR. PEARCE: I would note that the Upstate
12 Citizens Committee gave Judge Sprouse its highest ratings,
13 well qualified as to ethical fitness, professional and
14 academic ability, character, reputation, experience, and
15 judicial temperament. The Committee found Judge Sprouse to
16 be qualified as to constitutional qualifications, physical
17 health and mental stability.

18 I would note for the record that any concerns
19 raised during the investigation regarding this candidate,
20 were incorporated into my questioning of him today. Mr.
21 Chairman, that's all the questions I have.

22 CHAIRMAN SMITH: Thank you, Mr. Pearce. Any
23 questions by the Commission of Judge Sprouse? Senator
24 Young.

25 SENATOR YOUNG: Thank you, Mr. Chairman.

1 EXAMINATION BY SENATOR YOUNG:

2 Q. Judge Sprouse, I want to thank you again for your
3 service and for your interest in continuing your service as
4 a circuit judge. I do want to compliment you on what I
5 read in some of the materials, in your sworn statement in
6 particular, as to the Matters Under Advisement list that
7 you maintain; and it's your goal to ensure that those
8 matters are dealt with within thirty days, that you take
9 under advisement.

10 And I also want to tell you that I also noted
11 that you were the chief administrative judge in the 10th
12 Circuit last year, and that your circuit -- or the 10th
13 Circuit is leading the state in common pleas court cases
14 being resolved within 365 days. I wanted to compliment you
15 on that as well.

16 If you were asked -- and you've been a circuit
17 judge for five years?

18 A. Three years.

19 Q. Three years. Okay.

20 A. Well, three years this January.

21 Q. Okay. So for less than five years, if you were
22 to -- if you were asked to share with new circuit judges,
23 some thoughts from your first few years on the bench, what
24 would those be?

25 A. Well, the first is that your life changes.

1 There's a reason that court administration sends you out of
2 circuit when you start, because it changes when you're
3 presiding over cases with people who've been your friends
4 for a long time, the lawyers you've handled cases with.
5 And you have to -- you take a different role at that point.

6 You have to manage the docket. And it takes a
7 while to get used to the new feeling. But it works out,
8 and I found that the Bar is appreciative when you act in a
9 professional manner.

10 And I would tell the new judges that people will
11 see how you act on different facets of the job. Before
12 they plan how they're going handle their cases, they're
13 going to see if you are a -- and for instance, in criminal
14 court, they're going to want to watch you and see who you
15 sentence.

16 They're going -- it's fascinating. The lawyers
17 pay attention to what you do, and the lawyers prepare their
18 cases accordingly. Because every judge is a little
19 different. So I would tell the new judges it's a -- it's a
20 process that you -- and, again, I've just been on the bench
21 January, three years. So you never quit learning.

22 And I learn something new every day. And I'm
23 sure when -- if I have the privilege to serve longer, at
24 the end of my term I'll still be learning things.

25 CHAIRMAN SMITH: All right. Thank you. Any

1 further questions for Judge Sprouse?

2 (Hearing none.)

3 CHAIRMAN SMITH: Judge Sprouse, I'd just
4 like to bring to your attention a couple things. And I
5 know these are anonymous surveys, and they are -- and they
6 are from members of the Bar, the ballot box. But I can
7 tell you, I put stock in these because these are people who
8 can do it anonymously; they don't have any retribution.
9 And they seem to speak more freely in that manner.

10 And I was just looking through this and
11 impressed with some of your characteristics of three years
12 on the bench. You have -- of all the people that find you
13 -- your judicial temperament unqualified, is one. One out
14 of all those ballot box surveys. And that's very unusual
15 in what we see here.

16 And that speaks a lot towards your character
17 and the way you're handling yourself as a circuit court
18 judge. I think temperament is probably one of the most
19 important attributes to be possessed by a circuit court
20 judge.

21 We all know what it's like to have an
22 intemperate circuit court judge, and then we know what a
23 pleasure it is to be before someone that makes it easy on
24 the lawyers. And, obviously, you're that type of judge.
25 And I just want to commend you for that.

1 And we've been saying all week to judges is
2 -- you know, it's not -- you're not only representing
3 yourself when you're on the bench. When you're out there
4 dealing with lawyers and litigants and jurors, you're
5 representing the judiciary and the integrity of the
6 judiciary.

7 So just looking through all these comments
8 you have some zero as unqualified, and ones and twos. And
9 that's highly unusual. And that's a testament of the job
10 that you are doing. And I want to bring that to your
11 attention 'cause we -- you need to be complimented when
12 you're doing a good job. I'm a believer in that. And so -
13 -

14 JUDGE SPROUSE: Thank you.

15 CHAIRMAN SMITH: I thank you for what you
16 are doing, and for your work. and I would urge you to keep
17 up that good work. And I know it's not easy, and there's
18 no quantitative measure that we can do this, but I assure
19 you if you were not conducting yourself in a -- in a manner
20 like this, it would be all over these comments. So
21 congratulations on that.

22 JUDGE SPROUSE: Thank you.

23 CHAIRMAN SMITH: Mr. Safran.

24 EXAMINATION BY MR. SAFRAN

25 **Q. Judge, just briefly, to kind of followup on what**

1 the chairman said. You've got about three years now that
2 you've transitioned. Do you still, though, have the sense
3 of how it was to be a lawyer, in how you were treated and
4 how you would wish to be treated as a lawyer from a judge?

5 A. Absolutely. Absolutely. And I can -- I can say
6 when I got out of law school, we had a different type of
7 judge on the bench, generally. We still had some folks
8 that if they didn't like you, court was a miserable place
9 to be.

10 And, fortunately, our judiciary today, we don't -
11 - we don't have the same type of personalities on the bench
12 that there were back then. But I understand that
13 practicing law is a difficult job. It is. A lawyer has to
14 maintain all the standards and professionalism that being a
15 lawyer requires, and at the same time a lawyer has to run a
16 business.

17 And it's a two-front war every day when you're a
18 lawyer. So I haven't forgotten that. And, again, I'm
19 going to do my best to uphold the judiciary, and make sure
20 our courts run, but I'm not going to be unreasonable to a
21 lawyer that's having a legitimate problem. I have not
22 forgotten that.

23 Q. And just along those same lines. Do you find
24 that the fact that you had years of experience in different
25 courts, doing different things, has really proven to be an

1 **asset for you being on the bench now?**

2 A. Absolutely. And it all fits together like a --
3 like a puzzle. Being in private practice, handling various
4 cases helps. Being a municipal judge for 18 years, that
5 gave me another aspect. 'Cause I do a lot of non-jury
6 things as well.

7 And dealing with pro se litigants. Most of the
8 people that have appeared in front of my court, in
9 municipal court, were pro se litigants. So every aspect of
10 the experience has helped in some way.

11 **Q. Thank you very much.**

12 CHAIRMAN SMITH: Thank you. Any further
13 questions for Judge Sprouse?

14 (Hearing none.)

15 CHAIRMAN SMITH: Judge Sprouse, thank you so
16 much. This will conclude your portion of the screening
17 process. I want to take this opportunity to remind you
18 that pursuant to the Commission's evaluative criteria, the
19 Commission expects candidates to follow the spirit as well
20 as the letter of the ethics laws. And we will review
21 violations or the appearance of impropriety as serious, and
22 potentially deserving of heavy weight in screening
23 deliberations.

24 On that note, and as you know, the record
25 will remain open until the formal release of the report of

1 qualifications, and you may be called back at such time if
2 the need arises. I thank you for offering. And I thank
3 you for your service to the state of South Carolina.

4 JUDGE SPROUSE: Thank you.

5 (Candidate excused.)

6 CHAIRMAN SMITH: Good morning, Judge
7 Keesley.

8 JUDGE KEESLEY: Good morning, Mr. Chairman.

9 CHAIRMAN SMITH: Will you raise your right
10 hand, please.

11 WHEREUPON:

12 THE HONORABLE WILLIAM PAUL KEESLEY, being
13 duly sworn and cautioned to speak the truth, the whole
14 truth and nothing but the truth, testifies as follows:

15 CHAIRMAN SMITH: Judge Keesley, before you,
16 you have your personal data questionnaire and your sworn
17 statement. Are those the documents that you submitted to
18 the Commission?

19 JUDGE KEESLEY: Yes. Yes, sir.

20 CHAIRMAN SMITH: And are they both correct?

21 JUDGE KEESLEY: There's one typographical
22 error on the personal data questionnaire. Question 25, my
23 service in the House of Representatives, it should have
24 been 1989 to 1991 instead of 1999.

25 CHAIRMAN SMITH: Any objection to making an

1 oral amendment to that?

2 (Hearing none.)

3 CHAIRMAN SMITH: All right. Without
4 objection, we shall orally amend that. And do you make any
5 -- do you have any objection to making these documents a
6 part of your sworn testimony?

7 JUDGE KEESLEY: Not at all.

8 (EXHIBIT NO. 5 - JUDICIAL MERIT SELECTION
9 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THE
10 HONORABLE WILLIAM PAUL KEESLEY)

11 (EXHIBIT NO. 6 - JUDICIAL MERIT SELECTION
12 COMMISSION SWORN STATEMENT OF THE HONORABLE
13 WILLIAM PAUL KEESLEY)

14 CHAIRMAN SMITH: Judge Keesley, the Judicial
15 Merit Selection Commission has thoroughly investigated your
16 qualifications for the bench. Our inquiry has focused on
17 nine evaluative criteria, and has included a ballot box
18 survey, a thorough study of your application materials,
19 verification of your compliance with state ethics laws, a
20 search of newspaper articles in which your name appears, a
21 study of previous screenings, and checks for economic
22 conflicts of interest.

23 We've received no affidavits filed today in
24 opposition to your election, and no witnesses are here to
25 testify. Do you have a brief opening statement that you

1 wish to make to the commission?

2 JUDGE KEESLEY: I'm honored to be here, and
3 happy to answer your questions.

4 CHAIRMAN SMITH: Thank you, Judge Keesley.
5 Answer any questions that Brian may have for you.

6 JUDGE KEESLEY: Thank you.

7 EXAMINATION BY MR. COHL:

8 **Q. Good morning, Judge Keesley.**

9 A. Good morning.

10 **Q. After serving 26 years in the circuit court, why**
11 **do you want to continue serving as a circuit court judge?**

12 A. I can't think of another position where you learn
13 as much each day, as you do than the one that I'm in. I'm
14 exposed to all kinds of things. It keeps me somewhat young
15 at my advanced age.

16 **Q. Thank you, judge. Please explain one or two**
17 **brief accomplishments that you feel that you have completed**
18 **during your tenure, and also a goal you would like to**
19 **accomplish if reelected.**

20 A. The formation of the drug court in 1995, or
21 thereabouts, the expansion of that concept. And spinoffs
22 into other types of courts, like veterans courts and DUI
23 courts and domestic violence courts, which all use the same
24 principle of -- we had a fantastic team in Lexington, that
25 put that together, and started the first one in South

1 Carolina.

2 Honorable, the work that I did -- was honored to
3 do with the 2010 bill that changed the criminal laws in
4 South Carolina, and the work that was done in that with the
5 Pew Foundation. I think it was a testament to a lot of
6 hard work by a lot of people, and I would love to continue
7 in that type of vein, to do an indication of problems that
8 come up in the field.

9 We had one last week in Greenwood, with attempted
10 murder, that I probably need to talk to some people about,
11 because there was an issue that came up about changing the
12 law. And, of course, the Supreme Court just came down with
13 a decision about level of intent that's required for
14 attempted murder, as opposed to the old assault and battery
15 with intent to kill. So now it's a greater degree of an
16 intent for attempted murder than it is murder.

17 So that might be something that the Legislature
18 would want to look at in the future.

19 **Q. Thank you, Judge Keesley. What do you believe**
20 **your reputation is among attorneys that practice before**
21 **you?**

22 A. Oh, my goodness. I hope they feel like I work
23 hard. I hope they feel that I approach it very seriously.
24 I hope they think I'm fair.

25 **Q. Thank you, Judge. The Commission received 562**

1 ballot box surveys regarding you, with 37 providing
2 additional comments. The ballot box survey, for example,
3 contained the following positive comments:

4 "Judge Keesley is one of the most honorable
5 judges I have known. He's one of the best circuit court
6 judges I've appeared before in the past 30 years." An
7 additional comment provided: "I was impressed by his
8 sincere efforts to make the correct legal ruling, without
9 regard to the identity of the lawyers or the litigants. We
10 need more judges like him."

11 No comments indicated a pattern for concern.
12 Judge Keesley, what do you believe is the proper etiquette
13 for social media posting for members of the judiciary, as
14 well as for lawyers that may seek to one day become judges?

15 A. I don't really see social media as a great deal
16 different than the rules we had before. I mean, everybody
17 has friends. The fact that they call somebody a friend on
18 a social media site doesn't really change the ethics rule.

19 We can't comment about political matters. We
20 can't get involved in any kind of casting aspersions. I do
21 have social media. I suspect you-all have looked at it. I
22 don't know, but mostly it's all football and basketball and
23 sports.

24 When any law clerk applies to me, I do a Google
25 search on them. If they've got a Facebook page, and I can

1 access it, I'll look. And if they've got things on there
2 that I think don't properly represent what a judge's image
3 should be, I just don't hire them.

4 The same thing for a judge. I don't think I
5 ought to be putting controversial things out, and certainly
6 not any political things.

7 Q. Thank you, Judge Keesley. Now just a few brief
8 housekeeping issues to run through. Since submitting your
9 letter of intent, have you contacted any members of the
10 Commission about your candidacy?

11 A. No.

12 Q. Since submitting your letter of intent, have you
13 sought or received a pledge of any legislator, either prior
14 to this date or pending the outcome of your screening?

15 A. No.

16 Q. Have you asked any third parties to contact
17 members of the General Assembly on your behalf, or are you
18 aware of anyone attempting to intervene in this process on
19 your behalf?

20 A. No.

21 Q. Have you reviewed and do you understand the
22 Commission's guidelines on pledging in South Carolina Code
23 Section 2-19-70(E)?

24 A. Yes.

25 Q. Thank you, Judge Keesley.

1 MR. COHL: I would note that the Midlands
2 Citizens Committee reported that Judge Keesley is qualified
3 in the evaluative criteria of interest of constitutional
4 qualifications, physical health and mental stability, and
5 that the Committee reported Judge Keesley is well qualified
6 in the evaluative criteria of interest of ethical fitness,
7 professional and academic ability, character, reputation,
8 experience and judicial temperament.

9 The Committee stated in summary, "Judge
10 Keesley has served the circuit court bench with
11 distinction. He exhibits all the positive qualities needed
12 to be an outstanding jurist."

13 I would just note for the record, that any
14 concerns raised during the investigation regarding the
15 candidate, were incorporated into the questioning today.
16 Mr. Chairman, I have no further questions.

17 CHAIRMAN SMITH: Thank you, Brian. Any
18 questions of Judge Keesley? Representative Rutherford.

19 EXAMINATION BY REPRESENTATIVE RUTHERFORD:

20 Q. Good morning, Judge.

21 A. Good morning.

22 Q. A quick question, 'cause I get this all the time
23 in Lexington County, especially from private lawyers. With
24 the fact that the clerks in Lexington call the cases, is
25 that something that was ceded to the clerks by the

1 solicitors years ago? Or was that anything that the judges
2 or the chief admin in Lexington has anything to do with?

3 One of the concerns is, obviously, private
4 lawyers come over and -- because the clerk is calling, and
5 she calls public defender cases, and they're sitting there
6 for hours, waiting on their case to be called, and they
7 feel like in every other county it is private lawyers,
8 victims, cops, that kind of deal. But in Lexington, it
9 just seems to be the luck of the draw with the clerk just
10 calling as they -- as they choose. Any thoughts on that?

11 A. I have thoughts, yes. I did not know it was an
12 issue. I have told them, when I'm holding court and I see
13 a private lawyer sitting in the audience, I have asked them
14 what is the -- Attorney X, "What's the status of that
15 case?"

16 They bring over -- there's nothing formal. It's
17 something that probably, if it's a matter of concern, we
18 need to address. And we will. I'm rotating out of the
19 11th Circuit.

20 **Q. Right.**

21 A. But I am going to be talking to the solicitor,
22 and I will express that to him, that we need to be
23 sensitive to the fact that private attorneys need to get in
24 there and get out.

25 And I've tried to do that when I've noticed it

1 going on. And sometimes they're still trying to negotiate
2 their pleas, and I can't tell 'cause we're doing one right
3 after the other.

4 **Q. Right.**

5 A. My impression was, that what they were trying to
6 do is focus on the jail cases. They would try to focus on
7 the jail cases, and then the last ones they would get to,
8 typically, were the pro se people. And, again, that
9 bothered me too.

10 I don't know that they've ceded any authority to
11 the clerk. The clerk just has the files, and the ones that
12 are signed up, she picks and starts calling. But the
13 solicitor and I are supposed to meet about the rosters, in
14 December, when court slows down a little bit. And I'll
15 bring that to his attention and let him know it's a
16 concern, and that we need to focus on that more. I don't
17 think he would disagree with that.

18 **Q. I don't think the new solicitor would, either. I**
19 **just -- I've noticed it. I have a lawyer sitting over**
20 **there this morning, he's been there for two hours, waiting**
21 **on the case to be called. And it's -- every other place,**
22 **we kind of know where to go to get it done. But then in**
23 **Lexington, it's kind of this -- you know, if you're not on**
24 **the bench, and someone else is, the clerk will just call**
25 **and you may not know, as a private lawyer, who to go to, to**

1 move your case along if that's -- if that's even possible.

2 A. I will -- I will pass that along and see if it
3 gets changed.

4 Q. One of the other things that I've gotten
5 complaints about in Lexington, is that if someone files a
6 motion -- well, two things. If someone files a motion with
7 the solicitor's office, to get a case heard, the solicitor
8 -- if it's a new case, new in Lexington, meaning it's over
9 -- it's under three weeks, they go, "We don't have a file,
10 so we can't tell you anything."

11 And lawyers filing a bond reduction motion, I
12 typically tell my client, "You've got to wait about a month
13 in Lexington, before you can get it in, because the
14 solicitor will constantly say, 'I don't have the file.'"

15 And under the previous administration, nothing we
16 could do. And not while you were on the bench -- and,
17 certainly, you're rotating out. But this application of
18 how do you assert your rights as a defendant, when the
19 solicitor's office is just saying, "We don't have the file.
20 We can't touch it."

21 I've spoken to Solicitor Hubbard about it, and he
22 says he's trying to move it up. But to further that, they
23 did have the policy that unless a lawyer represents the
24 client all the way through, the lawyer can't do a bond
25 reduction for the client, even though they've been paid to

1 do so.

2 I've showed them the Constitution, showed them
3 what the Supreme Court has said on it, they still maintain
4 these policies that, if I'm getting stopped, I know that
5 other lawyers that are trying to come in, younger lawyers,
6 that don't know who to talk to, are facing that same issue.

7 I know there's a new solicitor in, but I just
8 want to make sure that you're aware of some of these
9 complaints that people make me aware, which you can
10 probably do something about it.

11 A. It's news to me.

12 Q. Yes, sir.

13 A. And I will tell you about getting the cases in.
14 I do know of one problem area that we have, that is
15 somewhat unique in Lexington County. And that is, that the
16 Columbiana Mall is in the City of Columbia. And so the
17 case numbers on those cases will be Richland County
18 numbers. And they get sent over to the wrong place.

19 And I know that we have a unique problem with
20 that, because there is sometimes a delay, just because they
21 get processed through Richland County, but they're
22 Lexington County cases; they just happened in the City of
23 Columbia, where the mall is, where they did the shoestring
24 annexation out to the mall.

25 As far as the issue about telling me -- an

1 attorney that they can't have a -- a situation where they
2 just represent somebody on a bond, that's news to me. And
3 if any attorney called me, I would set up a hearing and --
4 and we would go with it.

5 And I've done hearings like that with the last
6 three months, where the attorney stood up and said, "Judge,
7 I'm just representing the defendant on this bond matter."

8 And I didn't blink an eye. I just kept going. I
9 did not know that's going on. I might need to get out a
10 pen and start writing some things down. So I appreciate
11 you telling me. I will definitely make sure that Solicitor
12 Hubbard and I have this conversation.

13 **Q. All right. Thank you, Judge.**

14 CHAIRMAN SMITH: Any further questions?
15 Senator Young.

16 SENATOR YOUNG: Thank you, Mr. Chairman.

17 EXAMINATION BY SENATOR YOUNG:

18 **Q. Judge Keesley, I want to thank you for your**
19 **service and for your willingness to do this again. You**
20 **have been on the bench since 1991 and -- I think that's**
21 **right. Is that correct?**

22 A. That's right.

23 **Q. Yeah. And I don't know anyone in our area of the**
24 **state who has anything negative to say about you. And it's**
25 **been reflected on these Bar survey results, too, 'cause I**

1 don't think there was any negative comments about you. And
2 I just want you to know how much that our area of the state
3 appreciates your service.

4 And I would like to know, if you could, tell us
5 what would you tell younger, newer circuit judges that --
6 what information would you tell them, what advice would you
7 give them, if they're new going on the bench, based on your
8 26 years of service on the bench?

9 A. That's a very good question. I would tell them
10 to make sure that they don't focus on the wrong things. A
11 lot of things happen in a courtroom, that can be
12 distracting.

13 The focus needs to be on those litigants and
14 those attorneys that are in front of you right then, not on
15 whether a cell phone goes off or a -- you know, somebody is
16 having a conversation over in the corner. You know, some
17 people can't whisper. They just can't do it.

18 But I would tell them, as far as in the
19 courtroom, just try to stay focused on the matter before
20 you. There are a lot of cliches I could throw out, and
21 I'll avoid those.

22 The other thing I would tell them is to make sure
23 that they work hard. And, honestly, I would tell a lot of
24 these younger judges to -- don't be afraid to ask for help.

25 Lately, I've been fortunate. For some reason

1 they've been assigning a good many of the younger judges to
2 sit with me, so I've had -- Jean Toal sat with me. So you
3 talk about intimidated, I told the jury -- it was in
4 Greenwood County, and I said, "I know some of you may be
5 nervous about being in the jury, but I promise you the most
6 nervous person in this courtroom is sitting right here in
7 my spot, because this is the former Chief Justice looking
8 over my shoulder."

9 But it was a -- it turned out to be a great
10 experience. So the Listserv that we have now is great,
11 because you can put a question on it. I put two on there
12 this week already. You can get advice from judges and -- a
13 lot of them are concerned that they may not have experience
14 in this area or that area.

15 But most of these skills are transferable. They
16 really are. And folks need to understand that -- take
17 their time, make their rulings. You're not going to make
18 everybody happy. If you try and make everybody happy,
19 you're going to fail miserably.

20 Those are some of the things I would tell them.
21 And work hard. People pick up on that. You've got to be
22 respectful. And the biggest advice they give us is, if you
23 feel like you're kind of -- your emotions are swelling up
24 in you, and you -- you need to just take a break. Take a
25 break.

1 Q. I think that when you said that the -- that
2 you've been asked to have several younger circuit court
3 judges, and the former Chief Justice came and sat with you,
4 that speak -- that speaks volumes for the esteem that
5 you're held in regard by both the court administration and
6 by the higher-ups in our court system in South Carolina.

7 SENATOR YOUNG: And I also want the
8 Commission to be aware that Judge Keesley -- still very
9 active in the -- in the community. Outside of the
10 courtroom, he is a color announcer for the Strom Thurmond
11 High School football team. And if you turn on a radio, on
12 a Friday night, and they're playing, you will hear him
13 provide his insight on Strom Thurmond High School football.

14 JUDGE KEESLEY: Not this Friday night,
15 'cause we drew Dillon in the first round in the playoffs.
16 So we're out of the picture right now. But that's been a
17 lot of fun. I've done that 32 years. It's been a lot of
18 fun.

19 CHAIRMAN SMITH: Judge Keesley, I want to
20 follow up with what Senator Young said. You know, I've
21 been saying this today, if you look at these ballot box
22 comments, and they're anonymous, and I know it can be
23 frustrating at times 'cause you don't know what's the
24 context to which they come; but they also, to me, can be
25 very helpful for us to look at these and attorneys who can

1 make honest assessments of judges without any fear of
2 retribution.

3 And, you know, I feel sometimes these --
4 these are very telling in the type of candidates that we
5 have before us. And I just want to commend you on this. I
6 look through this, and it's almost unprecedented, you've
7 been on the bench 26 years. And if my math serves me
8 correct, you have -- your judicial temperament -- and I
9 think temperament is probably one of the biggest attributes
10 of a judge. It makes you -- whether you're a -- one of the
11 more well respected judges, or one of the least regarded
12 judges, it's through your temperament.

13 'Cause you can cure a lot of things, but you
14 can't cure a temperament. And it's not something that
15 lawyers enjoy coming into a courtroom with a judge who's
16 temperamental, who is known to berate lawyers. And, you
17 know, I look at this, and you have one person that said you
18 were unqualified. Everybody else, through the numerous
19 comments, said you were well qualified.

20 And going through the experience and all
21 these -- these criteria, it's impressive that most of these
22 where it says "unqualified," is zero. And when you have
23 someone that's on the bench for 26 years, surely you've got
24 to make enemies somewhere along the line.

25 And it appears that you have not done that.

1 And so that's a testament. And it speaks volumes as to
2 your judicial career. And I want to tell you how important
3 that is to me, personally, but more importantly how
4 important that is to the judiciary.

5 'Cause you represent the judiciary. When
6 you walk into the courtroom, you represent the South
7 Carolina Judicial Department, and you represent to lawyers,
8 you represent to litigants, and you represent to the
9 jurors. And you're just doing an outstanding job in that
10 regard. And I appreciate that.

11 JUDGE KEESLEY: Well, thank you. I wish I
12 knew who the one person was, or two people were, 'cause I'd
13 like to apologize to them.

14 CHAIRMAN SMITH: And the other question I
15 have is -- well, is -- I know you're like me, you are a
16 graduate of Wofford College and a dedicated South Carolina
17 fan, so I'd to know who you're pulling for this weekend in
18 the football game.

19 JUDGE KEESLEY: Ms. Crawford's already asked
20 me, and I told her I'm pulling for a good game.

21 CHAIRMAN SMITH: Okay.

22 JUDGE KEESLEY: The last -- the last time
23 that Wofford came to South Carolina, it was an extremely
24 good game.

25 CHAIRMAN SMITH: It was very good. And my

1 wife went to Wofford, and I wore my Wofford gear when they
2 were winning in the fourth quarter, I found myself pulling
3 for Carolina. So that's just --

4 JUDGE KEESLEY: I know the feeling. And I
5 will have on my Wofford gear. And we actually went up to
6 the basketball game, Friday night.

7 CHAIRMAN SMITH: At the new stadium?

8 JUDGE KEESLEY: The new stadium. And I'm
9 very proud of my alma mater. I'm very proud of them.

10 CHAIRMAN SMITH: All right. Judge Keesley,
11 I thank you for your service. I thank you. We served on
12 the sentence reform commission that you alluded to earlier
13 together, and you did a great job there. And you continue
14 to serve our judiciary in many capacities. So I really
15 appreciate what you do.

16 Any further questions for Judge Keesley?

17 (Hearing none.)

18 CHAIRMAN SMITH: All right. Judge Keesley,
19 thank you. This will conclude this portion of your
20 screening process. I want to remind you that pursuant to
21 the Commission's evaluative criteria, the Commission
22 expects candidates to follow the spirit as well as the
23 letter of the ethics laws. And we will view any violations
24 or the appearance of impropriety as serious, and
25 potentially deserving of heavy weight in screening

1 deliberations.

2 On that note, and as you know, the record
3 will remain open until the formal release of the report of
4 qualifications, and you may be called back at such time if
5 the need arises. I thank you for offering. And I thank
6 you for your service to the state of South Carolina.

7 JUDGE KEESLEY: Thank you-all very much.

8 CHAIRMAN SMITH: Thank you, Judge.

9 (Candidate excused.)

10 CHAIRMAN SMITH: Good morning, Judge
11 Nettles.

12 JUDGE NETTLES: Good morning. How you
13 doing?

14 CHAIRMAN SMITH: I'm well. Judge Nettles,
15 will you raise your right hand, please, sir.

16 JUDGE NETTLES: I will

17 WHEREUPON:

18 THE HONORABLE MICHAEL NETTLES, being duly
19 sworn and cautioned to speak the truth, the whole truth and
20 nothing but the truth, testifies as follows:

21 CHAIRMAN SMITH: Judge Nettles, you have
22 before you, your personal data questionnaire and your sworn
23 statement. Are those documents that you've submitted to
24 the Commission?

25 JUDGE NETTLES: They are.

1 CHAIRMAN SMITH: Are both of them correct,
2 to the best of your knowledge?

3 JUDGE NETTLES: Yes.

4 CHAIRMAN SMITH: And are there any
5 amendments or changes that you need to make at this time?

6 JUDGE NETTLES: None.

7 CHAIRMAN SMITH: Do you have any objection
8 to us making this a part of your -- the record of your
9 sworn testimony?

10 JUDGE NETTLES: None whatsoever.

11 CHAIRMAN SMITH: If you'll give that to
12 Lindi, for us, and we'll make that a part of the record.

13 (EXHIBIT NO. 7 - JUDICIAL MERIT SELECTION
14 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THE
15 HONORABLE MICHAEL NETTLES)

16 (EXHIBIT NO. 8 - JUDICIAL MERIT SELECTION
17 COMMISSION SWORN STATEMENT OF THE HONORABLE
18 MICHAEL NETTLES)

19 CHAIRMAN SMITH: Judge Nettles, the Judicial
20 Merit Selection Commission has thoroughly investigated your
21 qualifications for the bench. Our inquiry has focused on
22 nine evaluative criteria, and has included a ballot box
23 survey, a thorough study of your application materials,
24 verification of your compliance with state ethics laws, a
25 search of newspaper articles in which your name appears, a

1 study of previous screenings, and checks for economic
2 conflicts of interest.

3 We have received no affidavits filed in
4 opposition to your election, and there are no witnesses
5 here to testify today. Do you wish to make a brief opening
6 statement to the Commission?

7 JUDGE NETTLES: Mr. Chairman, and members of
8 the Commission, I just want to thank you for your service.
9 And I'm particularly grateful for your allowing me to serve
10 as the resident judge for the 12th Judicial Circuit. And,
11 hopefully, will be allowed to do so in the future.

12 CHAIRMAN SMITH: Thank you, Judge Nettles.
13 If you'll answer any questions that Dustin may have for
14 you.

15 EXAMINATION BY MR. STIMSON:

16 **Q. Good morning, Judge Nettles.**

17 A. Good morning.

18 **Q. After serving 12 years on the circuit court, why**
19 **do you want to continue serving as a circuit court judge?**

20 A. I grew up in a family of lawyers. For the first
21 20 years of my practice, I practiced with my father,
22 brother, and sister, and two other non-family members. I
23 really enjoy the practice of law. It's sort of a different
24 function when you practice law, you're an advocate for a
25 client.

1 And that's sort of exciting to be an advocate.
2 And sometimes you don't even agree with what your client's
3 position is. But it's fun and exciting to do that. Just
4 sort of get the idea that it's sort of like an athletic
5 competition.

6 But I did that for 20 years, and I thought that I
7 was prepared to be a judge, and it's a different experience
8 when you put on the black robe and you look at the back of
9 the courtroom. Your function is different. Your actual
10 function is to ensure that everybody's voice is heard, and
11 that you do what's right and what's fair.

12 Practicing law has served me and my family well.
13 And I achieved some success at being a lawyer. But to be
14 quite honest with you, I think I'm a better judge than I
15 was a lawyer. And I enjoy it. I find it to be
16 challenging, stimulating, and rewarding.

17 **Q. Thank you, Judge. Judge Nettles, please explain**
18 **one or two brief accomplishments that you feel that you**
19 **have completed during your tenure, and then a goal you**
20 **would like to accomplish if reelected.**

21 A. Well, one of the things that I take pride in is,
22 that I show up and I show up on time. Here recently, I've
23 been given a specific assignment to go to Beaufort County,
24 and to work on their criminal docket. I spent the entire
25 calendar year there, working on the criminal docket. We

1 reduced the jail population. We sort of set up a system of
2 ranging for the systematic disposition of cases.

3 As far as anything in the future, I'm
4 particularly interested in two different things. One of
5 which is access to justice and helping those who can't
6 afford a lawyer. I would like to do that. And I also find
7 that there is a particular problem, and it seems to be more
8 so now than it has in the past, is that people that appear
9 before me are mentally ill. And they get off their
10 medication, and those people quite often are the very most
11 dangerous people that you deal with.

12 And you're in a position where the penal system
13 does not really -- sentencing someone who is mentally ill
14 to a prison is somewhat cruel. But on the other hand, if
15 they have violent tendencies, you can't turn them loose on
16 the public.

17 So I would like to explore the possibility of
18 implementing a statewide mental health court. That's one
19 of my interests.

20 **Q. Judge Nettles, what do you think your reputation**
21 **is among attorneys that practice before you, and court**
22 **personnel you work with?**

23 A. Of course, I think that I'm -- one of the things
24 that I can honestly say is, I don't think that I've ever
25 lost my temper on the bench. I think I have an even

1 temperament. I'm always there. I'm always present. I'm
2 there, I'm never late. I laugh with some of my clerks, and
3 say that when I was a lawyer, quite often I would be
4 waiting on judges, but now I'm an hour early waiting on
5 lawyers, and sometimes they're late.

6
7 But I do find that -- in my opinion, I think I
8 listen to everybody's position, I ensure that everybody's
9 voice is heard, and I do what's right and what's fair.

10 Q. Judge Nettles, the Commission received 556 ballot
11 box surveys regarding you, with 40 additional comments.
12 The ballot box survey, for example, contained the following
13 positive comments:

14 "I appear in Judge Nettles' courtroom frequently,
15 and though I may disagree with him from time to time,
16 regarding a sentence, I think he is an excellent judge who
17 treats everyone with dignity and respect."

18 And, "This candidate upholds the integrity of
19 authority of the office. He wears it with humility and
20 fairness, earning the respect of the community, and
21 restoring their trust and confidence in our great judicial
22 system. A fine judge."

23 Two of the written comments expressed a similar
24 concern. These two comments seemed to suggest that you may
25 rule in favor of friends, or be politically influenced in

1 **your decision-making. How would you respond to that**
2 **concern?**

3 A. One of the things that I would say is, it's kind
4 of difficult to respond to that because the nature of the
5 survey is anonymous. And I really don't know the
6 particulars of what the allegation are -- I assume to
7 protect the anonymity of the person who made the -- or
8 expressed the concern.

9 But I would anticipate that if they said what
10 case or what particular litigation caused them to have that
11 concern, I suspect that the law and the facts were against
12 them. However, the fact that those two concerns were
13 expressed, I'm mindful of that and will be mindful of that
14 if afforded the opportunity to serve in the future.

15 **Q. Thank you, sir. Judge Nettles, you received a**
16 **lot of publicity for a sentence from a case in 2012, in**
17 **which you required a drunk driver to read the Book of Job,**
18 **and write a summary. Would you briefly explain to the**
19 **Commission that case, and how you view that now?**

20 A. That article was written as a result of a plea
21 that took place in York County. It was about five and a
22 half years ago. It involved a 30-something-year-old mother
23 who had three children, she was grossly intoxicated and ran
24 into an opposing driver.

25 I vividly remember that the victim was paralyzed

1 in a wheelchair, and present at the hearing. To be quite
2 honest with you, it's so long ago I don't remember whether
3 there was a fatality associated with the incident or not.
4 But there were very serious injuries.

5 In mitigation it was revealed that the defendant
6 grew up in an abusive home. Apparently, one of her family
7 members had deliberately doused her with gasoline and set
8 her on fire; you could see the scars on her face. And when
9 I saw that in the plea, I thought it was from the accident
10 that she was involved in. But it was a very tragic
11 situation. And one can understand that, as a result of
12 such -- having such a terrible lot in life, and such a
13 terrible childhood, she developed depression, anxiety, and
14 a drinking problem, obviously.

15 The only people that were present on her behalf
16 were her lawyer and her preacher. And the essence of their
17 mitigation was, that she was engaged in Christian
18 counseling to help her, you know, rehabilitation efforts,
19 and an intensive Bible study.

20 I was impressed by a number of different things
21 in this case, and it -- and I vividly remember, although it
22 was five and a half years ago, 'cause I felt so sorry for
23 the person who was paralyzed, but I felt so sorry for this
24 lady who had such a difficult lot in life.

25 And I knew that, given the circumstances, I was

1 going to have to send her to prison. So part of her
2 therapy was to read -- was Bible study. And it dawned on
3 me at the time, that it seemed to be a good idea at the
4 time to ask her to read the Book of Job, which would lend
5 some explanation to why bad things happen to good people.
6 She seemed to be particularly elated when I did that, and
7 the preacher was really charged up about it.

8 The first article that was written sort of,
9 essentially, said I was order that people read the Bible as
10 part of a punishment. Well, it was not meant as a
11 punishment. It was meant as an affirmation of her method
12 of rehabilitation.

13 The second article that was written, the
14 journalist actually went to and interviewed her in the
15 prison, and she was appreciative of the fact that I did
16 that. And she had indicated that she had already started
17 the project, and already started her report.

18 The preacher was interviewed. He was satisfied
19 and appreciative of that fact. But that was essentially
20 it. I have never -- I understand, and very well aware of
21 the fact that there is a separation of church and state.
22 But under these circumstances, that's -- that's the reason
23 why I did it.

24 And in retrospect, perhaps it might have been
25 better to have a discussion with her about it on the record

1 as opposed to asking that she read it and do a report as a
2 part of her probation.

3 **Q. Thank you, Judge Nettles. What has been some of**
4 **the most rewarding aspects of serving on the bench for you?**

5 A. Well, I enjoy going -- I enjoy everything about
6 the circuit court. You have the opportunity to go around
7 the state, and you see some of the very best lawyers try
8 very interesting cases. You're in a position to where you
9 can help people. You can do what you think is right and
10 what's fair, and you're in a position to do that.

11 Given my personal circumstance, all my children
12 are grown and gone, and I'm starting on grandchildren now.
13 And I enjoy the travel aspect of it. So many people find
14 it to be inconvenient to travel, but I personally enjoy
15 being at home in Florence, and I enjoy traveling.

16 There's not any place in South Carolina they
17 couldn't send me, that I wouldn't enjoy. As far as my
18 background, my disposition, there's not anything in the
19 United States of America that I could do, that I would
20 enjoy more than being a circuit court judge.

21 **Q. Thank you, Judge Nettles. We just have a few**
22 **more housekeeping issues. Judge Nettles, since submitting**
23 **your letter of intent, have you contacted any members of**
24 **the Commission about your candidacy?**

25 A. I have not.

1 Q. Since submitting your letter of intent, have you
2 sought or received a pledge of any legislator, either prior
3 to this date or pending the outcome of your screening?

4 A. I have not.

5 Q. Have you asked any third parties to contact
6 members of the General Assembly on your behalf, or are you
7 aware of anyone attempting to intervene in this process on
8 your behalf?

9 A. I have not.

10 Q. Have you reviewed, and do you understand, the
11 Commission's guidelines on pledging and South Carolina Code
12 Section 2-19-70(E)?

13 A. I do.

14 MR. STIMSON: I would note the Pee Dee
15 Citizens Committee reported that Judge Nettles is well
16 qualified in the evaluative criteria of ethical fitness,
17 professional and academic ability, character, reputation,
18 experience and judicial temperament. And I reported that
19 Judge Manning was found qualified in the evaluative --
20 Judge Nettles. Pardon me.

21 JUDGE NETTLES: We're from the same area of
22 the state. I can understand.

23 MR. STIMSON: -- was reported as qualified
24 in the evaluative criteria of constitutional
25 qualifications, physical health and mental stability. I

1 would just note for the record that any concerns raised
2 during the investigation regarding Judge Nettles, were
3 incorporated into the questioning of the candidate today.

4 Mr. Chairman, I have no further questions.

5 CHAIRMAN SMITH: Thank you, Dustin. Any
6 questions for Judge Nettles? Mr. Safran.

7 EXAMINATION BY MR. SAFRAN:

8 Q. Judge, I appreciate your being here. Let me just
9 touch on a couple of quick things. I think you made a
10 comment earlier, which struck with me, was that -- at least
11 you don't recall ever losing your temper on the bench, you
12 always try to maintain a certain level of composure.

13 A. That's right.

14 Q. You've been in practice before you became a judge
15 for 20 years. Have you carried with you, basically, the
16 feeling of how you would have wished to be treated as a
17 lawyer, now that you are more or less on the other side of
18 the bench?

19 A. I do. And I always remind myself what it's like.
20 When I got married, I had three children within three years
21 and three weeks. And not only is it difficult to practice
22 law, but you have family obligations. And I'm constantly
23 aware of that, and try to work with lawyers as best I can,
24 to help them out

25 And my position -- I tell my law clerks this, and

1 all my secretaries, that my job as a Circuit Court judge is
2 to serve the Bar. And whenever -- and I think everyone
3 would tell you, if anybody wants a hearing to approve a
4 settlement, or if there is a particular discovery matter in
5 a complex litigation, we'll do it before hours, we'll do it
6 during lunch, we'll do it after hours.

7 So I'm there to serve the public. That's what my
8 job is. And I enjoy it.

9 Q. Judge, I guess along those same lines, obviously,
10 you see different people kind of take different paths, but
11 do you feel like the 20 years you put in doing -- that's in
12 law, in different areas, different courts, has been a big
13 asset to you, once you became a judge, in terms of how you
14 were able to transition into the bench and maintain, I
15 guess, the control as well as the confidence that comes
16 from the Bar? That's certainly expressed in all these
17 things we get back from them, in terms of the platitudes
18 they have for you.

19 A. I think so. And quite often, I -- some of the
20 very finest judges have solely practiced in civil court.
21 But I did both. And I find in the -- obviously, they were
22 able to learn it very quickly, and are -- have great
23 judgement and were able to do that.

24 But one of the advantages that I think I have is,
25 that I had an active criminal practice, and I had an active

1 civil practice. To be quite honest with you, so many
2 people have never been in criminal court before, don't know
3 what a fair sentence is.

4 I remember -- and of course that can vary from
5 person to person, but you -- I think having done that for
6 20 years, you sort of get a feel for discriminating between
7 the wicked and the wavering.

8 **Q. Thank you.**

9 CHAIRMAN SMITH: Anything further? Mr.
10 Sabb.

11 SENATOR SABB: Thank you, Mr. Chairman. And
12 I have more of a comment than anything else. But I had the
13 good fortune of -- back in my prosecutorial days, I was
14 prosecuting in Williamsburg County, and of course Judge
15 Nettles is from Florence/Lake City, right over -- right
16 down the road. And so I prosecuted cases when he was
17 defending them.

18 And then we tried civil cases together, and
19 from time to time I've had the experience of appearing
20 before him. And I think that his comment about how he
21 views his role as a judge is what we've all experienced.
22 And he's been a delightful judge to have on the bench. And
23 I've got to say I'm proud of him and the way that he
24 conducts himself. And he does us an incredible service as
25 one of our finest jurists. So I just want to make that

1 comment.

2 JUDGE NETTLES: Thank you, Senator.

3 CHAIRMAN SMITH: Senator Young.

4 SENATOR YOUNG: Thank you, Mr. Chairman.

5 EXAMINATION BY SENATOR YOUNG:

6 Q. Judge Nettles, I also want to echo the comments
7 from the Commission, to applaud you for your service, and
8 to thank you for your service, and as well as to thank you
9 for your interest in continuing your service.

10 As has been indicated, you have received very
11 high marks for your temperament. What would you tell new
12 judges that come out of this process, or maybe in the last
13 couple years, if you had to give them some advice about
14 temperament in the courtroom, what would you tell them?

15 A. I would tell them that anger has no place on the
16 bench, that when things go wrong, or people are acting
17 inappropriately, you can deal with them in a firm but fair
18 fashion, but in an objective way.

19 I think that a new judge needs to be made aware
20 of the fact that if they were to lose their temper, and to
21 lose control of their situation, there are people watching.
22 There are people that work in the courthouse, there are
23 jurors there who have never had any contact with the
24 judicial system. And I think it's important for them to
25 have respect for the judiciary, and I think that

1 temperament is probably the most important.

2 And it's like my father told me, who has a
3 delightful disposition, that attitude will get you a long
4 way. So that's kind of my view on it.

5 CHAIRMAN SMITH: Any further questions?

6 (Hearing none.)

7 CHAIRMAN SMITH: Judge Nettles, thank you.

8 I want to echo what the others are saying, most importantly
9 not only do you bring a wealth of trial experience, you
10 bring a long, lengthy and distinguished history of the
11 Nettles Law Firm over in Lake City, which has been a
12 mainstay in that community. And you've followed in your
13 father's footsteps, and your brother was a member over here
14 and was a well respected member, so you come from a family
15 of service in this state.

16 So it's no -- it's not coincidence that you
17 turned out to be one of the finest judges. And I just want
18 to comment -- I've been telling people on the ballot box
19 surveys, is that they are -- they are anonymous, and so
20 sometimes it's tough how to respond to them; but the one
21 thing you know is, that lawyers are not fearing retribution
22 when they make these, because they are anonymous.

23 And so when you look at yours, your
24 temperament, again, is as -- whether you're qualified or
25 well qualified or unqualified, is minimal. And it's

1 minimal compared to everybody else. And the most telling
2 comment I read on here is, "Don't let him retire."

3 So I think that is a compliment of what you
4 have been doing on the bench, the way you treat people, the
5 way you treat the lawyers, the litigants, and the way you
6 do this judiciary and the state of South Carolina proud by
7 the way you conduct yourself. So I want to thank you for
8 that and thank you for your service.

9 Judge Nettles, this will conclude your --
10 this portion of your screening process. I want to take
11 this opportunity to remind you that pursuant to the
12 Commission's evaluative criteria, the Commission expects
13 candidates to follow the spirit as well as the letter of
14 the ethics laws. And we will view violations or the
15 appearance of impropriety as serious, and potentially
16 deserving of heavy weight and screening deliberations.

17 On that note, and as you know, the record
18 will remain open till the formal release of the report of
19 such qualifications, and you may be called back at such
20 time if the need arises. I want to thank you for your
21 offering, and I thank you for your service to the state of
22 South Carolina.

23 JUDGE NETTLES: Thank y'all very much.
24 Thank you.

25 (Candidate excused.)

1 CHAIRMAN SMITH: Judge Verdin, good
2 afternoon now.

3 JUDGE VERDIN: Good afternoon.

4 CHAIRMAN SMITH: We're close on time, so you
5 ought to be -- you ought to be one of the few ones that
6 have experienced that so far this screening process.

7 Judge Verdin, will you raise your right
8 hand, please, ma'am.

9 JUDGE VERDIN: Yes, sir.

10 WHEREUPON:

11 THE HONORABLE LETITIA HAMILTON VERDIN, being
12 duly sworn and cautioned to speak the truth, the whole
13 truth and nothing but the truth, testifies as follows:

14 CHAIRMAN SMITH: Judge Verdin, you have
15 before you, your personal data questionnaire and your sworn
16 statement. Are those the documents that you submitted to
17 the Commission?

18 JUDGE VERDIN: They are, yes, sir.

19 CHAIRMAN SMITH: Are they both correct, to
20 the best of your knowledge?

21 JUDGE VERDIN: Yes, sir. And there's also
22 an amendment as well.

23 CHAIRMAN SMITH: Okay. And that's -- you
24 have -- you've placed an amendment on there?

25 JUDGE VERDIN: Yes, sir.

1 CHAIRMAN SMITH: And is there anything that
2 needs to be changed or updated besides the documents and
3 the amendments?

4 JUDGE VERDIN: No, sir.

5 CHAIRMAN SMITH: Do you object to us making
6 those documents and any amendments, if applicable, a part
7 of the record of your sworn testimony?

8 JUDGE VERDIN: I hope you will. Thank you.

9 CHAIRMAN SMITH: Will you give those to
10 Lindi for me, please, ma'am.

11 (EXHIBIT NO. 9 - JUDICIAL MERIT SELECTION
12 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THE
13 HONORABLE LETITIA HAMILTON VERDIN)

14 (EXHIBIT NO. 10 - JUDICIAL MERIT SELECTION
15 COMMISSION SWORN STATEMENT OF THE HONORABLE
16 LETITIA HAMILTON VERDIN)

17 (EXHIBIT NO. 11 - AMENDMENT TO THE PERSONAL
18 DATA QUESTIONNAIRE OF THE HONORABLE LETITIA
19 HAMILTON VERDIN)

20 CHAIRMAN SMITH: Judge Verdin, the Judicial
21 Merit Selection Commission has thoroughly investigated your
22 qualifications for the bench. Our inquiry has focused on
23 nine evaluative criteria, and has included a ballot box
24 survey, a thorough study of your application materials,
25 verification of your compliance with the state ethics laws,

1 a search of newspaper articles in which your name appears,
2 a study of previous screenings, and checks for economic
3 conflicts of interest.

4 We have received one affidavit filed by
5 George Cleveland, in opposition to your election. However,
6 the Commission has dismissed this complaint. There are no
7 witnesses present to testify here today. Do you wish to
8 make a brief opening statement to the Commission?

9 JUDGE VERDIN: Just to say thank y'all for
10 what you're doing. I know it's been a long day, already.
11 And I appreciate -- I appreciate what you do.

12 CHAIRMAN SMITH: Thank you. And answer any
13 questions that Ms. Mottle may have for you, please.

14 JUDGE VERDIN: Yes, sir.

15 MS. MOTTEL: Thank you, Mr. Chairman.

16 EXAMINATION BY MS. MOTTEL:

17 **Q. Good afternoon, Judge Verdin.**

18 **A. Good afternoon.**

19 **Q. You have served since 2011 on the circuit court.**

20 **Why do you want to continue serving as a circuit court**
21 **judge?**

22 **A. I thoroughly enjoy my job. I'm thankful and**
23 **grateful for the Legislature, every day, for letting me do**
24 **it. And I want to -- I want to continue. I enjoy working**
25 **with the attorneys. I enjoy working with my fellow judges.**

1 And I enjoy working with the public.

2 **Q. Thank you. Judge Verdin, can you please explain**
3 **one or two brief accomplishments that you feel you have**
4 **completed during your tenure?**

5 A. Well, during my time as a circuit court judge,
6 I've served as the administrative judge for both civil and
7 criminal, several times in Greenville and Pickens Counties.
8 And we have set up an administrative -- a local
9 administrative order for -- to more efficiently deal with
10 cases on the criminal side. And I've worked, along with
11 Judge Miller, to -- and the Chief Justice, to do that.

12 And I also -- I also have a project that I do on
13 a regular basis, sort of on a more personal note: I have a
14 project where middle-schoolers that are in a program called
15 Team Leadership, to keep them in school. They come to the
16 courthouse, every so often, and spend a day with us at the
17 courthouse, with myself and other judges, and get to hear
18 various speakers and have lunch with us and watch plea
19 court, and talk about choices and making better choices in
20 life.

21 And so I'm particularly proud of that program.
22 It's not a very intriguing name, it's called "A Day in
23 Court." But that's -- that's about the best I could do.

24 **Q. Thank you. Judge Verdin, your SLED report**
25 **indicated that there was a lawsuit filed against you, since**

1 **your last screening. It was filed in 2013 in the U.S.**
2 **District Court, by Garcia Wilson. Please explain the**
3 **nature and the disposition of this lawsuit.**

4 A. I have to tell you -- and I'm happy to go and
5 review anything I need to. That lawsuit was never served
6 on me. I don't -- I have no knowledge of that lawsuit,
7 whatsoever. As far as -- my understanding is, that it was
8 dismissed by a federal judge.

9 Q. **And an additional lawsuit was filed in 2013 in**
10 **the U.S. District Court, by Shannon Lewis. This matter was**
11 **dismissed in 2013, and you were never served in this**
12 **matter; is that correct?**

13 A. That's correct. And I can say I don't know who
14 either of those people are. So I -- I probably did deal
15 with them, but unfortunately, I just don't remember them.

16 Q. **Judge Verdin, what do you think your reputation**
17 **is among attorneys that practice before you?**

18 A. I hope -- well, I won't say -- I think your
19 question is how they do perceive me, not how I hope to be
20 perceived. I think I'm perceived as fair. I think I'm
21 perceived as friendly. I think that I'm perceived as a
22 judge who remembers practicing law, and how difficult
23 practicing law can be.

24 Q. **And what do you think your reputation is among**
25 **court personnel?**

1 A. I think that they also consider me to be friendly
2 and considerate of their jobs, and how difficult their jobs
3 are.

4 Q. Judge Verdin, the Commission received 608 ballot
5 box surveys regarding you, with 49 additional comments.
6 The ballot box survey, for example, contained the following
7 positive comments:

8 "Very fair judge with good temperament and
9 knowledge. Always a pleasure when she's on the bench. One
10 of the best. A great judge. It's obvious that she really
11 enjoys her job and cares about the parties and the
12 attorneys that appear before her. And one of the top
13 judges on the bench. A role model for the judiciary."

14 MS. MOTTEL: Mr. Chairman, and members of
15 the Commission, none of the additional comments indicated
16 concern.

17 BY MS. MOTTEL:

18 Q. And it was previously mentioned in the ballot box
19 survey that you -- it's obvious that you enjoy your job.
20 Do you enjoy being a circuit court judge?

21 A. Yes.

22 Q. And what is the ideal courtroom environment, and
23 how do you accomplish this?

24 A. I want a court -- I want a courtroom to be
25 relaxed but respectful of the parties, and for the

1 attorneys to be civil to one another. But I do want people
2 to feel relaxed and feel like their side is being heard,
3 fully and fairly, and for things to progress in an orderly
4 fashion.

5 For the most part, I don't have a problem with
6 that. I rarely have a problem with anything along those
7 lines. But if an attorney would ever cause a problem --
8 and that has happened on one or two occasions -- I'd have a
9 private conversation with that attorney, not in front of
10 their client, and not in front of other attorneys, so as
11 not to embarrass them, but just to let them know what my
12 expectations are.

13 **Q. Thank you. Judge Verdin, I have a few**
14 **housekeeping questions for you.**

15 A. Yes, ma'am.

16 **Q. Since submitting your letter of intent, have you**
17 **contacted any members of the Commission about your**
18 **candidacy?**

19 A. I have not.

20 **Q. Since submitting your letter of intent, have you**
21 **sought or received a pledge of any legislator, either prior**
22 **to this date or pending the outcome of your screening?**

23 A. No.

24 **Q. Have you asked any third parties to contact**
25 **members of the General Assembly on your behalf, or are you**

1 **aware of anyone attempting to intervene in this process on**
2 **your behalf?**

3 A. I'm not aware of that. And I have not asked
4 anyone.

5 **Q. Have you reviewed, and do you understand, the**
6 **Commission's guidelines on pledging and South Carolina Code**
7 **Section 2-19-70(E)?**

8 A. I have reviewed it, and I feel like I fully
9 understand it and comply with it.

10 MS. MOTTEL: I would note that the Upstate
11 Citizens Committee report, reported that Judge Verdin is
12 well qualified as to ethical fitness, professional and
13 academic ability, character, reputation, experience and
14 judicial temperament, and qualified in the remaining
15 criteria of constitutional qualifications, physical health
16 and mental stability.

17 I would just note for the record, that any
18 concerns raised during the investigate regarding Judge
19 Verdin, were incorporated into the questioning of the
20 candidate thank you.

21 CHAIRMAN SMITH: All right. Thank you,
22 Haley. Representative Rutherford.

23 EXAMINATION BY REPRESENTATIVE RUTHERFORD:

24 **Q. Good morning.**

25 A. Good morning.

1 Q. You know, I wish that we could clone you.
2 Listen, very soon after you got on the bench, I had another
3 judge in Richland County call you to ask you how you did
4 things. I go around the state and I've been in front of
5 you a couple of times, and your courtroom demeanor is
6 outstanding.

7 Everybody knows it. The solicitors know it. The
8 defense bar knows it. Your use of alternative sentences,
9 the way that you talk to people is just beyond reproach.
10 And you can tell by the comments that you received, how
11 glowing they are, how well qualified you are in every
12 category.

13 And the problem -- the one problem I have is, I
14 don't see you enough and that you don't get to Richland
15 County. Although, we do have great judges. But I mean,
16 truly, the way that you handled yourself since you got the
17 bench is just beyond outstanding.

18 A. Representative Rutherford, thank you very much
19 for that. I can't tell you how much it means. And you're
20 going to give me the big-head, so I want to thank you.

21 Q. Well, your solicitor is lucky to have you. He
22 truly is.

23 A. Thank you.

24 Q. Because you make him look good.

25 A. Well, I'm lucky to have him.

1 **Q. Sure.**

2 CHAIRMAN SMITH: Any questions? Mr. Howard.

3 MR. HOWARD: Judge Verdin, just one comment.

4 JUDGE VERDIN: Yes, sir

5 MR. HOWARD: As someone who lives and
6 practices in Greenville County, I can say, without a doubt,
7 I echo exactly what Todd says on behalf of the civil bar.

8 JUDGE VERDIN: Well, thank you.

9 MR. HOWARD: It's always been a pleasure to
10 come before you. And thank you for your service.

11 JUDGE VERDIN: Well, thank you so much.

12 Thank you.

13 CHAIRMAN SMITH: All right. Any further
14 questions? Senator Young.

15 SENATOR YOUNG: Thank you, Mr. Chairman.

16 EXAMINATION BY SENATOR YOUNG:

17 **Q. Judge Verdin, thank you again for your interest**
18 **in continuing your service. And I do want to ask you, if**
19 **you could state for the record, if you -- you had received**
20 **very high marks for your temperament in the courtroom. If**
21 **you were asked to share your insight on how to display a**
22 **good judicial temperament to some of your colleagues who**
23 **might be new to the bench, what would you -- what would you**
24 **say?**

25 A. Well, you know, my mom always told me that you

1 can't be cranky and grateful at the same time. And so I
2 try to remember that. And when I feel a little cranky, or
3 things are bothering me, I stop and remember how truly
4 grateful I am to have the job, and how truly thankful I am.

5 But I would just tell someone to remember when
6 you would sit outside -- and, of course, I don't think any
7 of these judges are still on the bench, but when I would
8 sit outside of a courtroom and really dread to go in and
9 see a particular judge. You know, that's not a good
10 feeling.

11 I should be focusing on how to represent my
12 client and the -- and so I remember that feeling. And you
13 just -- I never want to be a judge that you say, "Oh, I
14 don't want to go in Judge Verdin's courtroom."

15 So I never want to be a judge like that. And I
16 try to remember that. But that would be about the best
17 advice that I could give. But again, they just would need
18 to remember and stop themselves every day, and if they want
19 to complain -- sometimes people will bring you a big stack
20 of orders to sign, and they say, "I'm sorry, Judge, for
21 doing that."

22 And I say, "I went and begged the Legislature to
23 give me this job, okay, and I don't think I can complain
24 about it now." So I'd just tell them to remember that.

25 CHAIRMAN SMITH: Mr. Safran.

1 MR. SAFRAN: Judge, I don't want to take up
2 too much time. But I think sometimes the perception of
3 this committee is one that it's here to criticize the all-
4 out issue that may come up we find to be troublesome or
5 disturbing. And I want to make sure for the record, that
6 we also want to applaud people that do exactly what is the
7 expectation.

8 You know, that's what I say, it's the
9 expectation but not always the reality. And when we look
10 at this and see, basically, the kind of comments you get,
11 the attitude that you have, it does service as a model.
12 And so, I mean, I think it's important that our role also
13 be interpreted as one to point out, and say "this is the
14 way it's supposed to be."

15 And so we want to thank you for your effort
16 and all that you do, but it does stand out and it is
17 something that needs to be applauded.

18 JUDGE VERDIN: Well, thank you. I
19 appreciate it very much. And I can't tell you how -- I
20 wish I could have known how kind y'all would have been last
21 night. I'm kidding. I'm sorry. I'm joking. But y'all
22 have been very kind. Thank you.

23 CHAIRMAN SMITH: Judge Verdin, I want to
24 follow up, 'cause I agree with what Mr. Safran says. When
25 we have issues, and we've got these ballot box surveys, and

1 we've been talking about them all screening for the past
2 two days. And I know that they're frustrating for the
3 candidates, because they say "I don't know the context to
4 which they make these comments" --

5 JUDGE VERDIN: Sure.

6 CHAIRMAN SMITH: -- or how they come to us.
7 But to me they're a good barometer of the type of respect
8 that you have among your colleagues, because this is a
9 process which are anonymous, difficult for people to fill
10 out. If they want to make comments, they can make
11 comments. Or if they don't want to make comments, they
12 don't have to.

13 But when you look at these, and you add them
14 up and -- and to me, the judicial temperament is what makes
15 a judge a great judge, or one of those judges that you
16 dread to go in front of. And we've all been a part of
17 that, and we've all seen that. And a judge remarked
18 earlier, about how the change of the judiciary has
19 happened, and those of us who practiced a lot longer have
20 been on the receiving end of some -- of what I could call
21 abusive behavior, and that seemed to be the norm back when
22 I started practicing law. And we all knew what -- how to
23 handle ourselves.

24 But now things have changed, and people
25 expect better. I'm just going to tell you, when I look at

1 judicial temperament, and you had close to 500 responses,
2 and you had zero found you unqualified, that is a -- that
3 is a testament to the way you have conducted yourself in
4 court, the way you are honoring the judiciary.

5 And we've been talking all week, and I've
6 been telling candidates is, when you zip up your black
7 robe, not only does that represent Judge Verdin, that
8 represents the South Carolina judiciary. And we've got
9 high ideals and high integrity that we need to maintain for
10 the judiciary. And you have -- you are one of the leaders
11 in that regard.

12 So I want to thank you. I thank you for
13 your service. And I thank you for what you're doing. And
14 I just hope -- we have -- Judge Sprouse was in here
15 earlier, telling us that he is one of the leader -- or the
16 chairman of training new judges. I would hope that you
17 take a part of that and you freely give your advice, and
18 you can use yourself as mentoring.

19 'Cause we need judges to have this type of
20 conduct. And these responses are something for you to be
21 proud of.

22 JUDGE VERDIN: Well, thank you very much.

23 REPRESENTATIVE RUTHERFORD: And, Mr.

24 Chairman, just to add to that. I mean, you read off about
25 500 people, but 76 percent of those that responded, 466

1 lawyers found her to be well qualified in temperament. I
2 mean, that is just beyond outstanding. As far as
3 experience, 73 percent, 449 lawyers found her to be well
4 qualified. I mean, these numbers just go on and on and on.
5 And it's certainly something you should be proud of.

6 JUDGE VERDIN: Thank you so much. I really
7 do appreciate it so much.

8 CHAIRMAN SMITH: Any further questions?

9 (Hearing none.)

10 CHAIRMAN SMITH: Judge Verdin, thank you.
11 This concludes your -- this portion of your screening
12 process. I want to take this opportunity to remind you
13 that, pursuant to the Commission's evaluative criteria, the
14 Commission expects candidates to follow the spirit as well
15 as the letter of the ethics laws. And we will view
16 violations or the appearance of impropriety as serious, and
17 potentially deserving of heavy weight and screening
18 deliberations.

19 On that note, and as you know, the record
20 will remain open until the formal release of the report of
21 qualifications. And you may be called back at such time if
22 the need arises. I want to thank you for offering. I want
23 to thank you for your service to the state of South
24 Carolina. And thank you for what you're instilling in the
25 judiciary, in how you're representing the judiciary.

1 JUDGE VERDIN: And could I take just one
2 moment more? I know I'm standing between you and lunch,
3 but just to say how much I appreciate Ms. Mottel and Ms.
4 Crawford, everything that they've done throughout this
5 process. They have been wonderful to work with.

6 CHAIRMAN SMITH: Great. Thank you so much.

7 JUDGE VERDIN: Thank you.

8 CHAIRMAN SMITH: Have a good day, Judge.

9 JUDGE VERDIN: Thank you.

10 CHAIRMAN SMITH: All right. We have lunch
11 coming in. Do we want to go into executive session real
12 quick before we -- is lunch coming in now? Are they here?

13 MS. CRAWFORD: I need to go see.

14 CHAIRMAN SMITH: All right. Senator Sabb
15 moves that into executive session. All in favor say "aye."
16 (At this time the members audibly say "aye.")

17 CHAIRMAN SMITH: All opposed?

18 (Hearing none.)

19 CHAIRMAN SMITH: All right. We're going to
20 go into executive session. And we'll close the doors.

21 (Executive session from 12:29 p.m. to 12:32 p.m.)

22 CHAIRMAN SMITH: Mr. Hitchcock moves to
23 lift the veil and come out of executive session. All in
24 favor say "aye."

25 (At this time the members audibly say "aye.")

1 CHAIRMAN SMITH: All opposed?

2 (Hearing none.)

3 CHAIRMAN SMITH: Let the record reflect that
4 we have been in executive session. However, no decisions
5 were made and no votes were taken during executive session.
6 Ms. Crawford, would you please tell us the candidates we
7 need to vote upon.

8 MS. CRAWFORD: Yes, sir, Mr. Chairman. The
9 circuit judges -- circuit court judges we've heard from
10 today were -- the first was The Honorable Judge Griffith.

11 CHAIRMAN SMITH: Judge Griffith. Is there a
12 motion? Mr. Safran moves to find him qualified and
13 nominated. And Mr. Howard seconds that motion. All in
14 favor signify by raising your hand.

15 (The members unanimously raise their hands at this time.)

16 CHAIRMAN SMITH: Let the record reflect it's
17 unanimous. Any opposed?

18 (Hearing none.)

19 CHAIRMAN SMITH: And then let the record
20 reflect it was unanimous. All right. Next?

21 MS. CRAWFORD: R. Scott Sprouse.

22 CHAIRMAN SMITH: Judge Sprouse. Senator
23 Hayes moves to find Judge Sprouse qualified and nominated,
24 and Senator Young moves to second that. Any discussion?

25 (Hearing none.)

1 CHAIRMAN SMITH: All in favor raise your
2 hand.

3 (The members unanimously raise their hands at this time.)

4 CHAIRMAN SMITH: All opposed?

5 (Hearing none.)

6 CHAIRMAN SMITH: Let the record reflect that
7 vote's unanimous. Next?

8 MS. CRAWFORD: The Honorable William Paul
9 Keesley.

10 CHAIRMAN SMITH: Senator Sabb moves to find
11 Judge Keesley qualified and nominated. Representative
12 Murphy seconds that. Any discussion?

13 (Hearing none.)

14 CHAIRMAN SMITH: All in favor by raising
15 your hand.

16 (The members unanimously raise their hands at this time.)

17 CHAIRMAN SMITH: All opposed?

18 (Hearing none.)

19 CHAIRMAN SMITH: Let the record reflect the
20 vote was unanimous. Next?

21 MS. CRAWFORD: The Honorable Michael
22 Nettles.

23 CHAIRMAN SMITH: Michael Nettles.
24 Representative Rutherford moves to find Judge Nettles
25 qualified and nominated. Mr. Hitchcock moves to second

1 that nomination. Any discussion?

2 (Hearing none.)

3 CHAIRMAN SMITH: All in favor raise your
4 hand.

5 (The members unanimously raise their hands at this time.)

6 CHAIRMAN SMITH: All opposed?

7 (Hearing none.)

8 CHAIRMAN SMITH: Let the record reflect that
9 Judge Nettles was found qualified and nominated,
10 unanimously.

11 MS. CRAWFORD: And, finally, The Honorable
12 Letitia Hamiltion. Verdin.

13 CHAIRMAN SMITH: All right. Judge Verdin.
14 Mr. Howard moves to find Judge Verdin qualified and
15 nominated. Mr. Safran seconds that motion. Any
16 discussion?

17 (Hearing none.)

18 CHAIRMAN SMITH: All in favor raise your
19 hand.

20 (The members unanimously raise their hands at this time.)

21 CHAIRMAN SMITH: All opposed?

22 (Hearing none.)

23 CHAIRMAN SMITH: Let the record reflect that
24 Judge Verdin is found qualified and nominated.

25 And that concludes -- we're going to take a

1 lunch break, folks, and we'll get started back here
2 shortly. Thank you.

3 (OFF THE RECORD AT 12:34 P.M.)
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CERTIFICATE OF REPORTER

I, PATRICIA G. BACHAND, COURT REPORTER AND NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA AT LARGE, DO HEREBY CERTIFY THAT THE FOREGOING TRANSCRIPT CONSISTING OF 98 PAGES IS A TRUE, ACCURATE, AND COMPLETE RECORD TO THE BEST OF MY SKILL AND ABILITY.

I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY NOR COUNSEL FOR, NOR RELATED TO OR EMPLOYED BY ANY OF THE PARTIES CONNECTED WITH THIS ACTION, NOR AM I FINANCIALLY INTERESTED IN SAID CAUSE.

IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL THIS 25TH DAY OF NOVEMBER 2017.

PATRICIA G. BACHAND, COURT REPORTER
MY COMMISSION EXPIRES MARCH 8, 2027

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF RICHLAND)

3
4

* * * * *

JUDICIAL MERIT SELECTION COMMISSION
TRANSCRIPT OF PUBLIC HEARINGS

7

* * * * *

8 BEFORE: G. MURRELL SMITH, JR., CHAIRMAN
9 SENATOR LUKE A. RANKIN
10 SENATOR RONNIE A. SABB
11 SENATOR TOM YOUNG, JR.
12 MR. ROBERT W. HAYES, JR.
13 REPRESENTATIVE J. TODD RUTHERFORD
14 REPRESENTATIVE CHRIS MURPHY
15 MICHAEL HITCHCOCK
16 JOSHUA HOWARD
17 ANDREW N. SAFRAN
18 ERIN B. CRAWFORD, CHIEF COUNSEL

19

* * * * *

20 DATE: November 14th, 2017
21 TIME: 12:30 p.m.
22 LOCATION: Gressette Building
23 1101 Pendleton Street
24 Columbia, South Carolina 29201
25 REPORTED BY: JENNIFER NOTTLE, COURT REPORTER

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Court Reporter's Legend:

- dashes [--] Intentional or purposeful interruption
- ... Indicates trailing off
- [ph] Denotes phonetically written
- [sic] Written as said

1 CHAIRMAN SMITH: All right. Good afternoon, Judge
2 Buckner.

3 JUDGE BUCKNER: Good Afternoon, Mr. Chairman.

4 CHAIRMAN SMITH: All right. Judge Buckner, will you
5 raise your hand, please, sir?

6 JUDGE BUCKNER, being duly sworn, testifies as follows:

7 CHAIRMAN SMITH: Judge Buckner, before you is the
8 personal data questionnaire and your sworn
9 statement. Are those the documents you submitted
10 to the Commission?

11 JUDGE BUCKNER: Yes, they are.

12 CHAIRMAN SMITH: Are they both correct to the best of
13 your knowledge?

14 JUDGE BUCKNER: To the best of my knowledge, they are
15 both correct.

16 CHAIRMAN SMITH: All right. And is there anything
17 that needs to be changed or updated at this time?

18 JUDGE BUCKNER: Not that I'm aware of.

19 CHAIRMAN SMITH: If you'll hand those to Lindi for us,
20 please. And we're going to mark those as
21 exhibits. Do you have any objection to making
22 these documents and any amendments, if
23 applicable, to as a part of your record of your
24 sworn testimony?

25 JUDGE BUCKNER: No objection.

1 CHAIRMAN SMITH: All right. We'll enter those as
2 Exhibits into the transcript at this point.
3 Judge Buckner, the Judicial Merit Selection
4 Commission has thoroughly investigated your
5 qualifications for the bench. Our inquiry is
6 focused on nine evaluative criteria and has
7 included a ballot box survey, a thorough study of
8 your application materials, verification of your
9 compliance with state ethics laws, a search of
10 newspaper articles in which your name appears, a
11 study of previous screenings, and checks for
12 economic conflicts of interest. There have been
13 no affidavits filed against your -- in opposition
14 to your election and no one is present to
15 testify. Do you have a brief opening statement
16 you wish to make to the Commission?

17 (EXHIBIT TWELVE - JUDICIAL MERIT SELECTION COMMISSION
18 QUESTIONNAIRE FOR PERRY M. BUCKNER, III)

19 (EXHIBIT THIRTEEN - JUDICIAL MERIT SELECTION
20 COMMISSION SWORN STATEMENT OF PERRY M. BUCKNER, III)

21 (EXHIBIT FOURTEEN - AMENDMENT TO THE PERSONAL DATA
22 SHEET OF PERRY M. BUCKNER, III)

23 JUDGE BUCKNER: I would like to thank the members of
24 the Commission for their service on the committee
25 and also thank the members for the opportunity to

1 have served the people of the State of South
2 Carolina. I look forward to answering any
3 questions you may have for me.

4 CHAIRMAN SMITH: Thank you Judge Buckner. Will you
5 answer any questions that counsel may have,
6 please?

7 JUDGE BUCKNER: Absolutely.

8 EXAMINATION BY MS. VALENZUELA:

9 **Q. Good afternoon, Judge Buckner.**

10 A. Ms. Valenzuela, good afternoon to you.

11 **Q. Judge Buckner, after serving in circuit court**
12 **since 2000, why do you want to continue serving**
13 **in this position?**

14 A. I feel like two reasons. First is, from my
15 practice, when I practiced law for 25 years I had
16 the opportunity to do both sides of the fence. I
17 put it in my personal data questionnaire. That
18 is I was a -- I did plaintiff's work on the civil
19 side. I did insurance defense work on the civil
20 side. As on the criminal side I was court-
21 appointed in a death penalty case. I did a lot
22 of criminal defense work, particularly when I was
23 the sole practitioner. I also was an assistant
24 attorney general, and prosecuted. I also was an
25 assistant solicitor. I served on the public

1 defender board for over 10 years when I was in
2 practice. I've been court-appointed, so I know
3 what it feels like to be on both sides of the
4 fence. That coupled with my experience on the
5 bench, I think. And that experience, there's no
6 substitute for, Ms. Valenzuela, no matter how
7 much you think you're prepared from your
8 practice, to go on to the bench. There's no
9 substitute for that experience and that's what
10 I've been able to gain over the past 17 years.
11 And I'd like to offer that for the future,
12 because I think it's been helpful to me.

13 **Q. Thank you, Judge Buckner. Could you please**
14 **explain to the Commission one or two brief**
15 **accomplishments you've completed during your**
16 **tenure. And then also a goal that you would like**
17 **to accomplish if reelected?**

18 A. Well, it took me quite a while to accomplish the
19 first thing and most of you are familiar with the
20 Adopt a Highway Program. We have a tremendous
21 litter problem in my circuit and particularly my
22 home county, which happens to be Colleton. It
23 affects -- according to my county administrator
24 and my county council, it affects the attraction
25 of industry to our county. And so I developed a

1 program called, Assign A Highway. I needed
2 Colleton County Council's blessing for this,
3 because county councils are very concerned about
4 the liability aspect of this program. The
5 program was not my own idea. I actually adopted
6 it from a program in West Virginia. And what I
7 do is a condition of probation. I make it a
8 special condition of probation when I give a
9 probationary sentence that you are placed in the
10 Colleton County Assign a Highway Program. And
11 that means that a member of Colleton County -- an
12 employee of Colleton County, not the judge. And
13 I don't let them do this on my own property, so
14 if anyone wants to ask that question that was my
15 first rule. I pick up my own litter. But
16 they're assigned a section of highway in Colleton
17 County in which to pick up litter as a condition
18 of their probation. And it really has helped our
19 litter problem. Now the reason more counties
20 have been hesitant to do it is because they were
21 worried about probationers on the side of the
22 highway and the liability exposure that it could
23 create. I also, in addition to that, have served
24 on the alternative dispute resolution board for
25 the past -- I just got off this past year. And

1 I've been on for about 12 or 14 years. I was
2 very instrumental in getting our circuit to have,
3 first of all, mediation. And now as you know,
4 mandatory mediation is state-wide. I believe
5 that mandatory mediation has been a very
6 effective tool in reducing the backlog of civil
7 cases in our circuit. And the other part of your
8 question, what I'd like to do for the future. Is
9 that right, Ms. Valenzuela?

10 **Q. Yes, Your Honor.**

11 A. What I'd like to see established is I'd like two
12 things. One, I think we should give some
13 consideration to having a mental health court in
14 South Carolina because I see that being a growing
15 problem that we don't always address. I also
16 believe we should consider mediation in General
17 Sessions Court. The reason we haven't had
18 mediation in General Sessions Court is I think
19 monetary. We don't have the abilities, since 90
20 percent of the people that appear in front of me
21 are indigent and are represented by appointed
22 counsel or public defender. We don't have the
23 means to pay mediators like we do in civil court.
24 If we were able to find a way to fund it, I
25 believe that mediation for certain enumerated

1 offenses, non-violent offenses, what creates a
2 backlog in General Sessions Court, we could
3 reduce the backlog in General Sessions Court and
4 get people out of jail. Nothing's more
5 frustrating than going to a county where the
6 solicitor asks you to take a plea and the person
7 -- for time served and you find out the person's
8 been in custody longer than the maximum jail
9 sentence. I think mediation would go a long way
10 for certain enumerated non-violent offenses and
11 reducing the backlog in General Sessions Court if
12 we could find a way to fund it.

13 **Q. Thank you. Judge Buckner, in you PDQ you**
14 **indicated that since your last screening a**
15 **lawsuit was filed against you and Mr. J. Masty in**
16 **2016 in Common Pleas. By Mr. El Dey, who's also**
17 **known as Mitchell Murray, I guess. And --**

18 A. He has four alias.

19 **Q. So we'll just name his one alias there. Could**
20 **you please explain the nature and disposition of**
21 **the lawsuit?**

22 A. Well, I never met Mr. El Dey. He wrote either --
23 emailed or wrote a letter to the court in which
24 he used profanity toward his opposing counsel,
25 who was Mr. Masty, and towards Judge Mullen, who

1 is my sister judge in the 14th Judicial Circuit.
2 And Mr. Masty filed a rule to show cause to have
3 him appear in front of me as to why he should not
4 be held in contempt. And Mr. El Dey did not
5 appear at that hearing. I issued an order
6 prohibiting him from using profanity when Mr.
7 Masty was simply trying to settle the dispute.
8 This was a dispute over water damage to property.
9 And after I issued that order, prohibiting him
10 from using profanity, he filed a lawsuit naming
11 me and Mr. Masty as defendants, which was
12 dismissed with his consent. I hope that
13 summarizes. I gave the committee a copy of the
14 only order that I filed in connection with this
15 individual as a part of my personal data
16 questionnaire, which I think is self-explanatory.
17 But if there are any questions, I'll be happy to
18 answer them. I never have had the opportunity to
19 meet him. So he has never actually appeared in
20 my court.

21 **Q. Thank you, Judge Buckner. Judge Buckner, what do**
22 **you think your reputation is among court**
23 **personnel and also among attorneys who practice**
24 **before you?**

25 **A. I like to believe my reputation among court**

1 personnel is a good one. I tell -- I teach in
2 the orientations school here and I have for the
3 past 11 years for new judges, emphasizing to them
4 how important it is that they learn, meet, and
5 appreciate the people that work in the
6 courthouse. I've enjoyed getting to know the
7 people in the various courthouses that I've had
8 the privilege of holding court in during my three
9 terms as a circuit court judge. And my
10 reputation among lawyers -- I told Erin Crawford
11 this earlier. And she told me that I could get
12 away with saying this, so I'm going to repeat
13 exactly what I said to her. Judges by necessity,
14 Ms. Valenzuela, are surrounded by people who
15 constantly say nice things about them, including,
16 generally, lawyers. And if they ever once begin
17 to believe it they are a lost soul, Ms.
18 Valenzuela. And I think I have never had in my
19 terms as a judge, I have never had a lawyer
20 openly -- certainly disagree with me, absolutely.
21 But never openly complain about how they were
22 treated in court. I like to believe that -- I
23 want to treat lawyers as I've wanted to be
24 treated when I was a practicing attorney. And
25 that's the rule I follow. I hope that answers

1 your question.

2 Q. It does. Thank you, Your Honor. Judge Buckner,
3 speaking of what attorneys say and in this case
4 anonymously. The Commission received 554 ballot
5 box surveys. And as part of that ballot box
6 survey, there were 37 additional comments. For
7 some examples of positive comments with attorneys
8 who are not putting their names on it, "clearly
9 one of the best judges in our state." "A great
10 trial judge, fair and firm, excellent demeanor."
11 "And very knowledgeable, fair, impartial, and
12 courteous judge." "Judge Buckner is highly
13 intelligent and has an excellent judicial
14 temperament." And then also -- and this isn't a
15 limit, this is just for examples. "One of the
16 best of the best. Behind the genial manner of
17 the -- is a steel trap mind. A lawyer's lawyer
18 and a judge's judge who is widely respected."

19 A. And it was anonymous?

20 Q. Those were anonymous, yes.

21 A. It needs to remain that way.

22 Q. There were also 18 of those 37 comments that
23 expressed some concerns. And those concerns
24 broke down among three different areas. Some of
25 the comments indicated a perception that you are

1 **not fair, that you may reward friends, and that**
2 **you may favor plaintiffs. What response do you**
3 **offer to this concern?**

4 A. If the law and the facts are on a plaintiff's
5 side and I have a matter of law in front of me, I
6 rule with the plaintiff. If the law and facts on
7 the defendant's side in a matter before me, I
8 rule with the defendant. I do think that my
9 circuit probably has -- we have five counties in
10 my home circuit. And the socioeconomic
11 difference in the counties is drastic. And I
12 think my circuit has a reputation, unfortunately,
13 particularly some of the counties in my circuit
14 as being plaintiff-oriented. So if the judge
15 fails to direct a verdict and a person has their
16 case submitted to a jury in one of those
17 counties, then I think that very often that
18 you're going to find that people don't like the
19 fact that their venue is in a county that they
20 don't like the makeup of the jury. And they'll
21 think that reputation from being plaintiff-
22 oriented comes from that in the past.
23 Interestingly enough, the last couple of cases
24 I've tried in the counties I'm referring to have
25 been defense verdicts. So I don't know that that

1 reputation is a meritorious one, but there's a
2 complete difference between the socioeconomic
3 makeup of a jury in some of the counties in our
4 circuit, compared to others. And I think that's
5 where that may generate it's genesis. But I can
6 assure you I don't try to show any favoritism for
7 either party in any case that comes before me.

8 **Q. Thank you, Judge Buckner. The second area of**
9 **concern indicated a perception that you may have**
10 **poor judicial temperament and may treat attorneys**
11 **badly in chambers and in court. What response**
12 **would you offer to that concern?**

13 A. Well, first of all, if I'm going to have some
14 disagreement with a lawyer over the way they've
15 handled some matter that I feel like -- I never
16 address a lawyer in a courtroom unless it's
17 necessary to move on with a trial. I would speak
18 with the lawyer privately in chambers. There's
19 no place in the courtroom for anger. And there's
20 no place in the courtroom, obviously, for a judge
21 to exhibit arrogance or impatience. I can assure
22 you that one of the things that I have, most of
23 the lawyers that know me know that I have a
24 hearing problem in my right ear, just from
25 shooting a shotgun my entire life without ear

1 protection. I can tell you exactly where it came
2 from. And I wear a hearing aid in my right ear.
3 And I talk loud. I don't even turn the
4 microphone on in my courtroom. In fact, the
5 courtroom is the easiest place to adjust sound.
6 The clerk is constantly turning to you and
7 saying, can you hear alright or can the jury hear
8 alright? Can the witness hear? So there's no
9 problem really in the courtroom, but I speak
10 loud. Very often I find that lawyers that don't
11 appear in front of me think that I'm talking down
12 to them or yelling at them because I talk loud
13 when I talk. And it's because of my hearing. At
14 least, I think that's part of the reputation.
15 But I certainly will be cognizant in the future,
16 Ms. Valenzuela, in light of that, to educate
17 lawyers that don't regularly appear in front of
18 me. Because it's always nice to get a little
19 feedback as to how lawyers perceive you and try
20 to improve on that. I certainly don't mean to be
21 yelling at anybody. In fact, I feel like I'm
22 talking really loud to y'all right now, because
23 this microphone's on and it's the way I talk.
24 But I can't help it. If anyone's ever had a
25 hearing problem, they know that they lose the

1 perception of voice. And they want to make sure
2 that it can be heard, because you struggle. But
3 I can adjust my hearing with my phone. The world
4 of modern technology allows me to do that with my
5 phone. That would be my comment to that. But I
6 can assure, Ms. Valenzuela, that I do not believe
7 -- I think lawyers should be -- I mean, judges
8 should be, to lawyers, patient, they should use
9 common sense, and they should remember that there
10 are no unimportant cases. No matter how many
11 times you may have heard something and it has
12 become repetitious, to somebody, it's the most
13 important day in their life. And judges should
14 remember that. And not only for the litigants,
15 but also when dealing with the jury, in dealing
16 with the witnesses, and dealing with members of
17 the public that come to court. It's a big day in
18 their life. And even if you've heard the same
19 thing over and over again, it's important that
20 you remember that it's not an unimportant case,
21 no matter how many times you've heard it.

22 **Q. Thank you, Judge Buckner. The last area of**
23 **concern was indicated only by two single**
24 **comments. Again, that was out of the 554 and**
25 **then out of the 37 comments. But that area of**

1 **concern was that there's a perception that you**
2 **may be offensive to women and have at least,**
3 **once, displayed a lack of racial sensitivity in**
4 **your comments in court. What would your response**
5 **be?**

6 A. And you tell me about it and I'm disappointed
7 that I had even one negative comment. I can
8 assure you that, to my knowledge and my entire
9 lifetime, I have never made any intentional
10 comment that was disparaging to a member of
11 another sex or to another race. I do find
12 sometimes that with anonymous surveys that you're
13 going to hear things like that. But to my
14 knowledge, Ms. Valenzuela, I have never engaged
15 in any type of conduct like that, and I would
16 find it offensive.

17 **Q. Thank you, Judge Buckner. In your sworn**
18 **statement, you explained that you certainly**
19 **consider elderly defendants or a defendant with**
20 **some infirmity when sentencing, even though it**
21 **would only be one of many factors you would**
22 **consider in reaching a fair sentence. Can you**
23 **elaborate on how you consider a defendant's**
24 **health when crafting a sentence?**

25 A. I will. And you asked me -- and you gave me five

1 areas of concern and I told you that I thought it
2 was a consideration. Obviously, when you're
3 sentencing in criminal court and you have a
4 person of an advanced age, you're going to
5 consider and you're aware of possibly life
6 expectancy of a person. You're aware that when
7 you're imposing a jail sentence that the
8 effectiveness of that sentence might be a life
9 sentence. To that extent, you certainly should
10 take into consideration the age of the defendant,
11 as well as other factors, such as his prior
12 record and the type of conduct that was involved.
13 I do not believe that age alone is an outcome
14 determinative factor in reaching a fair sentence.
15 But it is a factor that should be considered by a
16 judge in reaching a fair sentence under certain
17 circumstances.

18 **Q. Thank you, Judge Buckner. So that just leaves us**
19 **with some housekeeping issues. Since submitting**
20 **your letter of intent, have you contacted any**
21 **members of the Commission about your candidacy?**

22 **A.** I have not contacted any member of the Commission
23 about my candidacy. I do need to disclose that
24 your chief counsel came to observe me in court.
25 And it happened to be at the end of the week.

1 And it happened to be when we had a child who had
2 to be emergently admitted to the Medical
3 University of South Carolina. And it was a very
4 tragic situation. And court broke down. And
5 when court breaks down, because of the hospital
6 admission, I always take my law clerk to lunch.
7 It was lunch time. So I invited your chief
8 counsel to join us for lunch. I want to disclose
9 that she went to lunch with me and my law clerk.
10 We did not discuss one thing about what was going
11 to happen at this hearing. And then frankly, I
12 took her to a place she had never been before, so
13 she could get some low country seafood while she
14 was in the low country. I hoped she enjoyed it.
15 I can assure you, I still would not revise my
16 personal data questionnaire, because I still
17 spent less than \$100 on postage, stationary, and
18 Ms. Crawford and my law clerk's lunch.

19 **Q. Thank you for that, Judge Buckner. Since**
20 **submitting your letter of intent, have you sought**
21 **or received a pledge of any legislator, either**
22 **prior to this day or pending the outcome of your**
23 **screening?**

24 A. I have not.

25 **Q. And have you asked any third-parties to contact**

1 **members of the General Assembly on your behalf or**
2 **are you aware of anyone attempting to intervene**
3 **in this process on your behalf?**

4 A. I am not.

5 **Q. And have you reviewed and do you understand the**
6 **Commission's guidelines on pledging in South**
7 **Carolina Code 2-19-70(e)?**

8 A. I am very familiar with the guidelines.

9 **Q. Thank you.**

10 MS. VALENZUELA: Mr. Chairman, I would note that the
11 Low Country's Citizen's Committee reported that
12 Judge Buckner to be well qualified in the
13 evaluative criteria of ethical fitness,
14 professional and academic ability, character,
15 reputation, experience, and judicial temperament.
16 And qualified in the remaining evaluative
17 criteria of constitutional qualifications,
18 physical health, and mental stability. I would
19 also note for the record that any concerns raised
20 during the investigation regarding this candidate
21 were incorporated into the questioning of the
22 candidate today. And I have no further
23 questions.

24 CHAIRMAN SMITH: Thank you very much. Any
25 questions for Judge Buckner? Senator Sabb.

1 EXAMINATION BY SENATOR SABB:

2 Q. Thank you, Mr. Chairman. Judge Buckner, good to
3 see you. And we probably don't have time to
4 discuss it today, but I'm very interested in your
5 Assign A Highway Program.

6 A. I can send you a booklet on it, because I've
7 appeared before five county councils in my
8 circuit trying to get X county in my circuit to
9 follow Colleton's lead. And I'll be happy to do
10 that, Senator Sabb. It's been -- it's now
11 statewide in West Virginia. And I can't tell you
12 what a successful program it's been in West
13 Virginia.

14 Q. Yes, we've been trying to make District 32, which
15 is my district, the cleanest district in the
16 State of South Carolina. And so we've been
17 trying to do some things. One of the
18 disappointing things was we've got all of these,
19 Adopt a Highway signs, but there's no registry of
20 all the groups that have adopted highways over
21 the years. And so, trying to get a hold of those
22 groups and trying to get them to become more
23 active in cleaning the roads that they agreed to
24 clean some years ago is somewhat of a challenge.
25 And so we've had some community pickup projects,

1 **which have all been a lot of fun. I personally**
2 **get out there and I'm picking up trash along with**
3 **everybody else. And it's just a really good**
4 **community projects.**

5 A. I will tell you, Senator, so that you know. I
6 had to learn this myself and experience. The key
7 to the success of the Assign A Highway program is
8 the litter control officer. That is the person
9 who is the county employee who goes by and checks
10 to see if the probationer has actually picked up
11 the litter on the assigned area. If he has not,
12 he gets one -- or she gets one warning, you
13 hadn't picked it up, I'm going to come back and
14 check. If they don't the second time, then
15 they're reported to probation who violates them
16 for violating condition to my probation and
17 brings him back in front of me for enforcement.
18 But unless you have a litter control officer
19 whose on top of it -- and that's where the county
20 had to come in. And the county's even gone to
21 the point now in Colleton, they have a van. So
22 that if we've got an industrial prospect that
23 wants to see something in our industrial area, we
24 can put the people, the probationers, in the
25 county van, take them to an area where we're

1 going to show prospect property and let them
2 clean up that area the weekend before the
3 prospect is due to visit our county. So it is
4 work very effectively, not only in reducing
5 litter, but also we feel like in attracting
6 industry and prospects to our county.

7 Q. One story I'd like to share with you on that real
8 quick. So it was told to me by a resident of my
9 community when we were talking about litter
10 pickup that somewhere in the State of South
11 Carolina a gentleman from another country had
12 come and wanted to locate his business here and
13 was taken to an area where there was beautiful
14 scenery around the river and he liked it. And so
15 they took him to the river. And so they had this
16 incredible experience on the river. And they got
17 back and they said, well, what do you think. And
18 so he says, anybody who has a beautiful treasure
19 like this and doesn't think anymore of it than to
20 allow all of this trash to be in it, I think are
21 too lazy and don't have pride in themselves for
22 my company to locate here. And so they lost the
23 prospects of economic development as a result of
24 that. And so I think what you're doing is
25 wonderful and I do look forward to receiving

1 **material on it.**

2 A. I'll see that you get my -- it's a pamphlet and
3 it gives you an outline of the program and I'm
4 available to answer any questions about it that
5 you have. But I can tell you it's been
6 successful. The reason the counties are
7 hesitant, Senator Sabb, is for exactly what I
8 just talked about. When I first started the
9 program I had to promise my county council that I
10 would have the probationers only pickup litter
11 within a mile of their house. So that they
12 didn't have the liability issue of transporting
13 people to another area which they were worried
14 about from a liability standpoint. And they
15 could walk from their home and pick up a half
16 mile on each side of their house. That wasn't
17 necessarily the litter problem areas, but that
18 was a part of the initiation of the program.
19 Once they became more comfortable with it, then
20 they started with transportation. But there is
21 also the aspect, many of you know- that if
22 somebody -- they provide -- we provide orange
23 vests. We provide the bags. Obviously, traffic
24 doesn't always adhere to our traffic laws. And
25 so you have people out on the side of the road

1 and that's what concerns the counties about
2 implementing the program, cause they don't want
3 the liability exposure of someone getting hurt.
4 Even though they're being supervised by South
5 Carolina Probation and Parole. And that this is
6 a special condition of probation. The beauty of
7 it is that other than the litter control officer,
8 it doesn't economically cost the county anything
9 additionally. And most of them already have
10 someone that kind of fulfills that position. And
11 you also can assign areas where you have your
12 greatest need. So it's worked very effectively
13 and I'll be happy to share that with you.

14 CHAIRMAN SMITH: Senator Young?

15 EXAMINATION BY SENATOR YOUNG:

16 **Q. Mr. Chairman. Judge Buckner, I wanted to just**
17 **tell you that we really appreciate your service**
18 **to the state and to the Judiciary of this state.**
19 **Appreciate your interest in continuing to serve.**
20 **One of the questions that I have for you is, have**
21 **you had the opportunity either currently or in**
22 **the last couple of years to have been the chief**
23 **administrative judge for the civil division in**
24 **your circuit?**

25 **A. Well, the answer to that is yes, I have. And our**

1 circuit is unique in that it has five counties.
2 It's the only circuit in South Carolina that has
3 five. There are a couple of circuits that have
4 four, but the 14th has five. So we bifurcate it
5 because it's so hard for one judge to administer
6 five counties. I live in Walterboro. My sister
7 judge is in Beaufort. Our circuit stretches
8 Beaufort, Jasper, Colleton, Hampton, and
9 Allendale. I've been chief -- what we did --
10 when I first started I did all five counties. We
11 started about six years ago bifurcating. I do
12 Colleton, Hampton, and Allendale as chief
13 administrative judge. Another judge does
14 Beaufort and Jasper. So, yes, I have had the
15 opportunity to be chief administrative judge for
16 both common pleas and general sessions in all or
17 a portion of the 14th Circuit.

18 **Q. Have you also had the opportunity during your**
19 **years on the bench to have younger new judges sit**
20 **with you during your terms of court.**

21 A. I've been fortunate. I've had a number of judges
22 that have asked to sit with me and have sat with
23 me in my court. And I think that's a great way
24 for new judges to experience what it's like to be
25 on the bench. It's very hard to duplicate that

1 obviously, until you actually had to live it.

2 Q. You were a private practice attorney before you
3 became a judge; is that right?

4 A. That's exactly right.

5 Q. And do you think it's important for a circuit
6 judge in this state to have an appreciation for
7 what it is or what it's like to be a private
8 practice lawyer?

9 A. Absolutely. I call it, Senator Young, being in
10 the pit. If you haven't been in the pit then you
11 don't have an appreciation of what it's like for
12 the lawyers that appear before you. And that's
13 the reason I started my remarks by saying, that I
14 believe my experience on both the plaintiff and
15 defendant's side civilly, and the prosecution and
16 the defense side criminally, gives me a better
17 perspective on being a judge, because I really do
18 think that's extremely important. You can tell,
19 Senator Young, within 15 minutes after you start
20 a hearing or a trial, a lawyer that does not have
21 the experience of practicing law or being in a
22 courtroom. I just gave a -- trying to see if --
23 I don't believe -- yeah, Murrell was there. I
24 just gave a talk about the downside of that and
25 that is that with mandatory mediation, with the

1 expense of litigation, our young lawyers are not
2 getting civil trial experience now. And I
3 believe one of the ways to remedy that would be
4 that we encourage young lawyers. I started in
5 magistrate's court and summary court. I also
6 believe fast track jury trials are an excellent
7 way to get young lawyers some trial experience
8 which they're not getting now because we're not
9 trying civil cases. I'm going to be completing
10 my 18th year this summer on the bench and I'm not
11 trying a third of the civil cases -- I'm trying
12 just as many criminal cases as I ever did. But
13 I'm not trying a third as many civil cases as I
14 did 10 years ago. And as a result and it's good
15 that we are resolving cases through alternative
16 dispute resolution, but it's bad that it does not
17 give young lawyers trial experience. And they
18 need that in order to develop. So we've got to
19 look at ways to try to give them that experience,
20 because it's no substitute for it.

21 SENATOR YOUNG: Another question, Mr. Chairman.

22 CHAIRMAN SMITH: Yes, sir.

23 **Q. Have you been asked in the recent past to have**
24 **been a panelist at a CLE that's sponsored by the**
25 **South Carolina Defense Trial Attorneys**

Association?

1 **Association?**
2 A. I was. I was referring to it -- I was a panelist
3 this past weekend. Mr. Howard's in charge of
4 that, the seminar program. I'm sure he's on the
5 invitation list. I actually -- it was a panel
6 Judge Kittredge, myself, Judge Cole, and Judge
7 Goodstein, were on the panel. And we talked
8 about two areas. One, the area of -- the fact
9 that we don't -- well, how can we help young
10 lawyers who aren't getting trial experience and
11 why are they not getting civil trial experience.
12 And the other was civility in the courtroom. Our
13 young lawyers, because they don't have trial
14 experience very often, do things in the name of
15 advocacy which aren't civil. They think being
16 Rambo is the way to practice in trial court. And
17 they think if you're not Rambo, you're weak and
18 you're not a tough litigator. And we need to
19 change that image, Senator Young. We need to set
20 an example, both judges and lawyers, for young
21 lawyers that teaches them that Rambo tactics,
22 being argumentative, personally accusing the
23 other side of things. With what's going on in
24 our world today, I guess, I'm not surprised. I
25 said that during the conference. When you cut on

1 the television and you see them say, you're going
2 to see a real judge and real people. And the
3 judge says, shut-up, sit down, I'm not listening
4 to you anymore. Or the judge takes their chair
5 and turns around and refuses to look at the
6 people that are speaking. That's the type of
7 examples that our young people in our profession
8 are seeing. And that's not an example that I
9 want us to set for the people that are coming up
10 in our profession. So we talked -- that seminar
11 dealt with civility as well as the lack of civil
12 trial experience. And I hope that it was
13 informative.

14 **Q. Thank you, Judge Buckner.**

15 A. Thank you.

16 CHAIRMAN SMITH: Senator Rankin?

17 SENATOR RANKIN: I'm good.

18 CHAIRMAN SMITH: Mr. Safran?

19 EXAMINATION BY MR. SAFRAN:

20 **Q. Judge Buckner, appreciate you coming up. Many**
21 **years ago I had the privilege of starting my**
22 **practice, 14th circuit. And like you I had the**
23 **opportunity to be exposed to a lot of judges down**
24 **there who taught me a great deal. And, you know,**
25 **we think back to the last 30-40 years, Judge**

1 **Eltzroth, Judge Smoak, Judge Brown. Is there**
2 **anything that you're doing now that's really**
3 **changing the level of courtesy and productivity**
4 **that we've seen down there during all that time?**

5 A. Not that I'm aware of, Mr. Safran. I think
6 judges should always be courteous. They should
7 be patient. I can't think of an example. I will
8 say that I told you about my hearing problem and
9 about the level of my voice as a result of it. I
10 think people sometimes get the misconception from
11 that. And I have to tell you that Judge Eltzroth
12 is probably a good example of that, because he
13 scared me to death every time he opened his
14 mouth, because he was loud. And he wasn't deaf
15 like I am. At least I have the excuse of wearing
16 a hearing aid from shooting. But we do have a
17 great heritage. Judge Rhodes was also from that
18 circuit. He was my mentor. And he offered me a
19 job as his first clerk on the South Carolina
20 Supreme Court. But Dan McLeod had been so good
21 to me while I was in law school, letting me clerk
22 there. I had already accepted a job with Mr.
23 McLeod. I didn't get a chance to work for Judge
24 Rhodes. We've got great history of good judges
25 in our circuit. Judge Smoak, you know, was my

1 law partner.

2 Q. Absolutely. And I guess the question is this, I
3 know that over the years you've picked up from
4 your experience things that you might adopt and
5 say, I like this, maybe I think this is something
6 I might do differently. But the point is, you've
7 tried to take the qualities of everything you've
8 learned through experience?

9 A. Don't you think that's what all lawyers do, Mr.
10 Safran. They walk in and they see somebody like
11 Mr. Smith over here and they watch how he handles
12 himself in court, how he appears. He appeared
13 before me not too long ago. And he had a pro se
14 litigant on the other side. If there's ever an
15 example of when a judge has to use patience is
16 when you have a pro se litigant involved,
17 especially where the other side has a lawyer.
18 And yes, I did exactly what you did. I went, I
19 watched, I listened, and that's how I learned.
20 And I think that's the way most lawyers learn,
21 which is why I think it's so incumbent upon all
22 of us as judges or lawyers that we set an example
23 for our younger people that are coming. Because
24 they're looking at all of us. Just like the jury
25 looks at the judge and the litigants do, the

1 young lawyers are watching all of us, the judges,
2 to set an example to show them what the right way
3 is. How to act civilly in the courtroom as
4 opposed to being a Rambo type judge.

5 **Q. Well, to take, I guess, one other step from what**
6 **Senator Young pointed out. Did you find that in**
7 **transitioning to the bench that all these years**
8 **you've put in private practice going to all the**
9 **different courts -- and like you, when I was**
10 **there family court, magistrates court, general**
11 **session, common pleas, that that made you a**
12 **better judge?**

13 **A.** I do think it does. I told you I referred to it
14 as having been in the pit. I can tell you within
15 just a few minutes after any hearing or trial
16 starts whether or not the lawyer that's appearing
17 before me has been in the pit. Now, if you ask
18 me whether or not I ever want to go to family
19 court again, unless my wife forces me to, I'm not
20 planning on going back to family court. But I
21 can't tell you what a learning experience it was
22 for me. So was magistrate's court, so was
23 summary court. It may be trial by ambush, Mr.
24 Safran, but it teaches you to think on your feet.
25 And it is an excellent way for young lawyers to

1 learn how to be effective trial advocates.

2 **Q. And I'll assume it's a very, very, essential**
3 **asset to becoming a good judge too?**

4 A. I like to think it is, that's my opinion.

5 **Q. Thank you very much.**

6 A. Thank you, Mr. Safran.

7 CHAIRMAN SMITH: Senator Rankin?

8 EXAMINATION BY SENATOR RANKIN:

9 **Q. Judge, I am impressed with the slight figure that**
10 **you appear today. You have certainly done**
11 **something.**

12 A. Your chief counsel can explain the reason for my
13 slight appearance. I've been fighting a disease
14 known as diverticulitis, Senator. And I've lost
15 29 pounds. It's not from discipline, hard work,
16 or exercise. It's purely from the fact that I
17 couldn't eat cause I was having problems in my
18 system.

19 **Q. Your personality suggested it's not taking its**
20 **toll, you're winning this battle.**

21 A. I'm trying my best to, Senator. I can tell you
22 all my tests have been negative, so I'm very
23 thankful to the good Lord that nothing serious
24 has gone on. But it's definitely caused me to
25 lose a good bit of weight. I will share this

1 with you, Senator Rankin, because you'll
2 appreciate this. I told my wife last night, I
3 said, gosh man, my side still hurts and I'm
4 taking all this medicine. She said, Perry what
5 difference does that make, you look good, who
6 cares how you feel. Does that sound familiar?

7 Q. I wish it did. Unfortunately, not as familiar
8 as I would like. And I appreciate your presence,
9 you have an imposing presence, albeit slight now
10 with the 20 plus pounds you've dropped. And that
11 presence, it has with it a personality that I
12 find attractive, that I find that could be -- and
13 some of the comments that we get, perhaps is
14 imposing and intimidating by some. And just
15 attacking just a couple of these things. And the
16 weight loss is particularly cute in that one of
17 the folks' comments about you as culinary expert,
18 can serve up home cooking with the best of them.
19 That you are not enjoying that home cooking means
20 that you area a giver, I guess. But that is more
21 the lighter side --

22 A. I'm under oath, Senator Rankin, and I'll tell you
23 I love food.

24 Q. And one of the -- in the alliteration vein from
25 culinary expert, one says that -- let's see how

1 they said, can be a little cantankerous but keeps
2 lawyers honest. Cantankerous is a personality
3 trait which, I think, suggests to me that you're
4 running your court. And as another one of your
5 endorsers says, again, keeping lawyers honest and
6 not shy about making tough decisions about
7 lawyers' behavior, civility perhaps. But that
8 would not -- and when I take that cantankerous to
9 be perhaps a personality trait and a strength of
10 character.

11 A. Well, it's hard for me to respond to a anonymous
12 comment. But I can tell you, Senator Rankin,
13 that my objective is to be firm but fair and not
14 to be cantankerous toward anyone, because it
15 implies a sense of bias if you're cantankerous
16 towards someone. That doesn't mean you
17 necessarily agree with their position on the law
18 or the facts. You might have a different
19 interpretation of it. But I strive not to be
20 cantankerous. But you never know how people are
21 going to perceive when you rule on something, how
22 they perceive the reasons for it. All you can do
23 is express your feelings, either on the record or
24 in a written order as to the reasons for your
25 ruling.

1 Q. And in that vein, again, this same person writes
2 that you keep lawyers honest. So I don't take
3 that as a negative, I think --

4 A. I understand. Well, I definitely think you've
5 got to keep a level playing field and you try
6 your best to do that. And sometimes you have to
7 be firm and lawyers don't also appreciate the
8 manner in which you have to be firm in order to
9 run your court.

10 Q. One other and I'll get off this, after this. But
11 I imagine you get this quite a bit. "Judge
12 Buckner is a lawyer's judge, fair, engaging,
13 incredibly knowledgeable. I've had several grave
14 differences with his rulings. One or two of
15 which very grave indeed. Ultimately, though
16 there aren't but a few small handful of circuit
17 judges I'd rather see on the bench when I walk
18 into court with a serious matter to argue or an
19 important case to trial." Well, I'm going to
20 take that as a compliment. I don't how you might
21 again, anonymous, so you don't know who's saying
22 it, good or bad for some of these.

23 A. I will say this, Senator, no one has ever accused
24 me of being lazy. I try real hard to work at my
25 job to serve the people of South Carolina. I

1 appreciate a lawyer, particularly one that I've
2 ruled against that still feels that he's getting
3 a fair shot. Because very often in today's
4 world, when you rule against people, they turn
5 the controversy personal, which is shouldn't be.
6 It should be based on whatever the law and facts
7 are of that case, so I take that as compliment.
8 But as I said to Erin earlier, judges don't need
9 to start buying in to what lawyers tell them
10 about themselves, because they're always
11 complimentary to your face. I'm afraid a little
12 bit of that complimentary stuff you have to take
13 with a grain of salt. But I appreciate a lawyer,
14 particularly one that you've ruled against, that
15 still thinks you can be fair, Senator Rankin,
16 because I think that is a compliment.

17 **Q. And y'all forgive this little tack to the -- not**
18 **personal, but I think you have hit it exactly**
19 **with your earlier comments, not to me, but in**
20 **response to one of the questions. I don't recall**
21 **which. But a test in a business school, Yale,**
22 **Harvard, I'm not sure which. But this was a true**
23 **case study written about advice from a successful**
24 **business person. In terms of what he learned in**
25 **school which he would want to teach and you're an**

1 example to young lawyers. His was that the
2 professor of this ivy league school class in the
3 final grade, the final test, everyone walked in,
4 papers were turned over, and they had all
5 prepared mightily for the big exam, whatever
6 particular theory of business it was. And they
7 all of sudden were told, okay, here's your test.
8 And they turn it over and there was one question
9 on the test. And the question was, name the
10 janitor outside this classroom. And no one got
11 it, apparently, perhaps except one. This
12 particular person got it, not the answer, but the
13 life lesson, which was to pay attention to
14 everybody, give honor, give respect, give esteem
15 to everyone. I think you've got that and you
16 mentioned dealing with the clerk's office and
17 dealing with the court personnel. That is either
18 an honest sense of sharing and shining and giving
19 honor to people that apparently you do. And I'll
20 ask you to comment on that, if you will?

21 A. I almost believe that you got a transcript of my
22 talk in the new judge's school. Because I give
23 this story each year to the new judges. I tell
24 them, Senator Rankin, they are going to send you
25 to places you've never been before. You're going

1 to go to a county you've never been in before.
2 And you're going to not know anybody. And when
3 you arrive, there's probably going to be a deputy
4 or a bailiff who is going to show you to your
5 office, because you don't know where to park.
6 You don't know where your office is. You've
7 never been in the courthouse before. My advice
8 to you is this, my advice is that once that
9 bailiff takes you to your judge's chambers, you
10 tell the bailiff you'd like to see the clerk of
11 court. And that's going to scare them to death.
12 And the clerk's going to come running to your
13 office and you tell the clerk to shut the door.
14 And that's going to scare the clerk even more.
15 And then you look at the clerk and you say, Mr.
16 Clerk or Madam Clerk, my job this week will be to
17 try to make you look as good as I possibly can.
18 When you say that, the clerk's going to go,
19 (sighs). And when you see the clerk go, (sighs),
20 you look the clerk in the eye and say, the only
21 thing I ask in return is you try to make me look
22 as good as you possibly can. And you'll get
23 along just fine in every courthouse you go to.

24 CHAIRMAN SMITH: Any further questions?

25 EXAMINATION BY CHAIRMAN SMITH:

1 Q. Judge Buckner, let me just follow up a little
2 bit. When I review this, and I know sometimes
3 you get told about the negative comments, but I
4 also want to point out some of the positive
5 comments. And you heard Senator Rankin do it --
6 tell you some of those. But when you look at the
7 percentages of this. I think this also speaks
8 volumes to me is that you're -- in your judicial
9 temperament, you're well qualified with 52
10 percent -- over 52 percent of the respondents.
11 14.8 find you qualified. And going throughout
12 your experience, well qualified, 65 percent.
13 Physical, mental health, 67.9 percent.
14 Reputation, well qualified, 58 percent.
15 Character, 58 percent. Well qualified, it just,
16 throughout this whole line -- litany of questions
17 I know you hear us talk about the negatives, but
18 I also would point out that there are a lot of
19 positives with you. And I appreciate that. And
20 also, when I'm looking at some of the comments
21 too, some of them are exactly what -- some of the
22 negative comments are exactly what you mentioned
23 earlier that pro-plaintiff or not fair or
24 somebody says that the lawyers in your circuit
25 say, well, wait until I get you in front of Judge

1 **Buckner and he'll deny your motion for summary**
2 **judgement. You can't control any of that, can**
3 **you?**

4 A. Not a bit.

5 **Q. Okay.**

6 A. And I'll say this. Probably nobody's tried more
7 cases in front of me than Mr. Murphy has, because
8 he used to be a assistant solicitor in Dorchester
9 County. And so, Chris, I have no idea how many
10 you've tried, but you've tried a lot. I mean, he
11 can give you, probably first-hand experience,
12 what it's like to appear in my court. And it's a
13 pleasure to hear some positive things. I'll
14 admit to you -- and I want to thank Ms.
15 Valenzuela, because she did a -- she made a
16 conscientious effort, Mr. Chairman, of pointing
17 out some positive things. Because when you go
18 through this process you feel like you're under a
19 microscope and you feel like the longer you
20 serve, the greater chance are going to be the
21 people will have a chance to comment critically,
22 particularly those that you've ruled against or
23 those you've had to be firm with, that you can't
24 be a weak judge. Because it requires that you
25 make a decision. And when you make that

1 decision, some people take it personally,
2 unfortunately. And I hate that, because there's
3 no room for that. I just had a lawyer that I
4 ruled against recently who thought I was wrong
5 and who appeared before me in another county and
6 I ruled with. And he told me he thought I was
7 the smartest judge, that I had grown up so much
8 since I had ruled against him. I think that was
9 probably indicative of how lawyers feel. You're
10 only as good as your last decision, Mr. Smith.

11 **Q. Yes, sir. And Judge when I go through these**
12 **things I think I just want to make sure I heard**
13 **your testimony correctly. If -- you have to**
14 **control your courtroom at times?**

15 A. Absolutely.

16 **Q. And that's important for the dignity of the**
17 **profession and the sanctity of the courtroom.**
18 **But I think I heard you say when there are**
19 **issues, you try to go back in chambers and do**
20 **that to lawyers where it's not in front of the**
21 **clients, not in front of their colleagues, not in**
22 **front of jurors.**

23 A. Absolutely. That's my firm rule. If I have a
24 lawyer's that two and a half hours late for
25 court, I don't say anything in the courtroom.

1 Even when their client's been sitting there
2 waiting. I invite them to come back in chambers
3 and express to them what it caused and find out
4 what the reason was for their lateness. And
5 sometimes they're legitimate things, but
6 sometimes it's more like my dog ate my homework
7 type of excuse. But I try to do that always in
8 chambers, never in the courtroom.

9 Q. And I don't see any of these negative comments,
10 you know, I'm just going to tell you I know
11 they're anonymous and I know that they're -- it's
12 hard to respond to. But by the same token I also
13 -- I've been telling candidates before us all
14 week is this is probably a way that we can gauge
15 some temperature of what the bar feels about
16 judges as it relates to them not being worried
17 about retribution. But I don't see anything in
18 here that says anything about belittling in the
19 courtroom in front of others or anything to that
20 effect. So, you know, when we talk about these,
21 you know, there's probably all types of reasons
22 we have it, but it does not appear that this is
23 happening in public if there's any temperament
24 issues and I see a whole lot more, and I think
25 you need to know this. And I want to make sure

1 that judges come out of here understanding we're
2 not only dwelling on the negatives, but we're
3 also accentuating what the positive attributes
4 you show. And a lot of these attributes show you
5 to be a well-respected, the steel trap of a mind,
6 you heard them say earlier. And a judge that is
7 becoming one of the finest judges on the bench
8 here in South Carolina. And so, you know, that
9 comes out to me when I look at these well
10 qualified. And I look at the positive comments.
11 So I want you to know that too as we move
12 forward.

13 A. Thank you.

14 CHAIRMAN SMITH: All right. Any other questions for
15 Judge Buckner? All right. Judge Buckner, this
16 will conclude this portion of your screening
17 process. I want to take this opportunity to
18 remind you that pursuant to the Commission's
19 evaluative criteria, the Commission expects
20 candidates to follow the spirit as well the
21 letter of the ethics laws and we will view
22 violations or the appearance of impropriety as a
23 serious and potentially deserving of heavy weight
24 and screening deliberations. On that note, and
25 as you well know, the record will remain open

1 until the formal release of the report of
2 qualifications. And you maybe called back at
3 such time if the need arises. I thank you for
4 offering for this position and I thank you for
5 your service to the State of South Carolina.

6 A. Thank you very much.

7 (Vote to go into Executive Session was done off the
8 record.)

9 (Executive Session)

10 CHAIRMAN SMITH: Ms. Robinson, welcome. Appreciate
11 you being here today. Sorry, I think we're
12 running a little bit late. Let's take care of
13 some housekeeping matters real quick. Senator
14 Sabb moves that we lift the veil and come out of
15 executive session. All in favor say, "aye."

16 (At this time the members audibly say "aye.")

17 CHAIRMAN SMITH: All opposed? The "ayes" have it.
18 We're now out of executive session. I want to
19 thank everybody in the Judicial Merit Selection
20 Commission is now back on the record. For the
21 record, I'd like to state that we have been in
22 executive session, however, no decisions were
23 made and no votes were taken during executive
24 session. Judge Robinson, will you raise your
25 right hand, please, ma'am?

1 JUDGE ROBINSON, being duly sworn and cautioned to
2 speak the truth, the whole truth and nothing but
3 the truth, testifies as follows:

4 CHAIRMAN SMITH: Judge Robinson, you have before you
5 the personal data questionnaire and the sworn
6 statement. Are both those documents the ones
7 that you have submitted to the Commission?

8 JUDGE ROBINSON: I've reviewed them and they are.

9 CHAIRMAN SMITH: Okay. And are both of them correct
10 to the best of your knowledge?

11 JUDGE ROBINSON: They are.

12 CHAIRMAN SMITH: And does anything need to be changed
13 or updated at this time?

14 JUDGE ROBINSON: No.

15 CHAIRMAN SMITH: Okay. Do you object to making these
16 documents and any amendments, if applicable, a
17 part of the record of your sworn testimony?

18 JUDGE ROBINSON: I do not.

19 CHAIRMAN SMITH: All right. If you'll hand them to
20 Lindi, please, ma'am, and we're going to make
21 those a part of -- Exhibits to your testimony.
22 Judge Robinson, the Judicial Merit Selection
23 Commission has thoroughly investigated your
24 qualifications for the bench. Our inquiry has
25 focused on nine evaluative criteria and has

1 included a ballot box survey. A thorough study
2 of your application materials, verification of
3 your compliance with the state ethics laws,
4 search of newspaper articles in which your name
5 appears, study of previous screenings and checked
6 for economic conflicts of interest. We have
7 received one affidavit by Aubrey Wendell Norris,
8 filed an opposition to your election. However,
9 the Commission has dismissed this Complaint. No
10 witnesses are present to testify today. Do you
11 have a brief opening statement that you would
12 like to make at this time?

13 (EXHIBIT 15 - JUDICIAL MERIT SELECTION COMMITTEE
14 PERSONAL DATA QUESTIONNAIRE FOR SHIRLEY C. ROBINSON)
15 (EXHIBIT 16 - JUDICIAL MERIT SELECTION COMMITTEE SWORN
16 STATEMENT FOR SHIRLEY C. ROBINSON)

17 JUDGE ROBINSON: No, I know you all have had a
18 pretty long day, so I just wanted to say
19 thank you all for being -- having me here.

20 CHAIRMAN SMITH: All right. Thank you, Judge
21 Robinson. If you'll answer questions of counsel
22 for us, please.

23 EXAMINATION BY MS. MOTTEL:

24 **Q. Thank you, Mr. Chairman. Good afternoon, Judge**
25 **Robinson. Thank you for being here today. You**

1 **have served on the Administrative Law Court since**
2 **2009. Why do you want to continue serving on the**
3 **court?**

4 A. First and foremost it's because I enjoy serving
5 on the court. And I am just not ready for
6 retirement. I think that I -- I think I do a
7 fairly good job serving in my court and that is
8 one of the reasons that I do want to continue.

9 **Q. Thank you. Judge Robinson, please explain one or**
10 **two brief accomplishments that you feel you have**
11 **completed during your tenure?**

12 A. That is -- that I have completed serving on the
13 court?

14 **Q. (Nods head affirmatively.)**

15 A. Well, I mean, basically what we do is just have
16 contested hearings and rule on initial orders in
17 appellate cases. And I think that some of the
18 cases that I have heard have been rather major
19 cases. For instance, I think the school board
20 case, which was Dinkins. I think it was the Mary
21 L. Dinkins Academy. And I think that case is one
22 that kind of led to a change in the charter
23 school laws. And other ones are just the cases
24 that had to do with -- and I'm trying to think of
25 another one very quickly that has to do with a

1 novel issue that doesn't come before judges on a
2 regular basis. And I'm having a hard time coming
3 up with another one. But I know that there are
4 some out there.

5 **Q. Thank you. Judge Robinson, what do you think**
6 **your reputation is among court personnel and**
7 **attorneys that appear before you?**

8 A. I like to think that it is fairly good. I know
9 as far as personnel at the court, I enjoy a very
10 good reputation for my work ethics and I think
11 also for my intellect. Among persons coming
12 before me, it would probably be a little mixed
13 depending on who's on the winning side. But I
14 think that by and large it's good.

15 **Q. Thank you. Judge Robinson, the Commission**
16 **received 167 ballot box surveys regarding you,**
17 **with 11 additional comments. The ballot box**
18 **survey, for example, contained the following**
19 **positive comments. "Exceptionally well qualified**
20 **and experienced to continue in this position."**
21 **"Judge Robinson is an excellent administrative**
22 **law judge. She is smart, diligent, ethical, and**
23 **caring. Her courtroom demeanor is at the highest**
24 **level of professionalism." "Judge Robinson is**
25 **intelligent and hard working. She is an**

1 excellent time manager and keeps her docket
2 flowing. Her ethics are beyond approach and she
3 has a wonderful demeanor and is always respectful
4 of the parties and their counsel." There were
5 two additional written comments that expressed
6 concerns regarding your competency as follows.
7 You have difficulty with certain legal -- complex
8 legal issues and you take to long to issue your
9 opinion. What response would you like to offer
10 to these concerns?

11 A. I would have to say I would disagree with both of
12 those concerns. As far as my intellectual
13 ability, I would not stand and say that I'm an
14 expert in every area of the law that comes before
15 me. In the more complicated cases that is why we
16 do rely on expert testimony. And I think that,
17 you know, if we've got competing experts
18 testifying on an issue, I think I do a pretty
19 good job of being able to sort through it and
20 determine who I think gives the most credible --
21 or I won't say credible, because I think most of
22 them, they are credible. But testimony that I
23 rely on in making my ruling. As far as time, the
24 timeliness of an opinion, I don't know. We, in
25 my office, we keep our opinions -- I get them out

1 pretty quickly. There may be one where we'll
2 have a very lengthy hearing. That if I have a
3 hearing that last two weeks and is a more a
4 complex case, I do take a moment to review the
5 evidence that's been presented before issuing an
6 order. So that would take a little bit longer
7 than one coming before me that maybe an alcohol
8 application, which we get out probably within a
9 week. And not knowing what case that was, that I
10 can't tell you. what might have been the
11 circumstance. But there may have been some
12 extenuating circumstance that may have caused an
13 order to go out that the -- that one of the
14 litigants thought was not timely issued. But I
15 can't address that specifically without knowing
16 what that case was.

17 **Q. Thank you. Judge Robinson, what is the ideal**
18 **courtroom environment? How do you accomplish**
19 **this?**

20 A. The ideal courtroom environment is when -- I
21 think when everything is flowing smoothly. That
22 we have -- that the case is just going smoothly.
23 And what I do to try to accomplish that is I do
24 try to keep things flowing, and not getting hung
25 up on minute issues and whatnot. And not have

1 the attorneys that's appearing before me get into
2 too much conflict. I try to get them resolved
3 pretty easily and just keep things moving. And I
4 do believe that all -- everyone that comes before
5 me should be treated with dignity, respect. And
6 I always make an effort to do that even if I have
7 to make a ruling that's adverse and I get an
8 attorney that sometimes may get a little
9 argumentative. I do intend to put them in their
10 place, but do it in a very respectful manner.

11 **Q. And along that same vein, you've addressed this**
12 **in your sworn statement as well and it's been**
13 **made part of the record. But could you please**
14 **describe what you consider to be the appropriate**
15 **demeanor for a judge?**

16 A. I think a judge who is respectful of the
17 litigants and the attorneys and even the -- I do
18 have quite a bit of pro se individuals that come
19 before me. And especially when we're doing the
20 alcohol licensing case. We do have persons who
21 oppose those applications. And most of those
22 people, they are not represented by counsel. But
23 they believe that -- it's an important issue to
24 them, because they're having a liquor store or a
25 club or whatnot that's going to be located in

1 their neighborhood. And it's very important to
2 them. And I think that in those instances, it's
3 very important that I give them an opportunity to
4 let me know what their concerns are. In most
5 cases, they are not going to be concerns that
6 rise to the level where I can legally deny the
7 applicant's application. But I still believe
8 that everyone should walk out of my courtroom
9 feeling that they have received -- they've been
10 treated fairly and have been treated
11 respectfully.

12 **Q. Thank you. Judge Robinson, I have a few**
13 **housekeeping questions for you. Since submitting**
14 **your letter of intent, have you contacted any**
15 **members of the Commission about your candidacy?**

16 A. I have not.

17 **Q. Since submitting your letter of intent, have you**
18 **sought or received the pledge of any legislator,**
19 **either prior to this date or pending the outcome**
20 **of your screening?**

21 A. I have not.

22 **Q. Have you asked any third-parties to contact**
23 **members of the General Assembly on your behalf or**
24 **are you aware of anyone attempting to intervene**
25 **in this process on your behalf?**

1 A. I did not and I'm not aware of anyone doing so.

2 Q. Have you reviewed and do you understand the
3 Commission's guidelines on pledging in South
4 Carolina Code Section 2-19-70(e)?

5 A. I do.

6 Q. I would note that the Midlands Citizens Committee
7 found Judge Robinson well qualified in the
8 criteria of ethical fitness, professional and
9 academic ability, character, reputation,
10 experience, and judicial temperament. And
11 qualified in the remaining criteria of
12 constitutional qualifications, physical health
13 and mental stability. The committee additionally
14 noted that "Judge Robinson is a great
15 administrative law court judge. She has all the
16 necessary qualities to excel at her job." I
17 would just note for the record that any concerns
18 raised during the investigation regarding Judge
19 Robinson were incorporated into the questioning
20 of the candidate today. And Mr. Chairman, I have
21 no further questions.

22 CHAIRMAN SMITH: Thank you, Ms. Mottel. Judge
23 Robinson, I stand corrected on one issue here
24 today. And when I talked to you Mr. Norris has
25 filed a Complaint. And I told you that Complaint

1 was dismissed. Mr. Norris is here today and says
2 he would like to testify and we'll address that
3 at the appropriate time with Mr. Norris. All
4 right. Any questions for Judge Robinson right
5 now? Senator Young.

6 EXAMINATION BY SENATOR YOUNG:

7 **Q. Judge Robinson, thank you very much for your**
8 **service. And thank you for your interest in**
9 **continuing your service. If you could, just for**
10 **the record, if you could please just generally**
11 **state your judicial philosophy.**

12 **A.** My judicial philosophy, you know, as an
13 administrative judge, we are there to actually
14 just make sure that the laws that you all have
15 put in place, that they are carried in accordance
16 with your intent. I don't believe that I am
17 there, or any other judge is really there to make
18 law, but just to implement the laws that you have
19 done. Does that adequately address your question
20 or is there something else that you --

21 **Q. No, ma'am. I think what you're saying is that**
22 **you think that a jurist should be restrained and**
23 **not make law, but interpret the law.**

24 **A.** Oh, exactly, yes.

25 **Q. Thank you very much.**

1 CHAIRMAN SMITH: All right. Any further questions?

2 Senator Sabb.

3 EXAMINATION BY SENATOR SABB:

4 Q. Thank you, Mr. Chairman. I would just point out
5 that when I look at the input that's been given
6 with regard to Judge Robinson, over 60 percent of
7 the people that have responded indicates that she
8 is well qualified and zero percent indicates that
9 she is unqualified. And I just think that speaks
10 volumes to the manner in which she conducts
11 herself. And I think we have a lot to be proud
12 of in Judge Robinson being one of our
13 administrative law judges.

14 CHAIRMAN SMITH: Thank you, Senator Sabb. Judge
15 Robinson, will you have a seat over there for me
16 real quick, please.

17 JUDGE ROBINSON: Okay.

18 CHAIRMAN SMITH: Mr. Norris. You're present here
19 today and when we look at this you filed a
20 Complaint and the staff dismissed your Complaint.
21 Are you requesting to testify today?

22 MR. NORRIS: Yes, sir.

23 CHAIRMAN SMITH: All right. Mr. Norris, is it about
24 what you filed the Complaint with? With the
25 Commission that you filed the earlier Complaint

1 that's dismissed. Is that the sum and substance
2 of what you propose to testify today?

3 MR. NORRIS: I filed the complaint five years ago.

4 CHAIRMAN SMITH: Yes, sir.

5 MR. NORRIS: And it was not presented here. And SLED
6 Agent Carl Russell would not let me come to the
7 hearings. He said they'd put me in jail if I
8 tried to come to the hearing. I've waited five
9 years for this time. In the interim period
10 between then and now, Mrs. Robinson has still
11 continued to do some things that is wrong. So
12 it's additional information from the initial --

13 MR. SMITH: Mr. Norris -- and I don't think any of us
14 were here in 2012 so -- but we do have a
15 transcript from 2012 that was handed to me. and
16 I certainly don't know and I can't speak as to
17 about SLED agent not -- because it's not
18 reflected on the record. But there was a
19 Complaint that was filed Wendell Norris and it
20 says that there was no specific facts as it
21 related to character, competence, or ethics and
22 that it was moved to be -- it was dismissed at
23 that time. And so, you know, when I got -- I
24 reviewed the Complaint along with staff when it
25 came in. And, you know, it appeared to me that

1 you referenced us back to a affidavit or
2 Complaint you filed in 2012. And I understand
3 what you were saying, that you didn't have an
4 opportunity to come before the Commission. But,
5 you know, the issue we had and why staff
6 dismissed it was because it was previously
7 considered by the Commission and they dismissed
8 it. And that doesn't go the merits -- I don't
9 know what you said or anything to that effect.
10 And I apologize, I'm not trying to be difficult
11 here, but we've got rules we go by. And I know -
12 -I just wanted to explain to you what I've got to
13 consider and this Commission has to consider.
14 And we look at it, we have a Complaint that you
15 filed with us that references us back to the 2012
16 Complaint. And so staff pulled the transcript
17 for me before this hearing. And they just handed
18 it to me and says that Complaint was dismissed.
19 And then I look and, you know, I've got to look
20 at the rules and the statutes and that's what
21 controls us here. So I just want you to
22 understand when I'm looking at the statute, you
23 know -- well, first I'm looking at the rule. And
24 Rule 13 says that any person wishing to come
25 before the Commission and testify for a hearing

1 has to submit documents, and you submitted them.
2 So you procedurally got in the right place. So
3 then at that point it was dismissed. And so once
4 it's dismissed that issue is forever ended. And
5 just like you have a right to come before this
6 Commission, Judge Robinson has a procedural --
7 what we call procedural due process right that if
8 she knows -- she has to know that this is coming
9 and she has the right to respond. And when it's
10 dismissed I don't think we're allowed to take
11 testimony by the rule. Also when I read Section
12 2-19-30 it gives a hearing. The Commission
13 determines who shall testify at the hearing. And
14 when I look back at the rules I'm concerned that
15 if we allow this then we're going to violate
16 procedural due process rights where you were
17 given an opportunity to give us information and
18 staff determined on its face that it did not meet
19 the criteria necessary. Mainly because it was
20 filed in 2012 and dismissed. Almost kind of like
21 once -- you can't keep refiling a lawsuit. So
22 that's where we find ourselves today. So, you
23 know, if you wanted -- if you had additional
24 information outside of the 2012 Complaint then
25 that would require you to file a new complaint

1 and affidavit with this Commission to which we
2 would have to consider. So we can't take new
3 testimony absent it being filed. And that's the
4 concern that we have here today.

5 A. Sir, I did exactly that. Let me just say it.
6 And maybe it's not the proper way to say it. But
7 I added some new stuff to it, the things that
8 happened in the last five years I added to it.
9 And you yourself says if I did it, I'm allowed to
10 have it for consideration. And I appreciate you
11 following your normal stuff. Now, what I'd like
12 to do and I'll do it very briefly. I'd like to
13 say that I entered Judge Robinson's court.

14 SENATOR SABB: Mr. Chairman, I would -- he's out of
15 order.

16 CHAIRMAN SMITH: Yes, sir. Mr. Norris, we're not
17 trying to be rude or dismissive and all that.
18 And I understand that this is important and you
19 want to address your issues with Judge Robinson.
20 But the problem we've got is, we've got a
21 procedural due process that we owe Judge Robinson
22 and we owe you. And so, we followed it with you
23 and so we have to do the same with Judge
24 Robinson. And I know this doesn't -- it's not
25 something that you will agree with, but I don't

1 think we can do anything except allow you to say
2 you've proposed to testify. And, you know, if
3 it's anything other than what was in your
4 Complaint then it's not procedurally before us.
5 And if it was contained in your Complaint, staff
6 reviewed it and felt that it did not meet the
7 qualifications for us to hear it, because it did
8 not go to the constitutional qualifications of
9 Judge Robinson.

10 MR. NORRIS: I understand exactly what is happening,
11 sir. And I'm not surprised and I'm not shocked
12 and I'm not disappointed. What I would like to
13 do today, is I would like to ask for the name and
14 address of the court reporter, so I can order a
15 transcript.

16 CHAIRMAN SMITH: Yes, sir. You absolutely can do
17 that. And we'll -- security will give you a -- I
18 believe the court reporter, they always have
19 cards, that's a good thing they do. So she'll
20 give you a card and you can order a copy of that
21 transcript. Oh, which transcript do you want?

22 MR. NORRIS: My next request is one for the last one
23 too. I've written and asked for it but I haven't
24 received a response.

25 CHAIRMAN SMITH: We'll make a copy of that for you,

1 Mr. Norris, and provide that to you before you
2 leave today. Somebody can go make a copy of that
3 for Mr. Norris. And make sure he has that.

4 A. You can just send it to me in the mail.

5 CHAIRMAN SMITH: Sir?

6 MR. NORRIS: You can just send it in the mail.

7 CHAIRMAN SMITH: Whichever is convenient. I mean,
8 it'll take us two minutes to make it right now
9 for you or do you want?

10 MR. NORRIS: I'll wait.

11 CHAIRMAN SMITH: Okay. If we'll do that real quick.
12 All right. Mr. Norris, I'm sorry that is the way
13 it has to be handled. But, you know, we've got
14 rules we've got to follow. So I appreciate your
15 patience with us, okay.

16 MR. NORRIS: And I appreciate you following the rules.

17 CHAIRMAN SMITH: Yes, sir. Thank you very much. All
18 right, Judge Robinson, if you'll come forward,
19 please, ma'am. All right. Any further questions
20 for Judge Robinson, before we start? Judge
21 Robinson, thank you so much for being here today.
22 This concludes your portion of the screening
23 process. I want to take this opportunity to
24 remind you that pursuant to the Commission's
25 evaluative criteria, the Commission expects

1 candidates to follow the spirit as well as the
2 letter of the ethics laws. And we will view
3 violations or the appearance of impropriety as
4 serious and potentially deserving of heavyweight
5 and screening deliberations. On that note and as
6 you know, the record will remain open until the
7 formal release of the report of qualifications.
8 And you may be called back at such time if the
9 need arises. I thank you for offering for this
10 position and I thank you for your service to the
11 State of South Carolina.

12 JUDGE ROBINSON: Thank you, Mr. Chairman. And thank
13 you to the other members of the Commission.

14 CHAIRMAN SMITH: Mr. Norris, if you'll sit tight for
15 us for a couple of minutes and let's get that.
16 And then we'll start on the next one. And did he
17 get a card, Mr. Norris get a card?

18 COURT REPORTER: Yes, sir.

19 (Off the Record)

20 CHAIRMAN SMITH: Judge Curtis, will you raise your
21 right hand, please, ma'am?

22 JUDGE CURTIS, being duly sworn and cautioned to speak the
23 truth, the whole truth and nothing but the truth,
24 testifies as follows:

25 CHAIRMAN SMITH: Judge Curtis, before you is your

1 personal data questionnaire and your sworn
2 statement. Are these documents that you've
3 submitted to the Commission?

4 JUDGE CURTIS: Yes, sir.

5 CHAIRMAN SMITH: Are both of them correct, to the best
6 of your knowledge?

7 JUDGE CURTIS: They are.

8 CHAIRMAN SMITH: And do you see anything that needs to
9 be changed or updated before we enter them into
10 the record?

11 JUDGE CURTIS: I have submitted a letter, the last
12 version on November 7th of this year, amending my
13 response to question number 44 of the personal
14 data questionnaire. So that would be included as
15 well.

16 CHAIRMAN SMITH: Has that already been submitted?
17 It's already been submitted. Do you have any
18 objection to us making as a part of your sworn
19 testimony today?

20 JUDGE CURTIS: I do not.

21 CHAIRMAN SMITH: All right. If you will hand those to
22 Lindi, please. Judge Curtis, before we get
23 started. I see you have brought someone with
24 you. Would you like to introduce him to the
25 Commission?

1 (EXHIBIT 17 - JUDICIAL MERIT SELECTION COMMISSION
2 PERSONAL DATA QUESTIONNAIRE FOR KRISTI F. CURTIS)

3 (EXHIBIT 18 - JUDICIAL MERIT SELECTION COMMISSION
4 SWORN STATEMENT OF KRISTI F. CURTIS)

5 (EXHIBIT 19 - AMENDMENT TO PERSONAL DATA QUESTIONNAIRE
6 FOR KRISTI F. CURTIS)

7 (EXHIBIT 20 - AMENDMENT TO PERSONAL DATA QUESTIONNAIRE
8 FOR KRISTI F. CURTIS)

9 JUDGE CURTIS: Sure. This is my husband, Warren
10 Curtis. He's also an attorney with Curtis &
11 Croft Law firm in Sumter.

12 CHAIRMAN SMITH: Warren, welcome here to day.

13 MR. CURTIS: Thank you.

14 CHAIRMAN SMITH: All right. Judge Curtis, the
15 Judicial Merit Selection Commission has
16 thoroughly investigated your qualifications for
17 the bench. Our inquiry has focused on nine
18 evaluative criteria and has included a ballot box
19 survey, a thorough study of your application
20 materials, verification of your compliance with
21 the state ethics laws, a search of newspaper
22 articles in which your name appears, a study of
23 previous screenings, and checked for economic
24 conflicts of interest. We've received no
25 affidavits filed today in opposition to your

1 election and no witnesses are present to testify.
2 Do you wish to make a brief statement to the
3 Committee at this time?

4 JUDGE CURTIS: I just thank you for the opportunity to
5 be here today.

6 CHAIRMAN SMITH: All right. Judge Curtis, if you'll
7 answer questions of counsel, please ma'am?

8 JUDGE CURTIS: Sure.

9 MR. MALDONADO: Thank you, Mr. Chairman.

10 EXAMINATION BY MR. MALDONADO:

11 **Q. I note for the record that based on the testimony**
12 **contained in the candidate's PDQ, which has been**
13 **included in the record with the candidate's**
14 **consent, The Honorable Kristi Fisher Curtis,**
15 **meets the constitutional and statutory**
16 **requirements for the position regarding age,**
17 **residence, and years of practice. Judge Curtis,**
18 **why do you want to be a circuit court judge?**

19 **A.** Well, I've served as chief magistrate in Sumter
20 County for about six and a half years now. I
21 love my job. It is a wonderful area to be
22 involved in the practice of law, to be able to
23 make significant impact on my community, on the
24 litigants that come in front of me. And so I'm
25 looking for really the next challenge. I'm

1 looking to working in a larger arena and on more
2 complicated, complex legal issues. And really
3 just to expand my current role.

4 **Q. Thank you. How do you feel your legal and**
5 **professional experience thus far renders you**
6 **qualified and will assist you to be an effective**
7 **circuit court judge?**

8 A. I think that I draw from a broad base of
9 experience. I've worked in the academic arena
10 with the South Carolina Court of Appeals, in what
11 was a very academic setting. Of course, we had
12 all the time in the world to review transcripts
13 to do extensive legal research. To draft
14 opinions. It was a time of a lot of robust
15 discussion and conversation. And so a very
16 academic setting. I've also, of course, worked
17 as a private attorney in the private practice of
18 law. I've been a trial attorney. I had a fairly
19 extensive appellate practice as well. I worked
20 on both civil cases on the trial level and the
21 Appellate Court level. I've prosecuted cases for
22 the sheriff's department in Magistrate's Court.
23 Our firm worked as the county attorneys. So I've
24 represented the county in matters of human
25 resources, also tax sales. Again, as a

1 prosecutor. I've also worked in the private
2 sector for Synovus Trust Company in a very
3 specialized area of the law doing trust and
4 estates work. And that job entailed, both the
5 very technical aspects of the law and a lot hand-
6 holding customer relations, working with people
7 who were not able to handle their own affairs.
8 And so, that was a unique experience for me, to
9 work both in a very technical area of the law and
10 with some people who really had some deficiencies
11 in just handling their everyday affairs. Again,
12 I've been the chief magistrate in Sumter for
13 about six and half years. And I have heard civil
14 and criminal cases, jury trials. We handle
15 preliminary hearings. We handle bond hearings
16 365 days a year. So that's been a great
17 experience.

18 **Q. Thank you, Judge. The Commission received 150**
19 **ballot box surveys regarding you, with 10**
20 **additional comments. The ballot box surveys, for**
21 **example, contained the following positive**
22 **comments. "Judge Curtis is an extremely smart,**
23 **articulate, thoughtful and even-tempered judge.**
24 **And will be an asset to our judiciary. Her work**
25 **ethic, demeanor and intelligence will serve as a**

1 fine example to all in our profession. I hope
2 she's the next member of our circuit bench."
3 Also, "Judge Curtis is always very professional
4 in her demeanor and comporment. She is very
5 intelligent. She would make a good circuit court
6 judge. Kristi is a brilliant lawyer with a
7 proven track record as a judge. She's a true
8 student of law and also possesses the ideal
9 temperament for a judge." I would note for the
10 record there were no negative comments. Judge
11 Curtis, you've indicated in your PDQ that you
12 were named as a defendant in a creditor --
13 defendant creditor in a foreclosure action in
14 2009 in a case filed by Trustmark National Bank.
15 Can you please explain the nature and the
16 disposition of the lawsuit?

17 A. Sure. We had made a personal loan to some family
18 friends. Their grandson had a home that was
19 going to go into foreclosure. We made a small
20 personal loan to the family. We did it in a
21 formalized manner, took back a Note and Mortgage.
22 So when the house was foreclosed on, we were
23 named along with the other creditors in that
24 lawsuit. The house was foreclosed on. There was
25 no surplus to divide up amongst the creditors.

1 **Q. Judge Curtis, what do you feel is the appropriate**
2 **demeanor for a judge?**

3 A. Well, I feel that the demeanor of a judge with
4 regard to both the attorneys and the litigants
5 should not be contentious. It should be
6 collegial. An attorney should not come in front
7 of the judge already feeling that there is a
8 contentious, negative relationship. We're very
9 fortunate in Sumter, we have a very collegial
10 Bar. And I understand that that's not always the
11 case in other jurisdictions, but we really do
12 have a very collegial Bar in Sumter County. I
13 think the demeanor of the judge needs to be
14 helpful, considerate, businesslike. I don't
15 think that there's room for temper tantrums or
16 displays of a lot of emotion. And that the judge
17 should be the one person in the room who is
18 always has their demeanor in check.

19 **Q. Thank you, Judge. Are there any areas, including**
20 **subjective areas of the law, that you feel that**
21 **you need additional preparation in order to serve**
22 **as a circuit court judge? And how would handle**
23 **such preparation?**

24 A. I would say that General Sessions would be the
25 one area that I have not had a lot of extensive

1 practice work in. And I would approach that the
2 same way that I've approached any of my
3 professional challenges, hard work, study,
4 observation. We have trained three judges since
5 I've been at the Magistrates Court. I was
6 appointed to mentor three different judges. And
7 when I became a magistrate, and chief magistrate,
8 my training period was basically here's your robe
9 and, you know, here's the bench and good luck to
10 you. So I did have to kind of learn on my feet.
11 The best training that I've seen from the judges
12 who have come behind me at the Magistrate's Court
13 are those who ask questions, study, do the hard
14 work that's necessary to get ready.

15 **Q. I'll just finish up with some housekeeping**
16 **issues. Judge Curtis, are you aware as a**
17 **judicial candidate you're bound by the code of**
18 **judicial conduct as found in Rule 501 of the**
19 **South Carolina Appellate Court Rules?**

20 A. Yes, sir.

21 **Q. Since submitting your letter of intent, have you**
22 **contacted any members of the Commission about**
23 **your candidacy?**

24 A. No, sir.

25 **Q. Since submitting your letter of intent, have you**

1 sought or received the pledge of any legislator,
2 either prior to this date or pending the outcome
3 of your screening?

4 A. No, sir.

5 Q. Have you asked any third-parties to contact
6 members of the General Assembly on your behalf,
7 or are you aware of anyone attempting to
8 intervene in this process on your behalf?

9 A. No, sir.

10 Q. Have you reviewed and do you understand the
11 Commission's guidelines on pledging and South
12 Carolina Code Section 2-19-70(e)?

13 A. Yes, I have.

14 Q. Thank you. I would note that the Pee Dee
15 Citizens Committee reported that -- found Judge
16 Curtis qualified in the evaluative criteria of
17 constitution qualifications, physical health and
18 mental stability. And well qualified in the
19 remaining evaluative criteria of ethical fitness,
20 character, professional and academic ability,
21 reputation, experience, and judicial temperament.
22 Mr. Chairman, I would note for the record that
23 any concerns raised during the investigation by
24 staff regarding this candidate are incorporated
25 into the questioning of the candidate today. I

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have no further questions.

CHAIRMAN SMITH: Thank you, Mr. Maldonado.

Representative Murphy, you got questions?

REPRESENTATIVE MURPHY: Yes, sir.

CHAIRMAN SMITH: Okay. Representative Murphy.

REPRESENTATIVE MURPHY: Thank you, Mr. Chairman.

EXAMINATION BY REPRESENTATIVE MURPHY:

**Q. Judge Curtis, currently you're the chief
magistrate for Sumter County?**

A. Yes, sir.

Q. Is that a full-time job?

A. It is.

**Q. And has it been full-time in the six and a half
years that you've been in that position?**

A. Yes, it has.

**Q. And prior to that you were in private practice,
correct?**

A. Yes, sir. I worked for NBSC, or Synovous Trust Company, for the six years previous to my coming on the bench, as a trust officer. And prior to that I was in private practice with The Bryan Law Firm. Yes, sir.

Q. And was that in Sumter County?

A. It was.

Q. During your time in private practice, have you

1 had the occasion to appear in Common Pleas Court?
2 Have you tried any civil cases in Common Pleas
3 Court?

4 A. Yes, sir.

5 Q. General Sessions Court, have you tried any cases
6 in General Sessions Court?

7 A. No, sir. I did not try any cases in General
8 Sessions.

9 Q. Have you appeared in General Sessions Court for
10 bond hearing, bond revocation, preliminary
11 hearing, as an attorney, not necessarily as
12 holding court as a magistrate?

13 A. Not as an attorney, no.

14 Q. Okay. All right. Thank you, that's all I have.

15 CHAIRMAN SMITH: Any further questions of Judge
16 Curtis? Senator Young.

17 SENATOR YOUNG: Thank you, Mr. Chairman.

18 EXAMINATION BY SENATOR YOUNG:

19 Q. Judge Curtis, thank you for your interest in
20 serving on the circuit court bench and for your
21 continued service as a magistrate in Sumter
22 County. I have looked at your PDQ that we've
23 been provided, personal data questionnaire. And
24 I noted that you were involved in some very
25 significant cases that were decided in the South

1 Carolina Appellate Courts during the first decade
2 of this -- you know, during the 2000s.

3 A. Yes, sir.

4 Q. Well, it appears that all those cases, cases that
5 you were involved with, with your work at The
6 Bryan Law Firm; is that right?

7 A. Yes, sir.

8 Q. Tell me what occurred that -- why did you move
9 from The Bryan Law Firm to the trust company?

10 A. It was really a lifestyle decision. I enjoyed
11 the practice of law very much. I felt that I was
12 fairly successful at it. I had just been made a
13 partner for about a year prior to the time that I
14 left to go to the bank. We had two young
15 children, as you've seen from my statement in my
16 personal data questionnaire, we went through some
17 pretty significant upheaval in our lives with my
18 husband's arrest. And so it was really a
19 lifestyle decision at that point with both of us
20 in private practice, with two young children that
21 would be best for our family for me to have
22 regular hours, and a more 9:00 to 5:00 type of
23 job. And so, it was a bit of a sacrifice I would
24 say for me to step back from the practice of law
25 for that period of time. But I felt it was the

1 best thing for my family.

2 Q. Was that in Sumter, was that --

3 A. Yes, sir. That's correct.

4 SENATOR HAYES: Senator Hayes.

5 EXAMINATION BY SENATOR HAYES:

6 Q. Judge, thank you for coming before us today. I
7 appreciate your willingness to serve. As a
8 magistrate, how did y'all break down the
9 responsibilities? Did you have a wide range
10 criminal, civil, because in some counties you
11 have some magistrates that do DUI Court and some
12 that do bonds and some that do, you know, trial
13 work. What were your responsibilities as a
14 magistrate?

15 A. Well, as the chief magistrate I do a little bit
16 of everything. There is no part of our court
17 that I do not handle on a weekly or at least a
18 monthly basis. So I handle the jury selection,
19 both civil and criminal, unless I'm out of town.
20 I just -- handle just about every jury selection.
21 We have two terms, usually, of jury trials each
22 month. Criminal, then usually on about a
23 quarterly basis we have civil jury trials. We
24 have preliminary hearings at least one week of
25 each month. And we rotate judges in our

1 preliminary hearings. We have Bond Court 365
2 days a year, so I'm on the rotation with every
3 judge who is out there. I'm on call one week
4 about every six weeks. So I'm on call during the
5 week and then I have the weekend at the jail. We
6 have civil court three mornings a week. And
7 myself and Judge Griffin generally split the
8 civil court. The two of us handle all of the
9 civil bench trials. And generally, myself and
10 Judge Griffin handle the civil jury trials as
11 well. But of our four full-time magistrates, we
12 all rotate for Criminal and Traffic Court, Bond
13 Court, and preliminary hearings.

14 **Q. You have handled jury and non-jury criminal and**
15 **civil on the magistrate's side?**

16 A. Yes, sir.

17 **Q. Nothing further.**

18 CHAIRMAN SMITH: Further questions? Senator Rankin.

19 EXAMINATION BY SENATOR RANKIN:

20 **Q. Thank you. And Judge, we call you now, as chief**
21 **magistrate of Sumter County; is that correct?**

22 A. Yes, sir.

23 **Q. All right. And you have a most interesting**
24 **evolution to today's hearing in your candidacy**
25 **for the circuit court, which appears to be**

1 distinguished in every turn. And I'm reading
2 some of these cases as a trial lawyer, still say
3 that word. But some don't want it to be said,
4 just lawyer or justice lawyer. Your cases are
5 well known to me in terms of the quest for
6 coverage for folks who unfortunately find
7 themselves in a bad spot in a civil case. Ever
8 heard the term, you were over-qualified for a
9 position?

10 A. Not with reference to me, necessarily. No, sir.
11 But yes, I have.

12 Q. You would not acknowledge that that would be the
13 case here, I'm sure.

14 A. Wouldn't think so.

15 Q. But the record suggests far more of a appellate
16 bench position, based on your appellate work.
17 I'm not asking you if that's where you're headed.
18 But tell me from private practice to the trust
19 business to the magisterial position to now to
20 circuit court, is this just a logical step on the
21 road to serving the public?

22 A. Well, I think there's always got to be a next
23 step and a next challenge. I have very much
24 enjoyed the trial level at the Magistrate's
25 Court, and interacting with the attorneys and the

1 litigants. I've worked at the Court of Appeals,
2 and, of course, it's an entirely different
3 atmosphere.

4 **Q. One where, by the way, I'm sure they would not**
5 **agree that they have plenty of time to read the**
6 **transcripts.**

7 A. They might take issue with that statement.

8 **Q. Your husband is nodding his head. You'll hear**
9 **about that later if anybody reads this**
10 **transcript, I guarantee.**

11 A. Well, it's a very different atmosphere to have
12 worked at the Court of Appeals and at the
13 Magistrate Court level, it's very different. But
14 I have enjoyed the interaction with the
15 attorneys, the litigants. We have a lot of pro
16 se litigants. They take a little more hand-
17 holding. You have to explain a little more to
18 them, what the process is, what the rules are.
19 I've enjoyed working with the attorneys and law
20 enforcement. And so, you know, I wouldn't say
21 that I would never consider moving up to an
22 Appellate Court, but this is the next challenge
23 that I'm looking for. But I would say that any
24 professional person should always have a next
25 challenge. If I stay at the Magistrate's Court

1 the we've got plenty of challenges to work on at
2 the Magistrate Court level as well.

3 **Q. There are three others seeking this open seat and**
4 **I trust you know these folks. I assume you would**
5 **know these?**

6 A. I do.

7 **Q. Not to talk about them, but if I'm in a coin toss**
8 **of a mind set, give me more -- give me something,**
9 **other than, again, I suggest your record is fine**
10 **but give me something that distinguishes you from**
11 **the others, not talking about the others?**

12 A. Sure. Well, first let me say, they are all fine
13 attorneys. I know Kirk Griffin very well. I
14 practiced with his father at The Bryan Law Firm.
15 I practiced with his twin brother at the
16 Magistrate's Court. Tim Murphy has appeared in
17 front of me for preliminary hearings and at bond
18 hearings. He's an excellent attorney. I'm not
19 as familiar with Mr. Floyd, just because he's in
20 Kingstree. And I've not run across him very
21 much. But from what I understand, a fine
22 attorney as well. In my case, you do have the
23 benefit of the fact that I have been on the bench
24 for six and a half years. So if you want to know
25 how I would be as a judge, you can look at how I

1 have been as a judge. And I think that the
2 comments from the Bar should tell you what kind
3 of a judge I would be. I do think that I've got
4 both the academic and just the practical
5 experience to make a good judge. Of course,
6 again, I worked in a very academic setting. I
7 enjoy legal research. I enjoy legal writing. I
8 do think I have a strong work ethic. We do have
9 to work pretty hard at the Magistrate's Court.
10 Again, we staff the jail 365 days a year. We
11 work on a broad array of cases. I think that my
12 demeanor as seen from the Bar results show that I
13 do have the appropriate demeanor of a circuit
14 court judge. And again, I'm a proven entity at
15 this point, I feel.

16 **Q. And in terms of you twice invoked the bench bar**
17 **results, do you think that that is a reasonable**
18 **barometer by which, not only you are held judged**
19 **by your peers, but by which we should consider?**

20 A. Well, I think it's one factor. I do think it's
21 anonymous. It's voluntary. So, you know, the
22 fact that I didn't have any negative comments, of
23 course, makes me want to tell you that, yes, it's
24 absolutely 100 percent. You should rely on it.
25 If I had negative comments, I feel that I might

1 qualify that a little bit. But again, it's an
2 anonymous opportunity for people to say whatever
3 they want to say about you.

4 **Q. Do you participate in that bench Bar?**

5 A. I do if I feel that I have anything -- if I have
6 any experience with the person. I don't make
7 comments if I don't know the person, if I haven't
8 had professional interaction with them then I
9 would not respond. But if I've had professional
10 interaction with them, yes, I fill out the
11 surveys as well.

12 **Q. Since you didn't get a negative comment, I'm**
13 **going to ask you to give us one for yourself. If**
14 **there's anything negative to say about you, not**
15 **what your husband or your children might say, but**
16 **what you would say about yourself. What would be**
17 **a negative, which actually maybe a positive, so**
18 **give it your best shot?**

19 A. I do have a hard time delegating. And from what
20 -- you know, sometimes you get feedback from
21 others. If you're not willing to delegate then
22 they get the feeling that you don't trust them
23 enough to give them that responsibility. A lot
24 of times I feel like I've got to give myself the
25 harder cases or the more difficult litigants,

1 because I don't want them to think that I -- I
2 make the schedule. So I don't want the other
3 judges to feel like I'm pushing off the hard
4 cases on them. But at the same time we've got to
5 be able to trust them to do the work. So I would
6 say I have difficulty delegating from time-to-
7 time. I'm a very deliberate person. So if
8 someone comes to me with a problem, my first
9 reaction to that is, okay, I'm going to gather
10 all of the evidence before I then take action.
11 And sometimes there are times when you just need
12 to act. And so I would say that that, sometimes
13 I can be overly deliberative.

14 **Q. All right.**

15 CHAIRMAN SMITH: Any further questions? Mr. Safran.

16 EXAMINATION BY MR. SAFRAN:

17 **Q. Sorry, I was out for a minute. But certainly,**
18 **I'm very impressed by your resume, particularly,**
19 **early on. And knowing Judge Hearn I know that**
20 **she certainly does not suffer fools. I know that**
21 **you gained a great deal from it. And I think the**
22 **work you've done in these appellate cases since**
23 **then, certainly validates that. My big question**
24 **is this, you obviously were on a track in a**
25 **private practice that gave you access to a lot of**

1 different aspects of litigation. You gave us a
2 good reason you had a choice that you needed to
3 make in order to be able to be home, a better
4 lifestyle. My question is, once you determined
5 that that was stable, you wanted to get back into
6 it, why Magistrate's Court? Why not go back into
7 litigation and utilize the talents that you were
8 already displaying?

9 A. It was really just a timing issue. Honestly,
10 right as I was beginning my job search, my
11 initial plan was that I was going to start to
12 work through my husband's office doing contract
13 work for other attorneys. And we never wanted to
14 be at the same law firm as partners, just not to
15 put all of our eggs in one basket. We felt it
16 would probably be healthy for our relationship to
17 not be at the same firm. But the opening at the
18 Magistrate's Court just happened to come up at
19 that exact time. So I had gotten several phone
20 calls from people letting me know that this was
21 coming open. And it really was just timing.

22 Q. I guess just to follow up, certainly, there's a
23 role that a Magistrate's Court plays. And
24 obviously, the way y'all do it, you're busy. You
25 do civil and criminal. But I mean, what do you

1 really feel in terms of the Magistrate's Court
2 that you're necessarily developing or gleaning
3 that translates fully in the circuit court.
4 Because they are pretty different in terms of
5 what goes on at the two levels. Can you give me
6 an idea?

7 A. Well, we've worked very hard to make the
8 Magistrate Court a real court. So we follow the
9 rules of civil procedure. We follow the rules of
10 evidence. We're not a court of record. But we
11 do as much as we possibly can to follow the same
12 formalities that you would find in any courtroom.
13 So it's not always been the case in every
14 Magistrate Court around the state. I think we're
15 making a lot of progress around the state with
16 Magistrate Courts. But that's been a goal of
17 mine and I think the other judges in Sumter is to
18 increase the professionalism so that it is
19 similar to going into circuit court. Our cases
20 are not as long, but we try jury trials for
21 driving under the influence. We did domestic
22 violence until recently. It was moved up to
23 General Sessions. Things like malicious injury
24 to personal property, assault and battery, simple
25 possession of marijuana. And a driving under the

1 influence case involves a lot of hoops that the
2 officer has to jump through. So fairly
3 complicated cases to try. And again, we have
4 civil jury trials and civil bench trials. We try
5 very hard to conduct those bench trials and jury
6 trials in the same manner that you would find in
7 circuit court. We handle preliminary hearings.
8 We handle bond hearings. And again, we try to
9 handle those in the same professional manner that
10 you would have in the circuit court.

11 **Q. Thank you.**

12 CHAIRMAN SMITH: Senator Sabb.

13 EXAMINATION BY SENATOR SABB:

14 **Q. Thank you, Mr. Chairman. Thank you, Judge Curtis**
15 **for being here and for offering yourself. A**
16 **couple of questions as it relates to the years**
17 **when you were a part of this civil practice. How**
18 **many jury trials did you try as a lawyer?**

19 A. I would say all the way to jury trial, six or
20 seven cases that I handled as sole attorney.

21 **Q. And you were either a second chair or first chair**
22 **to some of the other civil cases?**

23 A. That's correct.

24 **Q. And, you know, when I look at the responses or**
25 **shall I say the absence of responses as it**

1 relates to complaints from lawyers, it suggests
2 to me a couple of things. One is that when you
3 have difficulties with lawyers you handle it
4 appropriately in order that lawyers are not
5 complaining about it. The other is that when
6 lawyers are having problems with dealing with
7 cases in the higher courts they're not having
8 problems with you. You somehow are managing
9 that, so that the lawyers can handle their cases
10 in Magistrate's Court. Because I know that it's
11 frustrating for the magistrate sometimes, for
12 those of us who trial work, and the other courts
13 take precedence. But obviously, you're managing
14 that well, because we haven't heard complaints
15 from lawyers as it relates to how you're doing
16 that. So the jobs that you are doing I think are
17 very commendable. But as it relates to trial
18 experience, in terms of litigating cases, how
19 would you rank yourself, in terms of being a
20 trial lawyer, given the number of cases that
21 you've been involved in?

22 A. Well, when I started at The Bryan Law Firm, it
23 was to do litigation for the attorneys in the
24 business section. There were two attorneys in
25 that section who were excellent at transactional

1 type work, but did not want to be in the
2 courtroom. So within a pretty short period of
3 time, you know, here's a file, go file this case
4 and go try this case. A lot of cases settled.
5 We handled cases through mediation on occasion.
6 But it was me, alone, go try this case. So I was
7 able to try cases all the way to jury trial
8 against some excellent attorneys. I had jury
9 trials against my husband's senior partner.
10 Rusty Weinberg was my first jury trial. He
11 didn't abide by any of the rules of civil
12 procedure.

13 **Q. Of course not.**

14 **A.** Judges let him get away with absolute murder. I
15 had cases against Gene DuRant, Buck James, some
16 really excellent trial attorneys. So I thought I
17 got some really excellent experience. I also
18 worked with some attorneys at my firm who did a
19 good bit of litigation. Some were car wrecks,
20 easy litigation. But we also had a medical
21 malpractice section that I worked with as well.
22 So I was able to get experience arguing motions,
23 working with some of the other more experienced
24 attorneys. But I would say the most important
25 experience was having a file that I had to

1 develop on my own and go, you know, file the
2 papers, try this case. There's a difference from
3 going and try- -- just a motion and you've got,
4 you know, a team of attorneys behind you to back
5 you up and you've got to just -- you're on your
6 own. You've got to go try this case. So I
7 remember what it's like to be, you know, 20th on
8 the docket. You don't know if you're going to be
9 first up or if you're going to be 20th. If all
10 the cases ahead of you are going to settle.
11 You've got cases in several jurisdictions, both
12 coming up on the docket at the same time. I do
13 have the experience of having to juggle that
14 schedule.

15 **Q. Well, I over the years developed a familiarity**
16 **with all of the lawyers that you mentioned. And**
17 **I agree with you there, all excellent lawyers.**
18 **And also agree that Rusty Weinberg never followed**
19 **the rules.**

20 A. He did not.

21 CHAIRMAN SMITH: All right, any further questions.

22 Mr. Howard.

23 EXAMINATION BY MR. HOWARD:

24 **Q. Just a couple of questions.**

25 A. Yes, sir.

1 **Q. First, Ms. Curtis -- Judge Curtis, let me state**
2 **that I thank you for your service to Sumter**
3 **County already. And thank you for being here**
4 **today. You are slightly in a different position**
5 **than the other candidates that are running for**
6 **this, because you are serving in the role of a**
7 **judge at this point. So I've got a couple of**
8 **questions that sort of surround that. How many**
9 **litigants in front of you are represented by**
10 **counsel, just a rough percentage?**

11 **A. I would say of all the litigants, fewer than 10**
12 **percent. When it gets to the jury trial stage,**
13 **then I would say it's more 20 to 30 percent of**
14 **the cases that actually go to jury trial.**

15 **Q. Okay. In the situations where you've had**
16 **litigants represented by counsel, have you ever**
17 **had counsel that have been late to your**
18 **courtroom?**

19 **A. Yes.**

20 **Q. Have you ever had any counsel that have been not**
21 **shown up?**

22 **A. Yes.**

23 **Q. Okay. Have you ever had any that have called,**
24 **you know, sort of, at the last minute and tried**
25 **to make some excuse, but they weren't going to**

1 **come?**

2 A. Yes.

3 **Q. Okay. Have you ever had any get belligerent at**
4 **all in your courtroom?**

5 A. I have had some who have definitely lost their
6 composure, yes.

7 **Q. Okay. So my question around that is, I am**
8 **curious, in those situations how have you handled**
9 **those counsel that are late, don't show up, call**
10 **at the last minute, slightly belligerent maybe?**

11 A. Well, I try to keep in mind that they are
12 representing a client. So everything that I say
13 and do with respect to that attorney, I try to
14 keep in mind they have a client that they're
15 representing. So although I want the attorney to
16 have some consequence for the action, I keep in
17 mind I don't want to prejudice a client
18 necessarily because of the attorney's actions.
19 So I try to -- if I have an attorney who is
20 constantly late, I talk to them privately. I
21 never talk to them in front of a crowd of people.
22 I like to pull them aside privately and say, hey,
23 you know, this has been an ongoing problem.
24 What's going on? You know, it feels as though
25 you are disrespecting the Court. We've got

1 jurors sitting here, they've taken time out of
2 their schedule. So I try to have a private
3 conversation with them. When I've had attorneys
4 -- many times I've had attorneys that are
5 fighting with one another in the courtroom and I
6 feel strongly we have a jury of people who have
7 taken time out of their schedule to be there and
8 hear this case and these attorneys are going at
9 it in a really unseemly manner. So I will stop
10 the trial, dismiss the jury, and then we have to
11 come in and have a talk about how the case is
12 going to continue. But I feel strongly when I'm
13 talking to an attorney whose lost their
14 composure, I can't lose my composure. There's
15 got to be someone in the room who is not getting
16 red in the face and jumping up and down even if
17 everybody else is, excuse me. So usually I
18 dismiss the jury. I come back in. I say, okay,
19 here's how this is going to work, you know,
20 you're not going address one another by your
21 first names or, you know, whatever the conduct
22 is. Does everybody have -- do we need to take a
23 minute. Do you need to go take a break. And
24 then we'll bring the jury back in. We just
25 Monday morning we had jury selection and then I

1 had three attorneys that just didn't appear. So
2 I send my clerk out, go call their office and
3 find out what's going on, why aren't they here.
4 And we had General Sessions going on at the same
5 time, so I thought, well, it's very possible that
6 they called to General Sessions and we just
7 didn't know it. And that was the case with one.
8 One thought it was going to be a plea. One said,
9 oh, we're withdrawing our request for jury trial,
10 it's just going to be a bench trial. And that
11 was literally as we were doing jury selection.
12 So I think we have to address those issues
13 directly and say, you know, please don't do that
14 to us in the future. We also have to recognize
15 that we are the low man on the totem pole. So if
16 you have to be in General Sessions Court, you
17 have to be in General Sessions Court. We just
18 like to get a heads up.

19 **Q. Understood. Understood. And thank you for that**
20 **answer. On the other side of that is you have,**
21 **obviously, attorneys that are, I guess, more**
22 **respectful of what's going on in your court and**
23 **perhaps a little more conscientious of that and**
24 **they may show up and ask you for additional time**
25 **for continuance. To sort of respect their**

1 **schedule and having to be in multiple courts at**
2 **one time. How do you handle those requests?**

3 A. Well, first of all, we don't have a choice with a
4 conflict.

5 **Q. Sure.**

6 A. And this was a struggle, I would say for me,
7 earlier on. Because at the time I became chief
8 magistrate, we had a four-year backlog. From the
9 time you requested a jury trial in your criminal
10 case until the time you came to court, it was a
11 solid four-year backlog. That was at the same
12 time when I was named chief we had a mandate from
13 the chief justice that we had to get these
14 backlogs moving. We could not have four-year
15 backlogs and that order went out across the state
16 to every magistrate. So we had to figure out how
17 are we going to move these cases, recognizing
18 we're low man on the totem pole, and recognizing
19 that we can't have wholesale dismissal of cases.
20 And we can't trample on people's due process
21 rights. I mean, we've got to have the
22 formalities that are required for us to have for
23 these litigants. So it was pretty stressful
24 initially. I probably was -- I probably pushed
25 harder in the beginning, when I first came on as

1 magistrate. I think with just with some
2 experience I have learned that, you know, you
3 need to push when you can. And then, you know,
4 if they have to be in another court, we've got to
5 recognize we are a 30-day, \$500 court. If you've
6 got to be in General Sessions Court, you've got
7 bigger fish to fry, I mean, frankly. So we try
8 to be cognizant of the fact that these lawyers
9 are trying cases in multiple jurisdictions,
10 higher courts, more serious offenses. I think
11 we've got to be sensitive to that.

12 Q. Do you think -- and I think that's a great
13 position. And it certainly seems like you
14 learned something from that. Do you think that's
15 something that you can carry over into circuit
16 court? And what I mean by that is, the lawyer --
17 the pressure on the lawyer is very much the same.
18 And in that situation you're not the low man on
19 the totem pole, you're one of the higher, you're
20 definitely -- you might give way to Appellate
21 Court or Federal Court, but you're definitely
22 sitting up there in the higher position. So in
23 those circumstances, do you feel like there's
24 something that would translate there in what you
25 learned?

1 A. I do. I think that we learn pretty quickly.
2 Sometimes there are attorneys who you just can
3 never get them to court. And who really do
4 manipulate the system. But I assume anybody who
5 is coming to me with their request for a
6 continuance is operating on a good faith basis.
7 My assumption is always you're operating in good
8 faith with me. And I think that you really need
9 to keep that mind set that the attorneys are
10 doing the best they can. That they -- if they
11 tell you they've got these issues coming up that
12 you trust that they're telling me the truth and,
13 again, that they're coming to you on a good faith
14 basis. You know, you can't always say yes. But
15 I think you have to give it serious
16 consideration.

17 **Q. Thank you for answering my questions.**

18 CHAIRMAN SMITH: Mr. Hitchcock.

19 EXAMINATION BY MR. HITCHCOCK:

20 **Q. Evening Judge Curtis. If you were able to -- and**
21 **you certainly very early on in your career, had a**
22 **-- definitely had a shining example in Justice**
23 **Hearn. But if you were able to make it through,**
24 **you know, this process and were subsequently**
25 **elected to the circuit court bench, can you give**

1 me an idea of a judge that you hold in high
2 esteem? And, you know, and keeping in mind some
3 of your limited experience in General Sessions
4 Court, someone that you would attempt to pattern
5 yourself after. Potentially a, you know, go-to
6 as a mentor as you start out your career as a
7 circuit court judge?

8 A. Judge Tommy Cooper from Manning, I think, is one
9 of the finest examples of a judge across the
10 state. Judge Cooper was and is extremely
11 knowledgeable -- he to me is the ideal judge as
12 far as his demeanor. He's always respectful.
13 I've never seen him loose his temper with a
14 litigant. Be short-tempered with anyone. To me,
15 he really is the epitome of judicial temperament.
16 But also, very academically gifted as well. So
17 he would be, certainly someone I would hope to
18 emulate.

19 Q. And Judge, you know, forgive when we were smiling
20 when you started answering that question. Judge
21 Cooper was in front of us yesterday. And I made
22 just about that same comment about him, so that's
23 why we were -- so, I think that's it. A very
24 good example to pattern yourself after.

25 CHAIRMAN SMITH: Senator Young.

1 EXAMINATION BY SENATOR YOUNG:

2 Q. Thank you, Chairman Smith. Judge Curtis, how
3 would you describe your judicial philosophy?

4 A. With respect to any particular area?

5 Q. In terms of how would you apply the law to the
6 facts that are presented before you?

7 A. Well, I guess, let me say that, at the circuit
8 court level, I don't think that it's my role to
9 create law. I think it's our role to carry out
10 the laws to the way they're written to the best
11 of our ability. Of course, there are times when
12 we've got to try to determine what the
13 legislative intent is. But I think that we have
14 our marching orders. At the role of circuit
15 court, my philosophy would not be necessarily
16 judicial activism. Again, I think that at the
17 circuit court level we are bound by the laws, as-
18 written. And that we need to carry those out to
19 the best of our ability, as-written.

20 Q. Another question I have is, it may be more of a
21 comment. But I read your response to question
22 number 52 about the life experiences and how it
23 would influence you as a judge. And I was
24 particularly impressed with what you wrote. And
25 in particular, I noted how you thought that your

1 life experiences would enable you to address
2 situations involving in the criminal and General
3 Sessions Court, the defendants who may appear in
4 front of you who may have substance abuse issues.
5 If you could, just briefly elaborate on how you
6 think that you have a strength in that area that
7 may make you a more attractive candidate than
8 other people on the list. If you could elaborate
9 on that to the Commission?

10 A. Well, certainly I have the personal experience of
11 watching a family member struggle with this
12 issue. So I many times have litigants in front
13 of me, defendants in front of me, who -- usually
14 in Magistrate's Court we're seeing the beginning
15 of the downhill spiral. And so we're in a
16 position to intervene. Many times my role --
17 I've got someone at bond court, they've been
18 arrested. They are not in a great place. It's a
19 good time to intervene to really sound the alarm
20 to family members. This is a problem that you
21 need to address now. This is a substance abuse
22 problem and you need to address it now. It's
23 amazing to me how many times we'll have litigants
24 who've had two DUIs within the period of six
25 months and they still don't think that they have

1 a drinking problem. And so part of my role in
2 bond court is to say, okay, this is your second
3 DUI in six months. You have a drinking problem
4 and it needs to be addressed now. You know,
5 obviously I know the position that they're in.
6 The uncertainty, the anxiety, the things that
7 they are going through. If we don't -- I mean,
8 there's got to be consequences to the crimes.
9 But I think we can leverage the consequences to
10 get people into treatment. And so we try to do
11 that any possible time that we can get somebody
12 into a diversion program, get them into treatment
13 then I think that's a win. So that's my goal is
14 to, you know -- sometimes I think we'll ignore
15 the fact, oh, gosh, this person's been arrested
16 for five times for public disorderly conduct and
17 people think it's somehow rude for us to mention
18 that they might have a drinking problem. Like
19 no, you clearly -- there's an issue that's going
20 on here. And we need to address that issue so
21 that you're not arrested six more times in the
22 next six weeks.

23 **Q. Thank you.**

24 EXAMINATION BY CHAIRMAN SMITH:

25 **Q. Any further questions? Judge Curtis, just couple**

1 of questions I would have for you is, one you
2 mentioned it earlier about the DUI backlog that
3 we had in Sumter County. And I would like for
4 you to explain that and tell the members of the
5 Commission how you helped resolve that without
6 creating a bunch of acrimony among the Bar and
7 the lawyers, because -- with those number of DUI
8 cases you had pending?

9 A. Sure. Well, I had very recently been appointed
10 chief magistrate when we got the order from the
11 Supreme Court that we really needed to do
12 something about the backlog. Of course, we have
13 six judges. I was one of six judges. And so we
14 knew we needed to do things differently. In
15 order for us to move that backlog, we had to have
16 the cooperation of all six judges. We had to
17 have our staff being willing to work harder. We
18 had to have our judges being willing to work
19 harder, have more terms of court. We had to get
20 law enforcement on board as well. We had to get
21 the prosecutor on board. The prosecutor for the
22 sheriff's department actually was the former
23 chief magistrate. So if you can imagine it's a
24 little bit of a touchy situation to go to the
25 person that used to have your job and say, we're

1 going to do things totally different now to try
2 to alleviate the backlog. Fortunately, we were
3 able to build that consensus. All of our judges
4 got on board. They were willing to work harder
5 to have more terms of court. We had to make
6 changes with our staff so that we would be going
7 from really more of a cart and buggy handwritten
8 system to really utilizing our technology. We
9 had to really enlist the help of, you know, the
10 law enforcement. We're asking them to come to
11 status conferences and to be prepared for those
12 status conferences. And so they were willing to
13 do the work. I think in large part because
14 everybody recognized that the goal was worthy,
15 whether you are a defendant or you were a
16 prosecutor. It was a worthy goal. It was not
17 helping anybody to have this backlog of cases.
18 So we instituted status conferences. We asked
19 law enforcement to be familiar with their cases
20 for the status conference. We asked attorneys to
21 come to the status conferences. We got some push
22 back -- any time you try to make a change,
23 initially there's going to be some push back.
24 But by and large we were very fortunate that we
25 got -- everybody could see what we were trying to

1 accomplish and they really got on board.

2 Q. All right. And also, obviously, in Lee and
3 Williamsburg and Clarendon Counties are a little
4 bit different, but as it relates to Sumter
5 County, in the Third Circuit, we have one of the
6 -- we rank one of the bottom in disposition of
7 General Session cases. And so, obviously, as a
8 judge you're going to have to deal with that in
9 collaboration with the judges that are there, if
10 you get elected. How would you approach the
11 backlog that's in General Sessions right now?

12 A. Well, again I've think you've also got to --
13 you've always got to balance the rights of the
14 defendant with the fact that you want to move the
15 cases. We can't -- again, we can't trample on
16 people's rights. I think we have to be very
17 deliberate about how we're going to do it in a
18 way that doesn't result in just wholesale --
19 okay, we're going to dismiss all these cases or
20 we're going, you know, give so much time that we
21 force everybody to plead. I think you really
22 have to balance. Also the fact that, you know,
23 attorneys do have a life outside of the
24 courtroom. But I think it really takes the
25 cooperation of the public defender's office, the

1 private Bar, and the solicitor's office to get
2 the docket moving.

3 Q. And you were touching on this with Senator Young
4 a little bit. But obviously, if you were elected
5 to the circuit court, then you would hold General
6 Sessions Court and that would be something that
7 you would have to become a little more
8 experienced in and deal with and, but as it
9 relates to general philosophical issues, you
10 know, there's a lot of interest on this
11 Commission and with me as to alternative courts
12 and the utilization of alternative courts. And I
13 guess type of diversionary sentencing and
14 diversionary programs and it seems we're slow to
15 embrace those in the Third Circuit. What would
16 you do to help? One, is that something that you
17 feel is beneficial to everybody, that -- I guess
18 beneficial to the appropriate candidates and what
19 would you do to help encourage some of those
20 alternative courts that we could embrace in the
21 Third Circuit?

22 A. In the Third Circuit, I think we have a real lack
23 of resources for pre-trial intervention. I think
24 we have two ladies that work in the pre-trial
25 intervention office. They are grossly

1 understaffed, even for Magistrate's Court I send
2 as many people as I possibly can for things like
3 shoplifting, simple possession of marijuana. We
4 send as many people as possible to the
5 conditional discharge program and they're really
6 overburdened. The other issue that we really
7 struggle with is the mentally ill. The
8 jurisdictions that have mental health court, I
9 understand that it works very well. But we have
10 people who are incarcerated over, and over, and
11 over again, who need mental health treatment.
12 And we're just shooting ourselves in the foot
13 with a lot of these people who need treatment.
14 I'm hopeful that with some of the new mental
15 health facilities in Sumter County, with the fact
16 that we have a new director of our jail and a new
17 director of mental health that we have a
18 opportunity to have all these entities working
19 together so that we actually have some meaningful
20 mental health services.

21 **Q. And lastly, you talked about quality of life with**
22 **attorneys and obviously, attorneys in the Third**
23 **Circuit, which is a more rural area, you have to**
24 **be a jack of all trades and a master of none in**
25 **order to make a living over there. And so, when**

1 attorneys come to you and obviously, they're
2 going to have to have continuances or conflicts
3 or vacations or children going to school or
4 soccer games or baseball games to go to. How do
5 you envision handling those requests from
6 attorneys that have other obligations and
7 balancing those with the demands of disposition
8 of cases?

9 A. Well, I don't think that I have ever denied an
10 order protection for anyone who had a family
11 vacation scheduled, that's important. I have two
12 children, they're now a senior in high school and
13 a sophomore in college. I can tell you nothing
14 was more important, no matter what kind of case I
15 had going on at the time. Nothing is more
16 important than if you've got an issue going on
17 with a child. So again, I think we've got a way
18 -- we've got to have some balance in the legal
19 profession. We just sat through a talk last week
20 and every CLE I go to lately, we hear about
21 attorneys have this high incidence of depression,
22 alcoholism, substance abuse, a high rate of
23 suicide. And so we've got to figure out a way
24 that people can practice law without giving up a
25 family life. And resorting to, you know,

1 depression and, you know, a life time of anti-
2 depressants or alcoholism. So I think that,
3 again, we've got to be able to give attorneys a
4 little bit of quality of life.

5 Q. Thank you very much. Any further questions? All
6 right. Judge Curtis, this concludes your -- this
7 portion of your screening process. I want to
8 take this opportunity to remind you that pursuant
9 to the Commission's evaluative criteria, the
10 Commission expects candidates to follow the
11 spirit, as well the letter of the ethics laws.
12 And we will view violations or the appearance of
13 impropriety as serious and potentially deserving
14 of heavyweight and screening deliberations. On
15 that note now, as you know, the record will
16 remain open until the formal release of the
17 report of qualifications. And you may be called
18 back at such time if the need arises. I thank
19 you for offering for this position. And I thank
20 you for your service to the State of South
21 Carolina.

22 A. Thank you very much for your time.

23 (Off the Record)

24 CHAIRMAN SMITH: All right, Mr. Floyd, we're going to
25 go ahead and get started, if you'll come forward.

1 And I see your brought a guest today. So would
2 you like to introduce her to the Commission?

3 MR. FLOYD: I would, Your Honor. That's my wife,
4 Tammy Davis Floyd.

5 CHAIRMAN SMITH: Tammy, appreciate you being here
6 today. Good to see you. Mr. Floyd, will you
7 raise your hand, please? Right hand, please?

8 MR. FLOYD, being duly sworn and cautioned to speak the
9 truth, the whole truth and nothing but the truth,
10 testifies as follows:

11 CHAIRMAN SMITH: Mr. Floyd, before you is your
12 personal data questionnaire and the sworn
13 statement. Are these the documents that you've
14 submitted to the Commission?

15 MR. FLOYD: They are, Your Honor.

16 CHAIRMAN SMITH: All right. And are they both
17 correct to the best of your knowledge?

18 MR. FLOYD: They are, Mr. Chairman.

19 CHAIRMAN SMITH: Okay. And does anything need to be
20 changed or updated at this time?

21 MR. FLOYD: It does not, Mr. Chairman.

22 CHAIRMAN SMITH: Do you have any objection to making
23 these documents and any amendments, if
24 applicable, as part of the record of your sworn
25 testimony?

1 MR. FLOYD: I do not, Mr. Chairman.

2 CHAIRMAN SMITH: Okay. If you'll hand those to Lindi,
3 please, sir, and we're going to make those as
4 exhibits to your testimony. Mr. Floyd, the
5 Judicial Merit Selection Commission has
6 thoroughly investigated your qualifications for
7 the bench. Our inquiry is focused on nine
8 evaluative criteria and has included a ballot box
9 survey, a thorough study of your applicant
10 materials, the verification of your compliance
11 with state ethics laws, a search of newspaper
12 articles in which your name appears, a study of
13 previous screenings, if any, checks for economic
14 conflicts of interest. We have received no
15 affidavits in opposition to your election. We
16 also have not been notified of any witnesses who
17 intend to testify today in opposition to your
18 election. Do you have a brief opening statement
19 that you would like to make at this time?

20 (EXHIBIT 21 - JUDICIAL MERIT SELECTION COMMISSION
21 PERSONAL DATA QUESTIONNAIRE FOR MR. SAMUEL L. FLOYD)

22 (EXHIBIT 22- JUDICIAL MERIT SELECTION COMMISSION SWORN
23 STATEMENT OF MR. SAMUEL L. FLOYD)

24 (EXHIBIT 23 - AMENDMENT TO PERSONAL DATA QUESTIONNAIRE
25 FOR MR. SAMUEL L. FLOYD)

1 MR. FLOYD: Just quickly, Mr. Chairman and Mr. Vice
2 Chairman, Members of the committee, staff. I
3 just appreciate your taking the time out of your
4 busy day to interview myself and my wife. And I
5 know it's late, so if it's okay with you Mr.
6 Chairman, we're ready to go forward.

7 CHAIRMAN SMITH: That is the way to go, Mr. Floyd,
8 thank you. All right. Will you answer any
9 questions that counsel might have?

10 EXAMINATION BY MR. COHL:

11 **Q. Good afternoon, Mr. Floyd. I know for the record**
12 **that based on the testimony contained in the**
13 **candidate's personal date questionnaire, which**
14 **has been included in the record with the**
15 **candidate's consent, Samuel Floyd meets the**
16 **constitutional and statutory requirements for**
17 **this position regarding age, residence, and years**
18 **of practice. Mr. Floyd, how do you feel your**
19 **legal and professional experience thus far**
20 **renders you qualified and will assist you to be**
21 **an effective circuit court judge?**

22 **A.** Well, I feel that I've had varying degrees of
23 experience in terms of the -- appearing in front
24 of circuit court judges and preparing myself to
25 get to this point. My experience is very

1 diverse. I have handled cases ranging from -- in
2 the criminal world from a murder case to a
3 speeding ticket. I have closed real estate
4 loans. I have settled workers' comp cases. I
5 have tried custody cases in family court. I have
6 tried many wreck cases. I have actually served
7 as a magistrate as an actual judge in this state
8 for a brief period of time. And so I just, you
9 know, that diversity, I think would certainly
10 render me, at least a little knowledge in each
11 area of the law that a circuit judge is required
12 to have some knowledge about.

13 **Q. Thank you, Mr. Floyd. The Commission received**
14 **117 ballot box surveys regarding you, with 14**
15 **providing additional comments. The ballot box**
16 **survey, for example, contained the following**
17 **positive comments. "He's an honorable man with a**
18 **perfect judicial temperament." An additional**
19 **comment provided, "He has the perfect balance of**
20 **legal skill and common sense to be an outstanding**
21 **judge." One of the written comments expressed a**
22 **concern. The comment stated that you would be**
23 **extremely beholden to local attorneys. What**
24 **response would you offer to this concern?**

25 **A. I thank you, Mr. Cohl, and I'll give you the same**

1 response that I gave in your office when you
2 advised me of that. No question we have a very
3 close-knit Bar in the Third Judicial Circuit and
4 particularly my local Bar, in Williamsburg
5 County. And, you know, it's hard not to have
6 personal feelings for your local counsel. But I
7 would certainly continue to thrive as I did when
8 I was a magistrate to be as unbiased as I
9 possibly could and look at the issues before me
10 and hand down the law accordingly. And that
11 would be the best I could do.

12 **Q. Thank you, Mr. Floyd. You've indicated in your**
13 **personal data questionnaire that a lawsuit was**
14 **filed against you in October of 2012 in the**
15 **Berkeley County Court of Common Pleas by J. P.**
16 **Morgan Chase Bank. Please explain the nature and**
17 **disposition of the lawsuit?**

18 A. I can. I was listed as a judgement creditor. I
19 handled a divorce and as a result of the divorce
20 I was granted attorney's fees. And there was, I
21 think it was a bankruptcy action, don't quote me
22 on that. But I think it was a bankruptcy action
23 or some type of collections action that was
24 instituted by J. P. Morgan, I think. And I was
25 just named as a party out there that money was

1 owed to.

2 **Q. Thank you, Mr. Floyd. You additionally disclosed**
3 **in your personal data questionnaire that you paid**
4 **a penalty for several late filings related to**
5 **your service on the Williamsburg County Council.**
6 **Please detail the amount and nature of the**
7 **penalty?**

8 A. Well, the amount of the penalty was \$100 per
9 violation. And I don't remember the number of
10 violations. It was six or seven, if I'm not
11 mistaken. In my political career I've had the
12 good fortune of having someone that has always
13 been by my side, has been my campaign manager,
14 and my biggest supporter, who happens to be
15 seated in the room with me today. She does all
16 my design work and so forth and so on. But after
17 having been elected to county council in 2010, I
18 think it was, several years later, I had called
19 the ethics commission inquiring about something
20 else I was trying to straighten -- trying to get
21 done properly. And it was brought to my
22 attention that we had entered the data necessary
23 to file properly each and every time. But for
24 whatever reason we had not hit the file button on
25 a number of occasions. And so those violations

1 are actually the same violations that were -- had
2 never been brought to my attention. When it was
3 brought to my attention, we've never done it
4 since then. We just weren't entering the data
5 correctly. And it's my responsibility, there's
6 no question about it, but, you know, my wife and
7 I do this together. But we all know who actually
8 does it, but anyway, we just didn't -- we didn't
9 do it properly. It wasn't anything
10 intentionally. It just wasn't done properly.
11 And once we realized it was done improperly --
12 fact is, I actually thought about appealing it,
13 because nobody ever let me know I didn't do it
14 right the first time, so to speak. You
15 understand what I mean. But anyway, that's what
16 happened.

17 **Q. Thank you, Mr. Floyd. Now, just a few**
18 **housekeeping issues to run through. Mr. Floyd,**
19 **are you aware that as a judicial candidate you**
20 **are bound by the code of judicial conduct as**
21 **found in Rule 501 of the South Carolina Appellate**
22 **court rules?**

23 **A. I am. Yes, sir.**

24 **Q. Since submitting your letter of intent, have you**
25 **contacted any members of the Commission about**

1 your candidacy?

2 A. I have not.

3 Q. Since submitting your letter of intent, have you
4 sought or received the pledge of any legislator,
5 either prior to this date or pending the outcome
6 of your screening?

7 A. I have not.

8 Q. Have you asked any third-parties to contact
9 members of the General Assembly on your behalf or
10 are you aware of anyone attempting to intervene
11 in this process on your behalf?

12 A. I have not.

13 Q. Have you reviewed and do you understand the
14 Commission's guidelines on pledging in South
15 Carolina Code Section 2-19-70(E)?

16 A. Say that again, please?

17 Q. The Commission's guidelines on pledging in South
18 Carolina Code Section 2-19-70(E), which is the
19 penalty for violating the prohibition on
20 receiving pledges?

21 A. Yes, sir.

22 Q. Thank you, Mr. Floyd. I would note that the Pee
23 Dee Citizens Committee reported that Mr. Floyd is
24 qualified in the evaluated criteria of
25 constitutional requirements, professional and

1 academic ability, physical health, mental
2 stability, and experience. And well qualified in
3 the evaluative criteria of ethical fitness,
4 character, reputation, and judicial temperament.
5 I would just note for the record that any
6 concerns raised during the investigation
7 regarding Mr. Floyd were incorporated into the
8 questioning today. Mr. Chairman, I have no
9 further questions.

10 Examination by Chairman Smith:

11 Q. Thank you, Brian. Mr. Floyd, let me just ask you
12 this because I want to follow up on these ethics
13 filings, because several on the ethics committee
14 because I hear this often. Did the State Ethics
15 Commission never send you anything and tell you,
16 you were late?

17 A. No, sir.

18 Q. Okay. And did they acknowledge when you talked
19 to them that you, that they did not send you
20 anything or did they say they mailed it to your
21 address?

22 A. I think they acknowledged that I had never been
23 notified. Now, don't hold me to that, because
24 those conversations may have been between Tammy
25 and them. But I don't -- you know, I know that

1 we were looking for something. I was on the
2 phone the day that it was brought to their
3 attention. It was me. I was talking and the --
4 I don't know who the lady was. But she said I
5 see where you haven't. And I said, no ma'am. I
6 said, we've, you know, we've always tried to make
7 sure we got that right.

8 **Q. Did they waive the -- I know when you don't file,**
9 **the penalties keep going up per diem. And at**
10 **least, that's what we do in the House and Senate,**
11 **I believe. But did they waive some of those**
12 **penalties down to initial fine or did they make**
13 **you pay that huge initial assessment?**

14 **A. My understanding, Mr. Chairman, it was \$100 flat**
15 **fee per occurrence, was my understanding, is what**
16 **I paid. I know I wrote them one check for \$500**
17 **or \$600, if I'm not mistaken.**

18 **Q. You paid it from your campaign account or did you**
19 **have to pay it from your personal account?**

20 **A. I don't remember the answer to that.**

21 **Q. All right. Just a couple while I got them. I'm**
22 **just going to ask a couple of questions I've been**
23 **asking. Obviously, you're familiar, we practice**
24 **over in the Third Circuit and I think we're at**
25 **the top of the leaders in the state in backlogs**

1 **in General Sessions Court. What would you do if**
2 **elected as judge to help assist and alleviate**
3 **that backlog in General Sessions Court?**

4 A. Well, I think one thing that certainly has been
5 helpful that I've seen done in the past is that
6 the judges can maybe in advance get with the
7 solicitors and speak with solicitors about the
8 upcoming cases and try to line up for the
9 following week, the Friday before, what's going
10 to be tried and what's not going to be tried.
11 What are the likelihoods of trials in those
12 cases. And just do the best they can to
13 encourage the solicitor's office to move these
14 cases forward.

15 Q. Also, if elected as a judge, obviously, you've
16 got to deal with attorneys attending court and
17 you know how that is. You're like me and the
18 rest of us that practice in the Third Circuit.
19 We've got to be in a lot of courts and be in a
20 lot of areas to make a living practicing law.
21 And so, as it relates to conflicts, attorneys may
22 have with court schedules due to vacations,
23 children, to conflicts with depositions, maybe,
24 and other demands of the practice of law, how
25 would you try to balance all those as opposed to

1 **making sure that the dockets are moving and**
2 **making sure that, you know, that there's justice**
3 **occurring in due fashion over in the courts that**
4 **you preside over?**

5 A. Mr. Chairman, being a sole practitioner, I
6 certainly have a great appreciation for the way
7 you so eloquently stated it, having to be in more
8 than one place at one time, especially when you
9 don't have any law partners. However, you know,
10 you have to plan accordingly. You have to have
11 good staff on board as an attorney. And I think
12 as a judge that your staff and you would be
13 responsible for contacting these attorneys in
14 advance prior to, say, the morning of court and
15 saying are we going to be ready to go forward.
16 We need to know now because if you're not, we
17 need to get the next case in line so that we've
18 got something to do Monday morning.

19 CHAIRMAN SMITH: All right. Any questions for Mr.
20 Floyd? Senator Hayes.

21 EXAMINATION BY MR. HAYES:

22 **Q. Thank you, I appreciate your willingness to**
23 **serve. When you were a magistrate, was that a**
24 **full-time job?**

25 A. Yes, sir. It was.

1 **Q. Okay. And what were your responsibilities? Did**
2 **you hold jury trials, non-jury, or what was your**
3 **job as the magistrate for Williamsburg County?**

4 A. Senator, at that time, it was -- there were only
5 two full-time magistrates. It was myself and
6 Judge Cynthia Burroughs who was the chief
7 magistrate. She has since retired but she was
8 not too long from retirement and she and I kind
9 of had a gentlemanly agreement that she stayed in
10 the back office and kind of took care of the
11 administrative portion of it and I handled the
12 courtroom. On Monday, we dealt with the folks
13 signing warrants. Tuesday was city court.
14 Wednesday morning was preliminary hearings.
15 Wednesday afternoon was county court, all of your
16 deputies. Thursday was check court and Friday
17 was civil court and landlord/tenant court. And I
18 handled each and every one of those.

19 **Q. I noticed you have a wide variety of things in**
20 **your background. If you had to pick out one**
21 **thing in your background that's a real positive**
22 **for being chosen as a judge and something in your**
23 **background that you consider a negative or a weak**
24 **point in your background, what would those be?**

25 A. The strongest part of my background would be the

1 fact that -- and didn't have anything to do with
2 my doing this. This is going to be a two-part
3 answer, would be the fact that the Lord gave me
4 godly parents. That's the strongest part of my
5 background. It helped me become where I am
6 today. But the strongest part of my legal
7 background, I suppose, is I think that I'm a
8 pretty good litigator. I think I'm a pretty good
9 thinker on my feet. And I think I'm a good
10 communicator with people. I think that I'm able
11 to work well with others, serving on our local
12 council and different things. I think that I'm a
13 good people person. The weakest part of my
14 background, Senator, would be quite candid with
15 you when it comes to paperwork I'm a
16 procrastinator. And it's not something I'm
17 particularly proud of, but that's the truth.

18 **Q. Thank you.**

19 CHAIRMAN SMITH: Senator Young?

20 EXAMINATION BY SENATOR YOUNG:

21 **Q. Thank you, Mr. Chairman. Mr. Floyd, thank you**
22 **for your interest in serving on the South**
23 **Carolina Circuit Court. And my question to you -**
24 **- one of my questions is, how would you describe**
25 **your judicial philosophy. If you were elected to**

1 **the circuit court to serve your circuit in this**
2 **state, how would you describe the philosophy that**
3 **you would apply as a judge to the facts and**
4 **application of the law?**

5 A. Well, I mean, I think that the job of the judge
6 is obviously to be fair and impartial and hand
7 the law down as it is written to the best of his
8 ability. But I think beyond that, a judge's
9 responsibility is to the citizens to maintain a
10 good even judicial temperament. To always
11 maintain -- to carry himself in a very
12 professional manner. To treat his fellow
13 colleagues of the bar with civility and decency
14 and understand that these folks are trying to
15 make a living. And they have families and they
16 have things going on in their lives as well.
17 And, you know, I think that, you know, you have
18 to remember that a lot of times the jurors and
19 the defendants that this may be the only time
20 they've ever appeared in a circuit court. And
21 you want to leave a good and positive impression
22 on them, you know. The judges that I clerked
23 with probably put it as eloquent as anybody,
24 said, you know, you can send a man to prison and
25 preserve his dignity, because sometimes that's

1 all a person has. And so you have to always
2 remember that.

3 **Q. Is that one of the things that you learned from**
4 **Judge Shuler?**

5 A. That's correct.

6 **Q. What else did you learn from Judge Shuler?**

7 A. I learned a lot of things from Judge Shuler. But
8 I enjoyed my time with Judge Shuler, I really
9 did. It was a very interesting year of my life.
10 That's when I really first started actually -- I
11 had never even considered being a judge until
12 then. I didn't grow up as a child saying I want
13 to be a judge. I mean, my last year of
14 kindergarten, I was a railroad conductor, that's
15 what I was going to be. I mean, but that was the
16 beginning of me actually thinking about being
17 where I am today, you know. So, he was very --
18 someone I have a great amount of respect for and
19 look up to.

20 **Q. I noticed on your personal data questionnaire**
21 **that you -- are you -- you mentioned the Rotary**
22 **Club, are you still a member of the Rotary Club?**

23 A. I am not active at this very time, that's
24 correct.

25 **Q. Thank you.**

1 A. I'm still a member, but I think -- I've been
2 active and inactive several times. Right now,
3 I'm serving more on our - we're focusing on
4 building a new hospital in Williamsburg County.
5 And I'm serving more -- I've focused more of my
6 energy on our hospital foundation board committee
7 and went inactive on Rotary a while back.

8 **Q. Thank you.**

9 CHAIRMAN SMITH: Any further questions. Senator
10 Rankin.

11 EXAMINATION BY SENATOR RANKIN:

12 **Q. Your father was a senator, long ago, correct?**

13 A. That's correct.

14 **Q. And he served with -- in what years?**

15 A. 1966 to 1976.

16 **Q. And he served with Frank McGill?**

17 A. Before Frank -- Mr. Frank was in the House and my
18 father was in the Senate. And then my father
19 left the Senate in '76 and that's when Mr. Frank
20 became senator.

21 **Q. Your dad went back and practiced law after '76?**

22 A. That's correct.

23 **Q. Until?**

24 A. Until he passed away in '94.

25 **Q. In '94?**

1 A. Yes, sir.

2 Q. I know I know your name. I'm from Horry County.
3 Did y'all have a race? I'm looking to my right.
4 I've got nothing. He is so well contained. They
5 call him the iceman for a reason. Anyway, I know
6 your name more recently as well. So anyway, and
7 I appreciate your willingness to serve as well.
8 And likewise dutifully acknowledging the one
9 who's filling out your papers.

10 A. Yes.

11 Q. And he does it lovingly, but hopefully, because
12 if you mess it up, he's in trouble. Just like me
13 with my ethics disclosures that Lindsey has the
14 charge of, so.

15 MS. FLOYD: Yes, sir.

16 Q. Anyway, so there are three others running in this
17 race. And we've all asked various questions
18 about this person for the other candidate. We've
19 met the other one, I think you know, Judge
20 Curtis, Kristi Curtis, you appear before her
21 occasionally, I assume?

22 A. I have.

23 Q. She says nice things I'm sure about and you
24 likewise would say nice things.

25 A. I would say nice things. I've had a number of

1 preliminary hearings in front of her. And
2 nothing but pleasurable experiences. I don't get
3 to Sumter too often but when I do I've just --
4 been treated fine.

5 **Q. Very good. In terms of your history, your past**
6 **and as you kind of alluded to, what brought you**
7 **to this point right here, tell us what**
8 **distinguishes you -- not speaking ill of your**
9 **competitors, but what distinguishes you above the**
10 **rest as to you would want this commission to know**
11 **as to why you should be given more consideration?**

12 **A.** Well, with -- and again, without speaking to the
13 others, speaking purely from Sam Floyd's
14 perspective, I know what it's like to practice
15 law in the real world. I got out of law school.
16 Unfortunately, the test taking gods were not real
17 good to me. So I found myself sitting on the
18 back-end of several failed bar exams. And was
19 building houses and the good senator from
20 Williamsburg asked me at church one Sunday if I'd
21 like a magistrate's position. And I couldn't
22 have answered him quicker than I said yes. And
23 so, I started out after clerking with Judge
24 Shuler, one of my mentors whom I learned a lot
25 from, I started out trying cases. The very first

1 case I ever tried I wasn't even an attorney. I
2 was the judge. So we did that for a while. And
3 I was -- upon eventually passing the bar exam,
4 after those two experiences, my experience with
5 Judge Shuler and my experience as a magistrate, I
6 said, this may be something that later in life I
7 may be looking to venture into doing. Not having
8 any idea that it would happen quite as quickly as
9 it has. And so doing that, upon graduation, I
10 was offered a number of jobs. One, a pretty good
11 size firm and an assistant solicitor position.
12 But I chose the job with Jenkinson, Jarrett, &
13 Kellahan. And one of the reasons for that is
14 because it would allow me to practice in all
15 areas of the law. It would allow me to close
16 real estate loans. It would allow me to try
17 wreck cases. It would allow me to try criminal
18 cases. It would allow me to go into family
19 court. So I did that for about five years. And
20 then, like a lot of folks, one of the dreams that
21 I did have was opening my father's law office,
22 and hopefully making him proud. And so I did
23 that and have been doing that successfully ever
24 since. I think that another thing that perhaps
25 may or may not, as I certainly think that I have

1 a willingness to serve and a willingness to work
2 with others. I enjoy public service. I have
3 enjoyed my time on county council. Have enjoyed
4 all of my time in the public arena and the
5 political arena. I enjoy it. And have tried to
6 handle -- have tried my best, you kind of alluded
7 to the good senator from Williamsburg. One of
8 the conversations we had before the election. I
9 sat on his couch and we said, we were friends
10 before the election. We're going to be friends
11 before the election. And the one thing we
12 promised each other, we're going to be friends
13 when this election is over. And I think we both
14 kept our promise. And so I think that's
15 important. I think you can do that from the
16 bench with your colleagues. I think you can
17 treat your colleagues, perhaps a little sternly
18 at times, but still professionally. And so --

19 **Q. Were you knocking on doors in the neighborhood**
20 **and found your way to his house?**

21 A. He actually called me and invited me over. But
22 we were friends--

23 **Q. He wanted you to stop knocking on doors.**

24 A. Yeah, yeah. No, I knew better than to go to
25 Greeleyville, Senator. I think that was pretty

1 well locked up.

2 **Q. Now, you are a one -- you have partners or you're**
3 **a one-man show?**

4 A. I call it my one-man lemonade stand, right behind
5 the courthouse in Kingstree. I'm by myself.

6 **Q. Your mix of practice, I think, did I read 65**
7 **civil, 35 criminal or?**

8 A. That's a -- Senator, that's a guess.

9 **Q. What is your, I mean, is it a mix between family**
10 **court, criminal, civil?**

11 A. I did family court. I mean, I've tried custody.
12 I did it for the five years I was with Jenkinson,
13 Jarrett, Kellahan. I did it for about two years
14 practicing by myself. And I was looking at my
15 end of the year summary, after a particularly bad
16 Christmas of family court exchanges, and I told
17 my associate 80 percent of my headache is about
18 20 percent of my revenue stream, I'm out. And so
19 I kind of quit family court. But I have done it.
20 But now I do mostly civil, criminal, and real
21 estate is mostly what I do. It's the majority of
22 my practice. Of course, I draw -- somebody comes
23 in and mom and pop needs a will done, something
24 like that I'll do it. I don't set up any trusts,
25 anything complex, something like that. But

1 mostly wreck cases and magistrate court criminal
2 stuff, DUIs, criminal domestic violence, it's
3 things like that.

4 Q. Thank you. Thank you both for being here.

5 CHAIRMAN SMITH: Senator Sabb?

6 EXAMINATION BY MR. SABB:

7 Q. Thank you, Mr. Chairman. I guess I've been sort
8 of put on the spot to make a comment or two. I
9 do that with delight. I was talking about
10 Attorney Sam Floyd earlier and shared that very
11 story that when we both ran for the senate, we
12 didn't run against each other. We ran for a
13 position. And we did vow that we would be
14 friends before, friends during, and friends
15 after. And we were able to accomplish that goal.
16 And I think that just speaks volumes of his
17 character. He and I have both practiced law in
18 Kingstree, pretty much both of our professional
19 careers. We do the same kind of law. I stopped
20 doing family court before he did, though. I
21 realized as he did that I was not cut out for it.
22 And so I eased away from family court. He is
23 well respected in the Williamsburg County Bar
24 amongst his peers. Had the variety of
25 experiences. You know, back in my solicitorial

1 days, he was at one table and I was at another
2 table. And we talked fondly about how hard we
3 fight for our respective positions. But at the
4 end of the day we can go out and drink coffee and
5 have a soda together and be civil. And, of
6 course, we've tried civil cases together, co-
7 counseling with each other. And so I've got
8 nothing but respect for Sam Floyd and I'm pleased
9 to say that publically.

10 CHAIRMAN SMITH: Representative Rutherford.

11 EXAMINATION BY REPRESENTATIVE RUTHERFORD:

12 Q. Senator, I've got stories too. We were interns
13 on Capitol Hill together. And this was, God, a
14 long time ago. And I remember the waitress in
15 the first restaurant we went to took Sam's order
16 while he was in the bathroom. And he could not
17 believe that, because they would certainly not do
18 that in Kingstree. So it was an awakening
19 experience to be in DC. But Sam has always had a
20 great deal of respect amongst my peers as well.
21 It's a pleasure to have you endeavored for this.

22 A. Thank you, Representative Rutherford.

23 CHAIRMAN SMITH: Any further questions?

24 SENATOR RANKIN: I want to know how the waitress took
25 that. Never mind.

1 RE-EXAMINATION BY CHAIRMAN SMITH:

2 Q. If I can knock on Senator Rankin for one second.

3 All I can say is, you better thank your lucky
4 stars that you were -- before the State Ethics
5 Commission and not the Senate Ethics Commission
6 when this man was chairman. Because your \$100
7 fine would have turned into about one-million
8 dollars and he shows no mercy in that regard.
9 Mr. Floyd, let me follow up and ask you a
10 question I asked the last candidate too. What do
11 you think about, as we move into diversionary
12 type courts and since, and as it relates to
13 General Sessions, what would be your philosophy
14 if you were a judge as to helping create or refer
15 or help, engage into the alternative courts, such
16 as mental health courts, drug courts, veteran's
17 courts and things to that effect?

18 A. I would absolutely be in favor of it. I was
19 fortunate enough, when I served as magistrate, to
20 travel to Albuquerque, New Mexico with mine and
21 Senator Sabb's good friend and colleague, Judge
22 Newman, along with whom now is a drug court
23 judge, Amy Land, or Ms. Bobby Reeves was a drug
24 court judge at the time. And we studied drug
25 courts out in Albuquerque before the epidemic,

1 the methamphetamine epidemic, actually hit South
2 Carolina the way it did. And it was very
3 interesting to see. I mean, it was amazing to
4 see the effectiveness of it. So anything we
5 could do to promote judicial autonomy efficiency,
6 as well as rehabilitate defendants in the
7 criminal arena, I'm all for it. Certainly,
8 absolutely.

9 MR. CHAIRMAN: All right. Any further questions? Let
10 me find my script first. Thank you, Mr. Floyd.
11 Hold on a second. No further questions.

12 EXAMINATION BY REPRESENTATIVE MURPHY:

13 **Q. Let me, I was going -- when you were the law**
14 **clerk for Judge Shuler, did y'all -- were you the**
15 **law clerk when he came to Dorchester County for a**
16 **death penalty case, or was that after your time?**

17 A. It would have had to be before me, because I
18 was the last law clerk he had before he went to
19 the Court of Appeals. But I did sit with him for
20 a death penalty trial here in Richland County.

21 **Q. Okay.**

22 A. Actually my first week as his law clerk, we had a
23 death penalty trial. So that was pretty
24 interesting.

25 **Q. Okay. It would have been before.**

1 CHAIRMAN SMITH: Hugh Ryan who is now director of the
2 Office of Indigent Defense was his law clerk
3 during that time.

4 REPRESENTATIVE MURPHY: Was it, okay.

5 CHAIRMAN SMITH: All right. Any further questions?
6 All right, Mr. Floyd. Thank you so much. This
7 concludes your portion of our screening process.
8 I want to take this opportunity to remind you
9 that pursuant to the Commission's evaluative
10 criteria, the Commission expects candidates to
11 follow the spirit as well as the letter of the
12 ethics laws. And we will review violations or
13 the appearance of impropriety as serious and
14 potentially deserving of heavy weight in
15 screening deliberations. On that note, now, as
16 you know, the record will remain open until the
17 formal release of the report of qualifications.
18 And you may be called back at such time if the
19 need arises. I thank you for offering for this
20 position. And I thank you for your service to
21 the State of South Carolina.

22 MR. FLOYD: Thank you, Mr. Chairman, members of the
23 screening committee.

24 CHAIRMAN SMITH: Y'all have a good evening, safe trip
25 back.

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(Off the Record)

CHAIRMAN SMITH: Mr. Griffin, good afternoon.

MR. GRIFFIN: Good afternoon.

CHAIRMAN SMITH: Mr. Griffin, will you raise your right hand, please, sir?

MR. GRIFFIN, being duly sworn and cautioned to speak the truth, the whole truth and nothing but the truth, testifies as follows:

CHAIRMAN SMITH: Mr. Griffin, before you, you have on your desk the personal data questionnaire and sworn statement. Are these documents that you submitted to the Commission?

MR. GRIFFIN: They are.

CHAIRMAN SMITH: Are they both correct?

MR. GRIFFIN: They are correct. I have -- referring to the personal data questionnaire, I have sent letters in noting that I've spent over a \$100 for an introductory letter. But other than sending the letters notating that I've spent that money, everything else is correct.

CHAIRMAN SMITH: And are there any other amendments or changes that you would like to make at this time?

MR. GRIFFIN: Not at this time.

CHAIRMAN SMITH: Do you have any objections to these documents and any amendments being a part of the

1 record of your sworn testimony?

2 MR. GRIFFIN: No objection.

3 CHAIRMAN SMITH: Okay. If you'll hand those to
4 Lindsey -- Lindi, I'm sorry. It's getting to be
5 a long day. And we'll make those a part of your
6 record. I see you have someone with you. Would
7 you like to introduce her to the Commission?

8 (EXHIBIT 24 - JUDICIAL MERIT SELECTION COMMISSION
9 PERSONAL DATA QUESTIONNAIRE FOR MR. RYAN K. GRIFFIN)

10 (EXHIBIT 25 - JUDICIAL MERIT SELECTION COMMISSION
11 SWORN STATEMENT OF MR. RYAN K. GRIFFIN)

12 MR. GRIFFIN: Yes. This is my wife, Suzanne
13 Griffin.

14 CHAIRMAN SMITH: Suzanne, welcome. Nice to see you.
15 All right. Mr. Griffin, the Judicial Merit
16 Selection Commission has thoroughly investigated
17 your qualifications for the bench. Our inquiry
18 is focused on nine evaluative criteria and has
19 included a ballot box survey, a thorough study of
20 your application materials, verification of your
21 compliance with state ethics laws, a search of
22 newspaper articles in which your name appears, a
23 study of previous screenings, checked for
24 economic conflicts of interest. We have received
25 no affidavits today in opposition to your

1 election and no witnesses are present to testify.
2 Do you have a brief opening statement that you
3 would like to make at this time?

4 MR. GRIFFIN: I don't have an opening statement. I
5 just would like to state what an honor it is to
6 be before this body and I would like to thank
7 everybody that works hard for this judicial
8 screening process. I appreciate their hard work.

9 CHAIRMAN SMITH: Thank you, Mr. Griffin. Answer any
10 questions counsel may have.

11 EXAMINATION BY MR. DENNIS:

12 Q. Thank you, Mr. Chairman. I'd briefly note for
13 the record that based on the testimony contained
14 in the candidate's PDQ, which has been included
15 in the record and with the candidate's consent.
16 Mr. Griffin meets all of the constitutional and
17 statutory requirements for this position
18 regarding age, residence, and years of practice.
19 Mr. Griffin, sort of a two-part question to
20 begin. You indicate in your PDQ that for the
21 last five years you've been a full-time solicitor
22 in Sumter County. Would you please describe for
23 the Commission your previous practice and how you
24 feel that renders you qualified for the position
25 of circuit court judge?

1 A. I will be happy to. I started my legal career in
2 the year 2000. I clerked for the Honorable
3 Thomas W. Cooper, Jr. for a year, based out of
4 Manning, South Carolina. Served as his law clerk
5 for a year. And then took a job with Nexsen,
6 Pruet, Jacobson, & Pollard for a brief period in
7 2001. I was on the litigation team for Nexsen,
8 Pruet, Jacobson, & Pollard. But that really
9 consisted of research and writing and document
10 review. I subsequently went back home to Sumter,
11 my home town, to work with my father's law firm,
12 commonly known as the Bryan Law Firm. I was
13 there from the end of 2001 until 2004. I went
14 out on my own. In the spring of that year and
15 then subsequently two of the partners from that
16 firm also left The Bryan Firm and we had a three-
17 person partnership, Bryan, Horn & Griffin. I
18 worked in that firm from 2004 to 2006. And then
19 one of the attorneys pulled out. In that
20 practice I basically handled all of the
21 litigation for the firm, personal injury work,
22 workers' compensation, things of that nature. I
23 also had a contract to prosecute for the Sumter
24 County Sheriff's Department in magistrate's court
25 prosecuting summary court criminal cases. And

1 then I rounded out my private practice. I was on
2 my own for about a year until I left private
3 practice in 2007 and took a job as a full-time
4 assistant solicitor for C. Kelly Jackson. And
5 then on his retirement had worked for Chip
6 Finney, Solicitor in the Third Circuit, since
7 January of 2011.

8 **Q. Thank you, Mr. Griffin. And just briefly the**
9 **second part of the question. Can you explain,**
10 **sort of, how all of this experience makes you**
11 **qualified for this particular position?**

12 A. Right. I have done a little bit of everything,
13 so to speak, in terms of my legal career. I have
14 handled civil cases and common pleas, civil cases
15 in magistrate's court. I handled cases in Family
16 Court, Probate Court. And also, criminal cases
17 in my private practice. I think I've got a well-
18 rounded base of experience, in terms of appearing
19 in most of the courts of this state. I certainly
20 will have somewhat of a learning curve to get
21 back into and re-familiarize myself with civil
22 practice. But I think, based on the amount of
23 courtroom work I've done, spent the last 10 years
24 trying cases in the Court of General Sessions.
25 Coupled with that prior civil court experience

1 makes me a well-rounded judicial candidate.

2 **Q. Thank you, Mr. Griffin. Given your heavy**
3 **experience in the Criminal Court and particularly**
4 **as a prosecutor, how would you handle the**
5 **transition from an advocate for the state to an**
6 **impartial decider of the facts as a judge?**

7 A. Well, I think part of being a prosecutor, you are
8 an advocate for the state. But you are also
9 under the special rules, special responsibilities
10 of prosecutor, your primary focus is to seek
11 justice. And when you are prosecuting cases in
12 General Sessions, you are the representative for
13 the state. Your ultimate goal is to seek
14 justice. And that may be something in the search
15 for justice. You may have to go against what the
16 state wants. And I think the fact that a
17 prosecutor does have those special
18 responsibilities and that special role in our
19 system. I think as a neutral judge, I think that
20 you're looking for the same thing, you're looking
21 for justice. And I don't think I would have a
22 hard time changing hats, so to speak, and going
23 from an advocate position to a neutral party. I
24 think for justice to be done, the state doesn't
25 always win and I think a prosecutor, if he's

1 doing his job correctly, can look at a case
2 objectively and make the determination that, you
3 know, even though law enforcement might want this
4 case prosecuted for whatever reason, it's not in
5 the interest of justice to take it forward.
6 Whether the evidence may not be there or some
7 constitutional violation that an officer may have
8 committed. And I think a prosecutor is in a good
9 -- has a sense of when things have been done
10 incorrectly and would have a good insight into
11 spotting those issues from the bench.

12 **Q. Thank you, Mr. Griffin. A few other matters I**
13 **would note for the Commission's information that**
14 **the Commission received 94 individual ballot box**
15 **surveys concerning Mr. Griffin. Twenty-two of**
16 **those contained additional comments. Many of**
17 **these comments tout your temperament and**
18 **intellect and serve as wholehearted endorsements**
19 **for your ability to be a judge in your circuit.**
20 **Unusually, none raise a concern or complaint**
21 **about you that relate to any of the evaluative**
22 **criteria. Mr. Griffin, a couple of housekeeping**
23 **issues to run through with you. Are you aware**
24 **that as a judicial candidate you're bound by the**
25 **code of judicial conduct as found in Rule 501 of**

1 the South Carolina Appellate Court Rules?

2 A. I am.

3 Q. And Mr. Griffin, since submitting your letter of
4 intent have you contacted any members of the
5 Commission about your candidacy?

6 A. I have not.

7 Q. Since submitting your letter of intent, have you
8 sought or received the pledge of any legislator,
9 either prior to this date or pending the outcome
10 of this screening?

11 A. I have not.

12 Q. Have you asked any third-parties to contact
13 members of the General Assembly on your behalf,
14 or are you aware of anyone attempting to
15 intervene in this process on your behalf?

16 A. I'm not aware and I have not.

17 Q. Have you reviewed and do you understand the
18 Commission's guidelines on pledging and South
19 Carolina Code Section 2-19-70(e), which are the
20 penalties for violating those provisions?

21 A. I am familiar, yes.

22 Q. I would also note that the Pee Dee Citizens
23 Committee reported that Mr. Griffin is well
24 qualified as to ethical fitness, professional and
25 academic ability, character, reputation,

1 experience, and judicial temperament. They also
2 found Mr. Griffin qualified in the remaining
3 categories of constitutional qualifications,
4 physical and mental stability. The Citizens
5 Committee offered no further comment to Mr.
6 Griffin. And Mr. Chairman, I would note for the
7 record that any concerns raised during the
8 investigation by staff regarding this candidate
9 have been incorporated into the questioning today
10 and I have nothing further.

11 CHAIRMAN SMITH: Thank you, Mr. Dennis. Any
12 questions?

13 EXAMINATION BY CHAIRMAN SMITH:

14 Q. I mean, let me start off with just a couple of
15 the same I've asked all the other candidates, Mr.
16 Griffin. And I know you work in the solicitor's
17 office. And I know you're well aware of the
18 statistic. But, you know, what I keep hearing
19 from court administration is that Sumter County,
20 in particular, rates at the bottom the state in
21 disposition of criminal cases and backlogs. As a
22 judge, with your experience of being in the
23 solicitors office and I believe you also --
24 weren't you a part-time public defender at some
25 point too?

1 A. There was a brief period of time when I lost the
2 contract to prosecute cases for the sheriff's
3 department, where I worked as a part-time public
4 defender for about a six-month period. I believe
5 it was in 2004. So, yes, I have served as a
6 public defender for a brief period.

7 **Q. Are you in private practice or part-time public**
8 **defender?**

9 A. Correct. Before all of the public defenders
10 became unified.

11 **Q. Yes, sir. Before we unified the system right**
12 **when you did that. All right. So back to the**
13 **question though, what would you do if you were**
14 **elected judge to help alleviate some of the**
15 **backlog that we have, particularly in our circuit**
16 **in Sumter County, if you became the presiding**
17 **judge?**

18 A. Well, I think, first and foremost, I think
19 judicial involvement in the docket. As a
20 prosecutor I would welcome a judge getting
21 involved with helping move the cases along. And
22 I think -- specifically, I think it works or
23 pushes cases forward when a judge can get the
24 prosecutor and the defense attorney in the same
25 room and not necessarily talk about any of the

1 specifics of the cases, but just status
2 conferences. Why hasn't this case been brought
3 to court? Are you waiting on things from SLED?
4 What is keeping this case from being brought
5 upstairs into the courtroom? I have found that
6 when we have status conferences or when -- every
7 now and then, a judge will do essentially a
8 roster meeting and get the criminal trial list.
9 And bring us into the courtroom and hold the
10 prosecutor and the defense attorney's feet to the
11 fire and say, okay, what's going to happen on
12 this case? And in my experience, those types of
13 things make cases -- the cases that are going to
14 be tried, it brings them into the courtroom. It
15 may put the defense lawyer and the prosecutor
16 together and actually have a dialog that's aimed
17 at a resolution. I think whenever the judge, the
18 prosecutor, and the defense attorney can get
19 together and just bring the topic of why hasn't
20 this case come to court, out in the open. It
21 tends to push all parties towards working towards
22 either getting case ready for trial or a
23 resolution. It's been my experience that that
24 type of judicial involvement in the docket
25 certainly helps make things to move faster.

1 We've heard all -- ever since Langford came out
2 about whether judges may take control of the
3 docket, I don't know if total control would be
4 something that -- having not been a judge, I'm
5 not sure if that is the solution. But I think
6 any time that we can be brought together and have
7 to answer for why we haven't done something with
8 a case it is helpful. And those are two things,
9 if I were elected judge, that I would try and
10 implement, especially in Sumter County.

11 **Q. All right. Thank you. In regards to sentencing**
12 **and alternative courts we see, we got a drug**
13 **court in the Third Circuit. I don't practice**
14 **over there enough to know how well it's utilized.**
15 **I think it's historically been underutilized.**
16 **And the expansion in mental health court,**
17 **veteran's courts, and other diversionary**
18 **programs. What would be your philosophy and what**
19 **would you do to try to utilize those alternative**
20 **sentencing or diversionary programs if you were**
21 **elected judge?**

22 **A.** I am 100 percent for diversion. Any time that I
23 have a defendant that applies for pre-trial
24 intervention, if they are eligible in terms of
25 lack of a prior criminal record and if the crime

1 they're accused of having committed is eligible
2 for pre-trial, I am usually on board with them
3 being approved for pre-trial in Sumter County.
4 Ultimately, it's the solicitor's final call. I
5 am a big proponent of drug court. We do it in
6 Sumter County either as a pre-plea mechanism or a
7 post-plea. Generally speaking, if a person has
8 no criminal record but their lawyer comes to me
9 and says, well, he has a drug problem. I will
10 readily refer them to pre-plea drug court. Now,
11 if they've got a criminal history, I try and push
12 -- steer those types of cases towards post-plea
13 drug court as a condition of probation. But I
14 think we run the risk of just creating a
15 revolving door if we can't get to the root of why
16 a person is committing crimes. And they don't
17 necessarily have to be drug offenses, these
18 forgeries and petty thefts. It's been my
19 experience that a lot of these crimes are done to
20 feed a drug habit. And I think our ultimate aim
21 ought to be getting to the root of why this
22 offender keeps breaking the law, rather than
23 putting them in jail for a couple of years and
24 having them come right back out and start the
25 same activity over again. You know, certainly

1 for non-violent folks that are eligible for these
2 diversion programs I'm all for it. And it has
3 always surprised me how few qualified defendants
4 actually take advantage of these programs. I
5 think they're a very good thing. And something
6 that's with -- you talk about the backlog at
7 Sumter County, I think these diversion type
8 programs are necessary to alleviate some of those
9 concerns.

10 **Q. Yes, sir. And finally, if you're elected judge,**
11 **obviously, you've got dockets to move, criminal**
12 **dockets, civil dockets, non-jury dockets and you**
13 **have lawyers in the Third Circuit that would**
14 **practice in numerous courts and Magistrate's**
15 **Courts and Family Courts and all that to make a**
16 **living. And how would you balance the need to**
17 **move the dockets for lawyers who need protection**
18 **to get ready for cases or protection to go on**
19 **vacations or even to go watch their kids'**
20 **baseball game or soccer game or something like**
21 **that. How would you balance all that with the**
22 **need to dispose of cases that seems to be pushed**
23 **down on judges from court administration?**

24 **A. Well, I think, ultimately, just like any case**
25 **that's before a judge, every situation stands on**

1 its own. I would certainly, before granting
2 protection or anything like that, I would want to
3 hear, certainly, the reason why a lawyer was
4 seeking that protection. I want to hear from the
5 party on the other side and just have to weigh, I
6 guess, a balancing test of whether the request is
7 going to serve as an undo hardship on the other
8 side. I don't think there's a set black and
9 white rule that you could say, I will always
10 grant protection or never. I think you just have
11 to use common sense in dealing with lawyers. And
12 you take each case as they come and balance the
13 interest of moving the case. If it's early on in
14 a case and if the protection won't prejudice the
15 other side, I see no reason why you wouldn't
16 protect a lawyer or grant him whatever relief he
17 sought. But, you know, on the other hand, if
18 it's on the eve of trial and you've got lawyers
19 and witnesses who have invested time and
20 potentially money in being ready for a trial, you
21 know, I think those are situations that it
22 becomes much more difficult. You've just got to
23 use your common sense.

24 CHAIRMAN SMITH: Thank you. Any other questions for
25 Mr. Griffin? Senator Young.

1 EXAMINATION BY SENATOR YOUNG:

2 Q. Thank you, Mr. Chairman. Mr. Griffin, I have a
3 few questions. One of which is how would you
4 describe your judicial philosophy if you are
5 elected as the circuit judge in this state? How
6 would you describe your philosophy on the bench?

7 A. My philosophy would be the same philosophy I've
8 used as a practicing attorney for the last 16
9 plus years. And that would be to follow the law
10 and to seek justice. I don't think the judge's
11 role is to -- it's certainly not to advocate any
12 position. I would do my best to listen to cases
13 and apply the law as written. And my philosophy
14 would be just to -- in terms of how I treated
15 people. Just treat people fairly, listen to
16 litigants, and devote the time that is required,
17 because you're dealing with serious matters,
18 whether they be criminal or civil. I think just
19 follow the law as-written and treat everybody as
20 fairly and even-handily as I can.

21 Q. I understand you to say that you would exercise
22 judicial restraint and not try to legislate from
23 the bench?

24 A. Absolutely.

25 Q. And another question I have is related to number

1 52 in your PDQ. You indicated in that, that
2 initially when you started practicing law, you --
3 I think it said, that you did not originally find
4 your calling, but eventually you did in the
5 solicitor's office; is that right?

6 A. That's correct.

7 Q. And so, I guess my question to you is, if you
8 found your calling in the solicitor's office, why
9 do you now want to be a circuit judge?

10 A. Well, I think finding the calling means more of
11 finding my calling of being in the courtroom.
12 One of the reasons I want to be a judge is
13 because I enjoy being in the courtroom. And a
14 lot of times in civil practice, I found that I
15 never ended up in the courtroom in terms of
16 handling a civil case. Because they plea -- or
17 excuse me, they settle. And so I think the
18 calling is wanting to be in the courtroom arena,
19 so to speak. I love prosecution. I love the
20 criminal side of the law. It's true that I do
21 gravitate towards -- more towards the criminal
22 side. But the calling is wanting to be involved
23 in the trial process in the courtroom. And I
24 think that's really what I mean by that.

25 Q. How familiar are you with -- obviously, if you're

1 elected to the circuit court bench, you're going
2 to be holding Common Pleas Court, as well as
3 General Sessions Court. In the Common Pleas
4 Court, you're going to have a wide variety of
5 matters that will come before you that are in the
6 civil arena. How comfortable are you with
7 handling civil matters based on your prior law
8 practice?

9 A. Certainly, there's no substitute for hard work.
10 It's going to take -- candidly, it's going to
11 take me some hard work and study to get back up
12 to speed on the civil law. But I have done it in
13 the past. I don't foresee any reason why I
14 wouldn't be comfortable handling civil matters.
15 The rules of evidence are the same. I've got
16 extensive trial experience. And certainly, it's
17 going -- there will be a learning curve. There
18 will be a learning curve getting back into
19 handling civil matters and learning about e-
20 filing and things of that nature. But I think my
21 willingness to work hard, my legal ability, I
22 don't think I'll have any difficulty getting back
23 up to speed. But there certainly will be some
24 transition, but I will comfortable and I will
25 hard enough and learn those areas that I may need

1 some more work on. And I don't have any doubts
2 that I will be able to do that.

3 **Q.** How much experience do you have with - I know you
4 practiced in the civil area before you went to
5 the solicitor's office. How much experience do
6 you feel like you have in handling motions and
7 understanding what Rule 12 requires and Rule 56?
8 Because, I mean, we've heard in two days of
9 hearing from current judges who are on the bench,
10 we've heard repeatedly about how the number of
11 jury trials, especially in the civil arena has
12 dropped dramatically in this state, primarily due
13 to alternative dispute resolution. But the cases
14 are all the discovery matters and pre-suit -- or
15 I mean, the discovery matters and pre-trial
16 matters continue through the circuit court. And
17 a lot of those involve Rule 33, Rule 34, Rule 56,
18 Rule 12. How comfortable are you with those
19 rules and what they mean. I mean, from your
20 prior practice?

21 **A.** Well, certainly the Rule 12 are the motions that
22 need to be made in your response to pleadings.
23 Rule 56, your summary judgment motions. I'm
24 certainly familiar with those. I've argued those
25 motions in Common Pleas, non-jury in the past. I

1 know, certainly, the standard for a motion under
2 Rule 56. And certainly, like I said before, it
3 will be a little bit of a learning curve, but I
4 know generally the law in that area. And
5 certainly, will get up to speed as I progress
6 hearing those types of cases. So it's not like
7 I'm going to walk in there and having never done
8 it before. I did handle primarily personal
9 injury cases in private practice. And responded
10 to those types of motions in my civil practice.
11 So I don't think it will be an issue with
12 learning how to handle or re-familiarizing myself
13 with the civil rules and handling those cases as
14 they come about.

15 **Q. Another question I have is, how familiar are you**
16 **with the challenges that face lawyers and small**
17 **practices who appear in both General Sessions and**
18 **Common Pleas Court?**

19 A. I am very familiar with it from the standpoint of
20 I was in a small practice when I was doing civil
21 work and we run into that situation a lot in the
22 circuit where I work now. We have lawyers on the
23 General Sessions roster that need to be in three
24 places at once. I recognize that that's an issue
25 and in my current role I try to be amenable to

1 giving someone a continuance if they need it, if
2 they need to be in another court. Again, it
3 comes down to common sense and how you treat
4 people. I know what it's like to have to be in
5 motions hearing in Richland County and be on the
6 General Sessions docket in Sumter. And we try to
7 work with lawyers as much as we can. So again,
8 it goes back to just using your common sense and
9 taking each case as they come and trying to find
10 a solution that will be the best solution for the
11 problem you've got at hand.

12 SENATOR YOUNG: Thank you, Mr. Chairman.

13 CHAIRMAN SMITH: Senator Hayes.

14 EXAMINATION BY SENATOR HAYES:

15 **Q. Appreciate your willingness to serve in this**
16 **capacity. And I noted, you know, that you do**
17 **have a varied background, heavy on -- at least**
18 **recently, on the criminal side. But also, some**
19 **civil. Putting those things aside, what would**
20 **you say, though, is the one -- just pick one**
21 **thing in your background that really stands out**
22 **that would, I think, tell this committee why**
23 **you'd make a good circuit judge? And maybe one**
24 **thing, one weakness in your background as far as**
25 **servicing as a judge?**

1 A. Well, I think the biggest strength that would
2 serve me in the capacity as a judge is just how I
3 treat people. I think I have the reputation for
4 having a calm demeanor. I have the reputation
5 for being courteous and professional to folks. I
6 think my personality is suited well. I try to
7 stay calm in tense situations and just remember
8 that whether it's a defendant or a litigant that,
9 you know, being in a courtroom is a big day in
10 someone's life and just try and follow the Golden
11 Rule and treat the people the way that I'd like
12 to be treated. I think that is a strength of
13 mine. And a weakness, I think a weakness, at
14 least in my law practice, has been sometimes
15 taking things home with me and agonizing over
16 things. And, you know, letting it kind of be an
17 all-encompassing thing, whatever I'm focused on,
18 whether it be a trial or something going on at
19 the office. I tend to be over -- not over-worry
20 about things, but just take things seriously and
21 let it be kind of an all-encompassing thing. And
22 that maybe a weakness that I would have to work
23 on as a judge. But I think it's borne out of the
24 desire to do the best job I can and do the right
25 thing.

1 Q. Thank you.

2 CHAIRMAN SMITH: All right. Any further questions?

3 SENATOR RANKIN: Mr. Chairman, I got a few.

4 CHAIRMAN SMITH: All right. Senator Rankin.

5 EXAMINATION BY SENATOR RANKIN:

6 Q. And I appreciate and forgive me for saying it,
7 perhaps you would like to sit.

8 A. I'm fine. Thank you.

9 Q. I likewise appreciate your willingness to do
10 this. And, you know -- and this is my first
11 rodeo. I say it is, literally, my first rodeo on
12 this Judicial Merit Selection Committee. But
13 having been up here for a while, one of the raps
14 that we hear about prospective judges who make it
15 out of this forum and then to elective office,
16 among the House and Senate members, is the fact
17 that they lack one area or another. And I don't
18 know that's necessarily -- you are strong in the
19 criminal and admittedly weak in the civil, which
20 perhaps again, as Senator Young has just said, we
21 hear from numerous on how certain Supreme Court,
22 circuit court, the winnowing practice of actual
23 trial work, civil trial work, but instead the
24 growing General Sessions Court. And that docket
25 in your county four years deep maybe, or may be

1 getting better. But that's where the action is.
2 So perhaps you are better equipped and could be
3 kind of the solo General Sessions judge, which
4 may be kind of the wave of the future here.
5 Nonetheless, I read a couple of your writing
6 samples and, God, help me, what my writing sample
7 would be of, you know, a complaint, a brief or
8 something. You've got one from '98 and you've
9 got one from 2013, Environmental Law. I guess
10 you were on a law review?

11 A. I was on the -- at that time it was called the
12 South Carolina Environmental Law Journal. I
13 think it's the Southeastern Environment Law
14 Journal now. But I was on the staff of that and
15 wrote that case note and it was published in -- I
16 believe it was 1998. That was as a law student.
17 And then the second writing sample was on a case
18 that dealt with protections of persons and
19 property act and immunity, a Duncan hearing
20 essentially. And that was done kind of in the
21 heat of a trial. Well, in a Duncan hearing
22 actually and motion and opposition. And we were
23 ultimately successful in that case. But as a
24 prosecutor you really don't write much. A lot of
25 the motion's practice in the General Sessions

1 world is a lot of oral motions and responding to
2 motions kind of off the cuff. So those were the
3 two best writing examples that I could come up
4 with. Just frankly, because, you know, most of
5 the writing I do is drafting indictments and
6 creating sentence sheets. And that's really a
7 lot of what we do in my current practice.

8 **Q. And when you were with -- who was that civil firm**
9 **you were with, the private practice firm you**
10 **mentioned?**

11 A. The Bryan Law Firm in Sumter.

12 **Q. Before that were you with a defense firm?**

13 A. Straight out of my clerkship, I went to work for
14 Nexsen Pruet.

15 **Q. Yeah. Your clerkship with?**

16 A. Tommy Cooper from Manning.

17 **Q. Okay. Okay. My apologies. And worked with**
18 **Nexsen Pruet how long?**

19 A. It was about five months. It was not a good fit
20 for me. Candidly --

21 **Q. I won't hold that against you. Some may, but**
22 **others may not.**

23 A. I realized it almost immediately. And one of the
24 things that I always wanted to do, I had the
25 opportunity to work with my father, who's now a

1 retired attorney. And when that opportunity came
2 up I decided to leave Nexsen Pruet. It just
3 wasn't a fit for me.

4 **Q. Is your father still practicing or?**

5 A. He has retired. He retired in 2004.

6 **Q. Is there any judicial candidate who has not come
7 through The Bryan Law Firm that you're aware of?**

8 A. Well, we have had a lot of lawyers come through
9 that office. So I'm sure there are but I can't
10 think of any right now.

11 **Q. There's no other firm in Sumter, it sounds like.**

12 A. Well, there's certainly, Chairman Smith's firm.

13 CHAIRMAN SMITH: He's trying to be in deference to his
14 fine Senator McElveen.

15 SENATOR RANKIN: The law firm is not the McElveen Law
16 Firm, though.

17 CHAIRMAN SMITH: There's a reason to that. Nobody
18 sees him in that law firm.

19 **Q. Again, I appreciate your doing this. I'm well
20 familiar with that firm. My father would be 89
21 now, I think, and was in law school with some of
22 those guys way back in the day. Anyway, I
23 appreciate your wife coming. This is perhaps the
24 worst gig you've ever had, Ma'am. Thank you for
25 being here for him. So that's all I have.**

1 A. Thank you.

2 CHAIRMAN SMITH: All right. Any further questions?

3 All right, Mr. Griffin. Thank you so much. This
4 concludes this portion of your screening process.
5 I want to take this opportunity to remind you
6 that pursuant to the Commission's evaluative
7 criteria, the Commission expects candidates to
8 follow the spirit, as well the letter of the
9 ethics laws. And we will view violations or the
10 appearance of impropriety as serious and
11 potentially deserving of heavyweight and
12 screening deliberations. On that note and as you
13 know, the record will remain open until the
14 formal release of the report of qualifications.
15 And you may be called back at such time if the
16 need arises. I thank you for offering and I
17 thank you for your service to the State of South
18 Carolina.

19 A. Thank you very much.

20 CHAIRMAN SMITH: All right. Y'all have a safe trip
21 back.

22 (Off the Record)

23 CHAIRMAN SMITH: Mr. Murphy, will you raise your right
24 hand?

25 MR. MURPHY, being duly sworn and cautioned to speak

1 the truth, the whole truth and nothing but the
2 truth, testifies as follows:

3 CHAIRMAN SMITH: Mr. Murphy, You have before you the
4 personal data questionnaire and the sworn
5 statement. Are those the documents that you've
6 submitted to the Commission?

7 MR. MURPHY: Yes, they are.

8 CHAIRMAN SMITH: Are they both correct?

9 MR. MURPHY: Yes.

10 CHAIRMAN SMITH: And does anything need to be changed
11 or updated at this time?

12 MR. MURPHY: I have spent \$117 on campaign cards and
13 stationery and postage since I submitted these.

14 CHAIRMAN SMITH: Have you brought an amendment or do
15 you need to make an oral amendment?

16 MR. MURPHY: Probably just an oral amendment.

17 CHAIRMAN SMITH: Okay. So we're going to make
18 amendment without objection to add \$117 on that
19 portion of your PDQ, as it relates to the money
20 you've expended on postcards and stationery, et
21 cetera.

22 MR. MURPHY: And I actually graduated since I
23 submitted this too, so I got my LLM degree.

24 CHAIRMAN SMITH: All right.

25 MR. MURPHY: It was expected then, so ...

1 CHAIRMAN SMITH: Congratulations. So we need to amend
2 that where it was expected and put graduated?

3 MR. MURPHY: I put expected. And I had it confirmed.

4 CHAIRMAN SMITH: All right. So it's now graduated in
5 2017?

6 MR. MURPHY: Right-o (ph).

7 CHAIRMAN SMITH: All right. So we'll make that
8 amendment, too. So other than those two oral
9 amendments and I presume no one has an objection
10 to that, any other amendments you need to make to
11 your PDQ?

12 MR. MURPHY: No, sir.

13 CHAIRMAN SMITH: If you'll hand those to Lindi, and
14 we'll make them as exhibits. Do you have any
15 objections to making them as exhibits to your
16 testimony?

17 (EXHIBIT 26 - JUDICIAL MERIT SELECTION COMMISSION
18 PERSONAL DATA QUESTIONNAIRE FOR MR. TIMOTHY W. MURPHY)

19 (EXHIBIT 27 - JUDICIAL MERIT SELECTION COMMISSION
20 SWORN STATEMENT OF MR. TIMOTHY W. MURPHY)

21 MR. MURPHY: No.

22 CHAIRMAN SMITH: Okay. All right. I see you brought
23 someone here with you today. I think you
24 recently celebrated an anniversary if I saw it on
25 Facebook?

1 MR. MURPHY: That's true.

2 CHAIRMAN SMITH: Will you please introduce her?

3 MR. MURPHY: Oh, this is my wife, Jody, thirty-one
4 years.

5 CHAIRMAN SMITH: Okay. Congratulation and happy
6 anniversary.

7 MR. MURPHY: Thank you.

8 CHAIRMAN SMITH: I think it was a day or two ago,
9 wasn't it?

10 MR. MURPHY: The 8th.

11 CHAIRMAN SMITH: Eighth. All right. Mr. Murphy, the
12 Judicial Merit Selection Commission has
13 thoroughly investigated your qualifications for
14 the bench. Our inquiry is focused on the nine
15 evaluative criteria and has included a ballot box
16 survey. A thorough study of your application
17 materials, verification of your compliance with
18 state ethics laws, a search of newspaper articles
19 in which your name appears, a study of previous
20 screenings, and checked for economic conflicts of
21 interest. We have no affidavits filed in
22 opposition to your election and no witnesses are
23 here to testify today. Do you have a brief
24 opening statement that you would like to make at
25 this time?

1 MR. MURPHY: I just want to thank everybody involved
2 in the process. This is the third time I've been
3 through it. I've enjoyed meeting everybody at
4 the various levels, although I got to skip one
5 this time. But, I've enjoyed the process and I
6 just want to thank everybody involved.

7 CHAIRMAN SMITH: Okay. Will you answer any questions
8 that counsel might have, please?

9 MR. MURPHY:

10 EXAMINATION BY MS. VALENZUELA:

11 Q. Thank you, Mr. Chairman. Good evening, Mr.
12 Murphy.

13 A. Hi.

14 Q. Mr. Chairman, I note for the record that based on
15 the testimony contained in the candidate's PDQ,
16 which has been included in the record with the
17 candidate's consent, that Mr. Timothy Murphy
18 meets the constitutional and statutory
19 requirements for this position regarding age,
20 residence, and years of practice. Mr. Murphy,
21 how do you feel your legal and professional
22 experience thus far renders you qualified and
23 will assist you to be an effective circuit court
24 judge?

25 A. Well, I think I probably have a somewhat unique

1 background being in the military. I've had a lot
2 of varied experiences with different types of law
3 throughout my career. I've had exposure to a
4 number of different types of processes and I
5 think the culmination of all those experiences
6 taken together, having been challenged in a
7 number of different ways suits -- provides me
8 with the requisite background and experience to
9 effectively serve as a judge.

10 Q. Thank you, Mr. Murphy. Mr. Murphy, the
11 Commission received 84 ballot box surveys with 15
12 additional comments. Some examples with positive
13 comments in your ballot box survey include, "Mr.
14 Murphy is an outstanding leader and advocate for
15 his client -- excuse me, clients. He has a
16 strong work ethic and a deep understanding of the
17 judicial process from all sides." Additionally,
18 "He has distinguished himself when representing
19 his clients and has proven his mettle towards
20 becoming a respected member of the bench. He
21 will be the judge that will epitomize fairness
22 and professionalism." I will note, Mr. Chairman
23 that none of the written comments express any
24 concerns about Mr. Murphy. Now, Mr. Murphy, in
25 your sworn statement you mentioned that those who

1 commit the same or similar crime should be
2 treated consistently without sole regard to
3 socioeconomic status. And then you went on to
4 say that a defendant's socioeconomic status might
5 bear on rehabilitation potential. Can you
6 elaborate further on how you would take into
7 account a defendant's socioeconomic status in
8 sentencing, please?

9 A. Sure. I think that there's generally five or six
10 purposes of sentencing. Punishment,
11 rehabilitation, general and specific deterrents,
12 protection of society, protection of a particular
13 victim. And certainly, when you're looking at an
14 individual's job or socioeconomic status that
15 that's a factor that probably bears most
16 relevance on rehabilitation potential. Not that
17 there is a difference between individuals who
18 might be better off or worse off, or whatever.
19 It's just one of those factors. I use those
20 factors. The reason I use them is because that's
21 the way I was trained in the military. Court
22 members are actually given those factors when
23 they sentence individuals. And I try to use them
24 when I'm arguing cases before circuit court
25 judges for my clients. Some judges accept them,

1 some don't. But that's kind of the way I analyze
2 cases. And I think when you're talking about an
3 individual's socioeconomic status it bears most
4 relevant on rehabilitation potential.

5 **Q. Thank you, Mr. Murphy. Now, you indicated in**
6 **your PDQ that all civil cases you have handled,**
7 **you've settled prior to trial. What should the**
8 **Commission know about your experience as it**
9 **relates to your ability to preside over civil**
10 **cases, should you be elected to the circuit court**
11 **seat?**

12 A. Well, first of all, I mean, I've had a lot of
13 experience with different types of processes,
14 both in the military and since my retirement. I
15 mean, every system's a little different. I've
16 certainly tried cases in Magistrate Court that
17 were civil. I've filed cases in Common Pleas
18 Court, although they've all settled. I've tried
19 cases in Family Court. I've tried cases in U.S.
20 District Court. The one thing -- and I think
21 while all those processes are a little different,
22 they all generally have the same basic procedural
23 norms. Even civil cases and criminal cases have
24 the basic consistency. I think the one thing
25 obviously that's the most consistent is the rules

1 of evidence and things like that. I guess my
2 view has always been litigation's litigation.
3 And if you're used to litigating, and I believe,
4 especially since my retirement from the military,
5 I've litigated quite a few cases, then that's
6 what you do and that's what you understand. And
7 certainly the rules of evidence are something
8 that I like to think that I understand pretty
9 well. So I'm certainly not intimidated at all by
10 hearing cases in civil court. Or if I was I
11 wouldn't be running. So I'm not intimidated by
12 that.

13 **Q. Again, Mr. Murphy, a few housekeeping issues.**
14 **Are you aware that as a judicial candidate you**
15 **are bound by the code of judicial conduct as**
16 **found in Rule 501 of the South Carolina Appellate**
17 **Court Rules?**

18 A. Yes.

19 **Q. And Mr. Murphy, since submitting your letter of**
20 **intent have you contacted any members of the**
21 **Commission about your candidacy?**

22 A. I've written letters and sent those postcards,
23 just declaring my candidacy. Obviously, I
24 understand that -- having run a couple of times
25 before, I understand the distinction between

1 declaring your qualifications and requesting
2 support. As far as the Commission goes, I
3 haven't contacted anybody.

4 **Q. Did you send those postcards to members of the**
5 **Commission?**

6 A. No.

7 **Q. Okay. Thank you. Since submitting your letter**
8 **of intent, have you sought or received the pledge**
9 **of any legislator, either prior to this date or**
10 **pending the outcome of your screening?**

11 A. No.

12 **Q. Have you asked any third-parties to contact**
13 **members of the General Assembly on your behalf or**
14 **are you aware of anyone attempting to intervene**
15 **in the process on your behalf?**

16 A. No.

17 **Q. Have you reviewed and do you understand the**
18 **Commission's guidelines on pledging in South**
19 **Carolina Code Section 2-19-70(e)?**

20 A. Yes.

21 **Q. Mr. Chairman, I would note that the Pee Dee**
22 **Citizens Committee reported Mr. Murphy to be well**
23 **qualified in the evaluative criteria of ethical**
24 **fitness, professional and academic ability,**
25 **character, reputation, experience, and judicial**

1 temperament. And qualified in the remaining
2 evaluative criteria of constitutional
3 qualifications, physical health, and mental
4 stability. The committee went on to say in
5 summary that Mr. Murphy is, "tremendously
6 respected, open-minded, and fair and a problem
7 solver." Mr. Chairman, I would also note for the
8 record character that any concerns raised during
9 the investigation by staff regarding this
10 candidate were incorporated into the questioning
11 of the candidate today and I have no further
12 questions.

13 CHAIRMAN SMITH: Thank you, Johanna. Any questions
14 for Mr. Murphy. The other Mr. Murphy. And by
15 the way, he wants to note before the record y'all
16 are not related to one another.

17 MR. MURPHY: That is correct. Not that I know of.

18 EXAMINATION BY REPRESENTATIVE MURPHY:

19 **Q. Looking through this PDQ, you are currently in**
20 **private practice?**

21 A. I'm currently in private practice. And I am also
22 the part-time chief county public defender for
23 Sumter County. So I do both.

24 **Q. Okay. In addition, you also are a certified**
25 **arbitrator or mediator of the circuit and family**

1 court?

2 A. That is correct.

3 Q. Okay. All right. That's the only question I
4 really had. Thank you.

5 CHAIRMAN SMITH: Senator Hayes?

6 EXAMINATION BY SENATOR HAYES:

7 Q. Thank you. I appreciate your willingness to
8 serve. And your service in the military. How
9 many years did you have active duty?

10 A. Twenty.

11 Q. Twenty years.

12 A. Twenty years and four weeks.

13 Q. While you were on active duty, did you ever serve
14 as a military judge?

15 A. No, I did not.

16 Q. Did you have any capacity to do any civil type
17 work as a JAG officer?

18 A. When I with the staff judge advocate at Dover Air
19 Force Base -- well, actually my first assignment
20 as a assistant staff judge advocate I was the --
21 I guess, for lack of a better word the position
22 was claims officer as the chief of civil law. I
23 handled and was the primary legal advisor to our
24 clinic. Handling tort-type issues. Some of it
25 was a little different because I was overseas.

1 So we also handled complaints from British
2 subjects against the base. We had women who used
3 to throw themselves in front of our trucks and
4 then file claims against us back in the cold war.
5 I also had the opportunity to appear in Crown
6 Court on an eviction case and represent the Air
7 Force, trying to get this young lady, who was
8 married to one of our active duty members, out of
9 base housing, which was kind of unique. So that
10 and then when I was a staff judge advocate at
11 Dover, a number of years later, I was responsible
12 for all of the civil law. And when you're the
13 staff judge advocate, I mean, you engage with
14 command directly. So I engaged with them on
15 government contracts, which is kind of a unique
16 animal when you're talking about the federal
17 government. We had a lot of environmental issues
18 at Dover. And we also had a lot of fiscal issues
19 because when you're dealing with government money
20 everybody wants to know what the color of money
21 is and I had to deal with a lot of that. In
22 addition to running the torts program that every
23 base has medical malpractice claims, things like
24 that. And then when I was at the Pentagon, I
25 handled -- I was responsible for reviewing, for

1 legal sufficiency, all labor -- civilian labor
2 type issues. That was one of my capacities
3 directly bearing on civil law. One of my other
4 duties at the Pentagon is utterly unmarketable in
5 the civilian sector. It had to deal with
6 creating command structures. And it was very
7 fascinating but it's unique to the military and
8 has done me absolutely no good since.

9 **Q. How many court-martials did you participate in on**
10 **active duty?**

11 A. Oh, gees, probably over a hundred, as both a
12 prosecutor and a defense attorney. In addition,
13 I was the chief appellate defense attorney for a
14 tour, after my tour at Dover. And I personally
15 handled well over a hundred appeals. Argued -- I
16 think it's in my report. I argued four, five,
17 six cases before our appellate courts. And then
18 I supervised -- I was the chief -- I was the
19 senior ranking officer to actually argue cases.
20 But I was the deputy of the division, so I
21 supervised 11 other attorneys and managed that
22 office's day-to-day and insured that the briefs
23 were up to snuff and filed timely and things like
24 that.

25 **Q. So what was your rank when you came off active**

1 **duty?**

2 A. Lieutenant colonel.

3 **Q. Lieutenant colonel. And how would the UCMJ and**
4 **the court-martial translate over to the South**
5 **Carolina law?**

6 A. Well, I mean, I think criminal law's, criminal
7 law. I mean, a lot of the -- it's probably more
8 perfectly translates into our federal system.
9 You know, I practice in U. S. District Court and
10 the federal rules of evidence and the case law
11 dealing with that mirror the military justice
12 system a lot closer. But I think generally
13 speaking, again, our court-martials, if you've
14 ever seen a court-martial, it's pretty much
15 similar to any other trial. I mean, there's some
16 quirky things, like our jurors can ask -- I mean,
17 the court members can ask questions and actually
18 engage a little bit more with witnesses. Our --
19 depending on the type of case, our court members
20 actually sentence individuals as opposed to a
21 judge, unless you elect to go on judge alone.
22 There are certain scripts and it's structured in
23 a different way, but once you get into the actual
24 cross-examination and the trial aspect of it,
25 it's remarkably similar. I had no difficulty at

1 all transitioning back into doing a lot of trial
2 work. And I think that I owe whatever success
3 I've had as a trial attorney since my retirement
4 I owe a lot of debt to the Air Force. They train
5 their lawyers very well and I was trained very
6 well. And I like to think as I got older, I
7 trained other attorneys very well, so.

8 **Q. Thank you.**

9 CHAIRMAN SMITH: Any other questions? Senator Rankin.

10 EXAMINATION BY SENATOR RANKIN:

11 **Q. I can't help but to describe you like someone**
12 **else earlier in this process. Incredibly over-**
13 **qualified. And no disrespect to those who are**
14 **serving in this capacity but My Lord. Y'all have**
15 **been married 31 years ma'am? I should put you**
16 **under oath. Is there anything he can't do?**
17 **Don't answer that.**

18 A. I wouldn't want her to answer that either.

19 **Q. You are most impressive. And the comments that**
20 **you get, I'm not sure you shouldn't be running**
21 **for the Hague Court or pick a court. Some**
22 **international. You've got a most impressive**
23 **resume and the comments about you are glowing.**

24 A. Thank you. I appreciate that. Thank you.

25 CHAIRMAN SMITH: Senator Young.

1 EXAMINATION BY SENATOR YOUNG:

2 Q. Thank you, Mr. Chairman. Mr. Murphy, thank you
3 so much for your interest in serving. I echo
4 what Senator Rankin just told you. I do have
5 just a few brief questions. One of which is, how
6 would you describe your judicial philosophy if
7 you were elected to serve on the circuit court
8 bench?

9 A. Well, I think, you know, when you're dealing
10 with individuals who are in crisis and, you
11 know, we deal with individuals who have
12 problems, I think you need to be a -- from a
13 temperament point of view, you need to be a
14 leveling influence. And that's on the
15 attorneys, that's on the litigants. So in
16 that sense, I think, you know, you treat
17 people professionally and, you know, you try
18 to run an efficient fair-minded court. So
19 that the litigants, even if they lose, they
20 come out feeling that they got a fair break.
21 A lot of my clients, in the criminal sector
22 in particular, don't feel they get a fair
23 break and aren't getting a fair trial. And
24 quite frankly, sometimes, I can see why. But
25 I think a judge -- and most of the judges

1 I've had the privilege of dealing with,
2 especially since my retirement, they're not
3 that cause. I mean, they try to provide a
4 very smooth running, professional tempering
5 type of court. I think in regard legally, I
6 mean -- I'd say philosophically, I mean the
7 rules of evidence are the rules of evidence.
8 I think that when it comes to statutory type
9 issues, you know, I think you need to stay in
10 your lane and understand what your role is.
11 I mean, one of the questions deals with
12 judicial activism. I'm certainly of the mind
13 that a judge's role is to interpret the law
14 as it's given. If it's a statutory issue
15 then you try to find -- you look at the
16 language and look at the case law and try to
17 adhere your rulings as best as you can to
18 that. But I think that -- so I would say
19 that it's a very -- if I had a philosophy,
20 it's a very practical philosophy of --
21 especially at a trial level of ensuring that
22 individuals are treated fairly. That the
23 laws apply to the best of my ability
24 correctly. I do a lot of research when I'm
25 preparing my motions and try to argue them so

1 that when I do make motions they have
2 validity to them. And I think my rulings
3 would be the same. I mean, I would take my
4 time and think through what the law is on a
5 particular subject.

6 **Q. I read your personal data questionnaire and**
7 **it talked about your extensive experience in**
8 **the military. I think I read that you went**
9 **into private practice in 2007?**

10 A. Right. After my retirement.

11 **Q. In Sumter?**

12 A. Right.

13 **Q. And you remain in that private practice?**

14 A. Yes.

15 **Q. During that time you've handled a number of**
16 **criminal cases?**

17 A. Yes.

18 **Q. And some civil cases?**

19 A. A few.

20 **Q. How comfortable are you in the civil arena**
21 **with the application of the civil court**
22 **rules, in particular, Rule 12, Rule 26, Rule**
23 **33, Rule 34, and Rule 56?**

24 A. Okay. Well, I'd have to look them up. I
25 mean, to be frank with you. I mean, I think

1 I feel comfortable in the civil sector. I
2 think when you're dealing with issues
3 concerning discovery and issues concerning
4 whether or not an individual has met their
5 burden and provided evidence in a particular
6 case. You know, again, you take a look at
7 the evidence that exists and you make a
8 decision. And I don't know if that's
9 responsive to your questions.

10 Q. Well, these five rules I mentioned, and I
11 apologize if I just mentioned them by the
12 numbers. But they are rules that relate to
13 pre-trial practice that relate to discovery
14 matters.

15 A. Okay. Uh-huh.

16 Q. We've heard extensively over the last two
17 days from judges who are currently on the
18 bench that in the civil arena the number of
19 jury trials has gone down dramatically in the
20 last 20 years. But those cases are prepared
21 for trial, which means that the pre-trial
22 matters are still heard by the circuit court
23 judge. And I'm just trying to delve into how
24 comfortable you are with handling pre-trial
25 civil matters in the circuit court. And how

1 **familiar you are from your practice with**
2 **those rules and the application of those**
3 **rules in the practical setting of civil**
4 **litigation?**

5 A. I am familiar with the discovery rules.
6 Because in the cases I've handled, I've had
7 to provide interrogatories, deal with
8 interrogatories, meet deadlines. In regard
9 to the judgments concerning whether or not
10 there's enough evidence to precede or a
11 directed decision should be made. I think,
12 you know, you look at all the discovery and
13 you apply it to the elements that exist in
14 the particular case, whether that's a
15 contract case or a tort case or a medical
16 malpractice case. And you make a decision.
17 So I feel comfortable with maintaining the
18 process as far as ensuring that discovery's
19 met on time and that the discovery is
20 thorough. That you spend the effort and the
21 time reading the depositions and ensuring
22 that those standards are met. And then you
23 take into account the various motions that
24 are made, including the motion for a
25 judgment, summary judgment. So I am

1 comfortable with that. When I was a law
2 clerk many years ago I dealt with that for
3 the judges I was a law clerk for. So, you
4 know, I don't have extensive experience since
5 my retirement, but -- because I've been
6 dealing primarily with the criminal side, but
7 I feel comfortable doing it. Again, I'm not
8 intimidated by it.

9 Q. Thank you.

10 EXAMINATION BY CHAIRMAN SMITH:

11 Q. All right, any other questions? Mr. Murphy,
12 just same questions I ask the other
13 candidates in this race. As it relates to
14 alternative courts, your drug courts, mental
15 health courts, and things to that effect,
16 they're either underutilized or don't exist
17 in Sumter County, has been my experience.
18 I'm not over there as much now. And I don't
19 know what's happened in the past few years
20 with the drug courts, but what's your
21 philosophy on alternative sentencing,
22 alternative courts, and those type of
23 situations?

24 A. Well, I think with drug court, if an
25 individual has a drug problem and that's the

1 source of their issues. I think it's a
2 positive that they be rehabilitated through a
3 drug court type program. So I'm positively
4 inclined to those types of courts. One of
5 the new things that I know Richland County
6 has, is veteran's court, where we're dealing
7 with veteran's who might have issues. And I
8 think that, again, sometimes that's tied in
9 with drugs or PTSD and things like that. If
10 we can assist individuals in certain -- you
11 know, obviously depending on what they're
12 charged with. But, you know, there's a lot
13 of folks -- of the clients I've represented
14 there's a significant number that really
15 aren't bad people. They're people for
16 whatever situation commit a crime. And if
17 they can be rehabilitated in an alternative
18 way where they're given hope and given an
19 opportunity to get beyond their present
20 circumstance, I think that's a positive for
21 the system and a positive for the state. So
22 I support all those.

23 **Q. All right. The courts speak about the**
24 **backlog in General Sessions and the Third**
25 **Circuit, particularly, Sumter County is**

1 leader in the state unfortunately in backlogs
2 of that. And you're obviously involved in
3 that court on a routine basis. What -- if
4 elected judge, what would you do to help
5 reduce the backlog in that circuit of General
6 Sessions cases?

7 A. Well, I think probably -- fundamentally, I
8 think you provide leadership. The problems
9 we have in Sumter have been there. Since I
10 retired and started working in Sumter we've
11 had issues. And I think that they come down
12 to two basic things. Some of them are
13 process issues. I don't think necessarily
14 that some of our processes function as
15 filters. An individual gets arrested, their
16 charge is basically -- the items that are in
17 the system designed to filter out certain
18 charges or reduce the charge or take a
19 serious look at it, for example, the Grand
20 Jury, the preliminary hearing, they're not
21 performing those functions. Charges aren't
22 filtered out. And then they reach the
23 solicitor's office pretty much in the same
24 charge that existed. And the solicitor -- in
25 my experience, that's one of the causes of

1 them being, kind of, for lack of a better
2 word, inundated. I don't want say
3 overwhelmed, but inundated with these things.
4 So part of that is ensuring that the
5 processes are designed to work correctly.
6 And I think you do that by just engaging with
7 the actors that are involved in that. One of
8 the things I hear from individuals involved
9 primarily on the solicitor's side is that law
10 enforcement needs to -- you know, there's an
11 issue with getting discovery from law
12 enforcement. Well, we need to bring law
13 enforcement into the process so they have a
14 vested interest in that process, in that
15 metric. If we're expected to get cases done
16 in a year or so, then they need to be part --
17 they need to be at the table. And then you
18 build consequences in that process. And
19 everybody buys into it and understands what
20 the consequences may be, whatever they are.
21 And that takes leadership. It takes
22 overcoming what I would say is kind of a -- I
23 hate to use the word culture, but in dealing
24 with organizations, organizations tend to
25 have a way of doing things that they get

1 comfortable with. And you need, I think, in
2 particular when we're dealing with a thousand
3 or so, probably a little less than a thousand
4 -- we just had a briefing last week from
5 Judge McFadden. We've got close to a
6 thousand overage warrants. Well, each one of
7 those warrants is a person. Each one of
8 those warrants is -- somebody is a victim who
9 isn't getting justice. It's an individual
10 whose not -- you know, can't move on or
11 whatever because things just aren't
12 functioning correctly. And I think that, if
13 I'm fortunate enough to be elected, I would
14 hope to provide some measure of leadership to
15 try to solve some of these process issues to
16 get people on the same page so that we're --
17 you can build a very efficient process. But
18 if the culture behind it doesn't buy into it,
19 then it's just not going to fix. And I think
20 you need to take a look at both.

21 **Q. All right. And lastly, obviously there's**
22 **backlog in General Sessions as we discussed**
23 **and they're cases that have to be disposed of**
24 **and motions that have to be disposed of. And**
25 **in a circuit such as Third Circuit, if you**

1 are elected go into other rural circuits
2 where lawyers have to be in numerous courts
3 and that's the type of practicing you engage
4 in and have motions and personal commitments
5 and family commitments and vacations and
6 children who have to go -- how are you going
7 to balance the lawyers need for some quality
8 of life versus the need to move a docket?

9 A. Well, I think that if an attorney comes to me
10 and has an issue, you know, I'm going to
11 listen to it. And if the case isn't that old
12 or we can work around it. I mean, I think if
13 you get the lawyer to buy in on a particular
14 date, there is a particular time frame for a
15 trial, you know, I think you need to -- I
16 mean, I'm open to any sort of a reasonable
17 dialog with anybody on scheduling. I mean, I
18 guess that's my best answer.

19 CHAIRMAN SMITH: All right. Any further
20 questions? All right. Well, we appreciate
21 y'all. You're only about an hour and half or
22 two hours behind. So we appreciate your
23 patience with us. Mr. Murphy, this concludes
24 the portion of your screening process. This
25 portion of your screening process. I want to

1 take this opportunity to remind you that
2 pursuant to the Commission's evaluative
3 criteria, the Commission expects candidates
4 to follow the spirit, as well as the letter
5 of the ethics laws. And we will view
6 violations or the appearance of impropriety
7 as serious and potentially deserving of
8 heavyweight and screening deliberations. On
9 that note, and as you know, the record will
10 remain open until the formal release of the
11 report of qualifications. And you may be
12 called back at such time if the need arises.
13 I appreciate your offering this position.
14 And I thank you for your service to the State
15 of South Carolina.

16 **Q. Thank you. Thank you all.**

17 CHAIRMAN SMITH: Thank you. Safe travels. I move
18 we go into executive session. All in favor
19 say, "aye."

20 (At this time the members audibly say, "aye.") All
21 opposed? The ayes have it.

22 (Executive Session)

23 CHAIRMAN SMITH: All right. We've come out of
24 executive session. We've just come out of --
25 Senator Rankin moves that we come out of

1 executive session. All in favor say, "aye."
2 (At this time the members audibly say, "aye.") All
3 opposed? The ayes have it. We're back on the
4 record. For the record, I would like to state
5 that we've been in executive session. However, no
6 decisions were made, no votes were taken during
7 executive session. Therein, you have two
8 candidates to vote on this and the first being
9 Judge Buckner. Senator Young moves that Judge
10 Buckner be found qualified and nominated. Any
11 seconds? Senator Rankin, is there any discussion?
12 Seeing no discussion everyone signify, everybody
13 in favor, vote "aye" with the raise of hand.
14 "Nos," anyone vote negative?
15 (At this time the members signified by raising
16 their hands.) The ayes have it. Judge Buckner's
17 found qualified and nominated. Next is Judge
18 Robinson, the Administrative Law Court. Senator
19 Sabb moves that we find Judge Robinson qualified
20 and nominated.
21 REPRESENTATIVE RUTHERFORD: Second.
22 CHAIRMAN SMITH: Seconded by Representative
23 Rutherford. Any discussion? All in favor,
24 raise their hand. All opposed? Let the
25 record reflect that the vote's unanimous.

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And then Representative Murphy moves that we adjourn. All in favor say "aye."

(At this time the members audibly say "aye.") All opposed? The ayes have it. We stand adjourned.

Thank you guys.

(There being nothing further, the proceeding concluded at 6:45 p.m.)

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CERTIFICATE OF REPORTER

I, JENNIFER NOTTLE, COURT REPORTER AND NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA AT LARGE, HEREBY CERTIFY THAT I REPORTED THIS PROCEEDING, ON TUESDAY, THE 14TH DAY OF NOVEMBER, 2017, AND THAT THE FOREGOING 188 PAGES CONSTITUTE A TRUE AND CORRECT TRANSCRIPTION OF MY STENOMASK REPORT OF SAID PROCEEDING.

I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY NOR COUNSEL FOR, NOR RELATED TO OR EMPLOYED BY ANY OF THE PARTIES CONNECTED WITH THIS ACTION, NOR AM I FINANCIALLY INTERESTED IN SAID CAUSE.

IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL THIS 26TH DAY OF NOVEMBER, 2017.

JENNIFER NOTTLE, COURT REPORTER
MY COMMISSION EXPIRES JULY 11, 2023