

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF RICHLAND)

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JUDICIAL MERIT SELECTION COMMISSION
TRANSCRIPT OF PUBLIC HEARINGS

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

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* * * * *

19 DATE: November 30th, 2017
20 TIME: 9:30 a.m.
21 LOCATION: Gressette Building
22 1101 Pendleton Street
23 Columbia, South Carolina 29201
24 REPORTED BY: JENNIFER NOTTLE, COURT REPORTER

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1 CHAIRMAN RANKIN: Good morning, ladies and gentlemen.
2 We're going to start today's process. Senator
3 Sabb moves to go in executive session, seconded
4 by Senator Hayes. All in favor say, aye.

5 (Ayes are heard.)

6 CHAIRMAN RANKIN: We're in executive session.

7 (Executive Session)

8 CHAIRMAN RANKIN: Mr. Howard moves that we lift the
9 veil. Senator Hayes seconds that. Back on the
10 record. Thank you, ladies and gentlemen the
11 Judicial Merit Selection Committee is now back on
12 the record. For the record, I'd like to state
13 that while we have been in executive session, no
14 decisions were made and no votes taken. Thank
15 you very much.

16 HUNTLEY S. CROUCH

17 CHAIRMAN RANKIN: Good morning.

18 MS. CROUCH: Good morning.

19 CHAIRMAN RANKIN: Welcome and I apologize for the
20 delay. All has not been lost except an hour of
21 your time.

22 MS. CROUCH: That's fine.

23 CHAIRMAN RANKIN: My apologies for that.

24 MS. CROUCH: That's no problem.

25 CHAIRMAN RANKIN: You have with you a nice someone?

1 MS. CROUCH: I have -- well, he is. This is my
2 husband Chuck Crouch.

3 CHAIRMAN RANKIN: I think you were supposed to sit on
4 that side. She was --

5 MR. CROUCH: Okay.

6 CHAIRMAN RANKIN: -- looking -- I'm kidding. She --
7 she looked over her right shoulder. I don't --

8 MS. CROUCH: I wasn't sure where he was. But this is
9 my husband, Chuck.

10 CHAIRMAN RANKIN: Where would you prefer him to be?

11 MS. CROUCH: That's fine.

12 CHAIRMAN RANKIN: You're not under oath yet, so.

13 MS. CROUCH: That's -- that's fine. He can sit here.

14 CHAIRMAN RANKIN: Welcome. Okay.

15 MS. CROUCH: Thank you.

16 CHAIRMAN RANKIN: Now -- and Lindi you're -- yeah.

17 Huntley Smith Crouch, welcome. You're a
18 candidate for the Family Court 11th Circuit seat
19 2. You have before you a personal data
20 questionnaire and the sworn statement that you've
21 submitted to the Commission, correct?

22 MS. CROUCH: Correct.

23 CHAIRMAN RANKIN: All right. Are those both correct?
24 Those documents?

25 MS. CROUCH: I'm looking at them. I brought my

1 original amendments. I've had to amend twice.
2 And the copies are here. And then I have one
3 brief update. When I was reading through last
4 night, I noted that on the question regarding
5 social media, I indicated I did not have a
6 Twitter account at that time. I do have a
7 Twitter account now because I'm stalking my
8 children on Twitter.

9 CHAIRMAN RANKIN: You know --

10 MS. CROUCH: So, I would like to update that for the
11 record. But other than that, they're correct.

12 CHAIRMAN RANKIN: All right. And do you object to our
13 making those updated and twitterfied (ph)
14 amendments part of the record.

15 MS. CROUCH: I -- I have no objection.

16 CHAIRMAN RANKIN: And in addition to your sworn
17 testimony?

18 MS. CROUCH: No objection.

19 (EXHIBIT 1 - JUDICIAL MERIT SELECTION COMMISSION
20 PERSONAL DATA QUESTIONNAIRE OF HUNTLEY S. CROUCH)
21 (EXHIBIT 2 - JUDICIAL MERIT SELECTION COMMISSION SWORN
22 STATEMENT OF HUNTLEY S. CROUCH)

23 (EXHIBIT 3 - AMENDMENT TO PERSONAL DATA QUESTIONNAIRE
24 OF HUNTLEY S. CROUCH)

25 CHAIRMAN RANKIN: Okay. If you'll hand those to Lindi

1 to your left. We will put that in the
2 transcript. And I have not sworn you in yet.

3 HUNTLEY SMITH CROUCH, having been duly sworn, testifies as
4 follows:

5 CHAIRMAN RANKIN: We have -- the Judicial Merit
6 Selection Commission has thoroughly investigated
7 your qualifications for the bench. Our inquiry
8 is focused on nine evaluative criteria and has
9 included a ballot box survey, a thorough study of
10 your application materials, verification of your
11 compliance with state ethics laws, search of
12 newspaper articles in which your name appears,
13 study of previous screenings, and a check for
14 economic conflicts of interest. To your credit
15 we've received no affidavits filed in opposition
16 to your election. No witnesses present to
17 testify unless we decide to call your husband or
18 he volunteers. Do you have a brief opening
19 statement that you would like to make before we
20 begin this process?

21 MS. CROUCH: Thank you. I just wanted to thank all of
22 you for letting me have the opportunity to be
23 here. I know that you've had a -- a long several
24 weeks. So, I'll waive any additional opening but
25 I appreciate the opportunity to be here.

1 CHAIRMAN RANKIN: Thank you very much and please
2 answer questions that Johanna has for you.

3 MS. CROUCH: Thank you.

4 EXAMINATION BY MS. VALENZUELA:

5 Q. Good morning, Ms. Crouch.

6 A. Good morning.

7 Q. Could you please state for the record the city
8 and circuit in which you reside?

9 A. I live in Lexington. And I'm in the 11th
10 Judicial Circuit.

11 Q. Thank you. Mr. Chairman, I'd note for the record
12 that based on the testimony contained in the
13 candidate's PDQ, which has been included in the
14 record with the candidate's consent, Ms. Crouch
15 meets the statutory requirements for this
16 position regarding age, residence and years of --
17 of practice. Ms. Crouch, why do you want to
18 serve as a Family Court Judge and why do you feel
19 that your legal and professional experience
20 qualify and will assist you to be an effective
21 judge?

22 A. Thank you. This is the third time I've run for
23 Family Court. And I -- I don't think anyone
24 would submit themselves to this process unless
25 they were dedicated to serving in this capacity.

1 I practice exclusively in family law and I have
2 for a number of years. I've said previously that
3 I'm a planner. And -- and -- and I planned to
4 handle my college career the way that I did. Law
5 school, my family life, and ultimately I was a
6 partner in my law firm. I've gone out on my own
7 several years ago. And this has been my goal. I
8 don't see Family Court as a stepping stone for
9 me. When I started practicing exclusively in
10 Family Court, I realized that this is a good fit
11 for me and where -- where I should serve and
12 where I want to serve. So, being a member of the
13 judiciary and on the bench is the next step. But
14 it's one that I've been working toward diligently
15 for a number of years now.

16 **Q. Ms. Crouch, are there any areas of the law for**
17 **which you would need additional preparation in**
18 **order to serve as Family Court judge and how**
19 **would you handle that additional preparation?**

20 A. Well, I think that any judge should be prudent
21 and constantly staying abreast of the law. There
22 are always changes, as we all know, in the law.
23 As a private practitioner, I have significant
24 experience in some -- in some areas and limited
25 experience in other areas. Such as the issue or

1 the area of juveniles. To help educate myself in
2 that area of the law, I have served as a Guardian
3 ad Litem and been appointed for juveniles. So,
4 I've been involved in the process and in hearings
5 in that capacity. I've also represented parents
6 in a juvenile action where they wanted to have
7 their child actually go through that process
8 because they had reached a point with their child
9 that they could not go any further with her. And
10 they -- they knew that that was the best that
11 they could do for her. So, I -- I've served as a
12 private attorney in that capacity. I've also
13 observed hearings throughout the years and also
14 talked to public defenders and solicitors about
15 actually doing mock hearings to educate myself
16 more on the actual process. So, I think that I
17 have given myself as much experience as I could
18 at this particular time.

19 **Q. Thank you, Ms. Crouch. Ms. Crouch, please**
20 **briefly describe your experience in the handling**
21 **complex contested family court matters. And**
22 **specifically, please discuss your experience with**
23 **the financial aspects of family court work?**

24 **A.** Well, as a -- as practitioners we have the cases
25 where there are limited assets. And then I've

1 experienced cases where there have been complex
2 multi-million dollar assets. A very interesting
3 case, which is on appeal right now, involved not
4 only significant assets but it involved
5 businesses. And the issue of whether a business
6 had been transmuted into marital property and
7 whether my client could have a claim for that
8 particular business. And that was a very complex
9 issue in itself. That case also involved
10 bankruptcy issues, which became very complex.
11 And it's important, I think, as a -- when -- when
12 one's striving to become a member of the bench,
13 of the judiciary, to not only have an extensive
14 practice in that particular subject matter, but
15 in other areas of the law such as bankruptcy,
16 probate, real estate. Because in Family Court,
17 that's what you see. So, with regard to the
18 financial aspects of it in representing clients
19 and trying cases, and mediating cases, I'm a
20 certified Family Court Mediator. And so, you're
21 constantly dealing with the financial aspects of
22 people's -- their assets, their debts, their
23 marital estate. So, I have a significant amount
24 of experience in that area.

25 **Q. Thank you, Ms. Crouch. Ms. Crouch, the**

1 Commission received 209 ballot box surveys
2 regarding you with 15 additional comments. Some
3 of the examples of the positive comments we heard
4 are, "Huntley has an outstanding reputation in
5 the legal community. She is ethical, hardworking
6 and trustworthy. She would be an asset to the
7 Family Court Bench". Additionally, another quote
8 is "I have worked with Huntley in her capacity as
9 an attorney and as a guardian. I believe with
10 her numerous appointments as a Guardian in Family
11 Court matters" -- or "I believe that her numerous
12 appointments as a guardian in Family Court
13 matters gives her a unique perspective on
14 difficulties facing the parties to an action and
15 the attorneys. She has always been forthright
16 and respectful in all of our dealings". Only one
17 of those fifteen written comments expressed a
18 concern. And that concern states, "questionable
19 actions as a guardian. Has not been fair and
20 even handed to both sides. Unfortunate that
21 there's not an alternative choice". What
22 response would you offer to that concern?

23 A. Well, understanding that I don't really have a
24 context as to that comment because I'm not aware
25 of who made the comment. I note that the comment

1 states that there's an -- it's unfortunate that
2 there's not an alternative choice. And in my
3 capacity as a guardian, I -- I'm required to be
4 neutral. But someone always has an alternative
5 choice. They could have filed a motion to have
6 me removed, which I know wasn't done because it
7 hasn't been done. I -- people are always going
8 to be upset. No one -- I -- I think that's a
9 sign that you're doing your -- your job well, is
10 if you don't have someone happy all the time.
11 I've not had any judge remove me as a guardian.
12 I've had no complaints filed against me as a
13 guardian. And I think my role as a guardian has
14 helped prepare me to seek this position on the
15 bench and will make a me a better judge because
16 you do have to be neutral. You do have to be
17 impartial. You do have to be fair. And I would
18 note, I think, the first or second comment that
19 you read out loud talked about me having those
20 qualities as a guardian. So, it could be someone
21 who was just upset by the result of the case.
22 But no action would have been taken because I'm
23 not aware of any action.

24 **Q. Thank you. Ms. Crouch, in your PDQ you discuss**
25 **the impact your father and Judge Wyatt Saunders**

1 **had on your career. Could you please share with**
2 **the Commission how their influence will impact**
3 **your judicial temperament should you be elected**
4 **as a family court judge?**

5 A. Absolutely. I hope that I am just like my
6 father. He is practicing -- I think he is 70 --
7 he's 74 now. He still practices every day like
8 he did when he was first out of law school when
9 he joined Senator Brown's firm in Barnwell. He -
10 - he has a such a worth -- work ethic. And I
11 have never seen him be disrespectful in a
12 courtroom. He always is, in my experience -- and
13 I know I'm talking about my father, but I've
14 always observed him to be dignified and fair and
15 very respectful to not only the court but the
16 litigants. And -- and so, I think that that is a
17 very good example for how I would like to hold
18 myself out as not only as I have as an attorney
19 but also as a future judge. And I -- and again,
20 that goes back to the comments that you've heard.
21 I've tried to handle myself the way he handles
22 himself when I've been in my practice. And would
23 think that that would continue in the future.
24 With regard to Judge Saunders, I was his first
25 law clerk. And a lot of people considered

1 circuit court law clerks as glorified coffee
2 retrievers. And I was not that. Judge Saunders
3 told me on day one that I was going to be his
4 lawyer. And he treated me as his lawyer. And
5 Judge Saunders was always very respectful even in
6 the most difficult cases. From the bench, in
7 treating not only attorneys but the litigants and
8 most especially pro se parties. And I think that
9 I will mimic him in that regard, especially when
10 it comes to pro se litigants.

11 **Q. Thank you, Ms. Crouch. We only have some**
12 **housekeeping issues. Are you aware that as a**
13 **judicial candidate, you are bound by the code of**
14 **judicial conduct found in Rule 501 of the South**
15 **Carolina Appellate Court Rules?**

16 A. I am aware.

17 **Q. Ms. Crouch, since submitting your letter of**
18 **intent, have you contacted any members of the**
19 **Commission about your candidacy?**

20 A. No, I have not.

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

25 A. No, I have not.

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

5 A. No, I am not and I have not.

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

9 A. I do.

10 MS. VALENZUELA: Mr. Chairman, I would note that the
11 Midlands Citizen's Committee found Ms. Crouch to
12 be well qualified in the evaluative criteria of
13 ethical fitness, professional and academic
14 ability, character, reputation, experience, and
15 judicial temperament. And qualified in the
16 remaining evaluative criteria of constitutional
17 qualifications, physical health, and mental
18 stability. The Committee commented that they
19 "thought Ms. Crouch was an outstanding candidate,
20 the last time we screened her and this screening
21 only heightened our opinion of her. She has
22 extensive experience in Family Court and she has
23 been highly recommended by other lawyers and
24 judges." In summary, they stated that, "Ms.
25 Crouch will make an outstanding Family Court

1 judge." I would note for the record that any
2 concerns raised during the investigation
3 regarding this candidate were incorporated into
4 the questioning of the candidate today. And Mr.
5 Chairman, I have no further questions.

6 CHAIRMAN RANKIN: Okay. Thank you. Questions of the
7 Commission members? Representative Murphy.

8 EXAMINATION BY REPRESENTATIVE MURPHY:

9 Q. Not really a question, Mr. Chairman, but I just
10 want to tell Huntley, congratulations on your
11 perseverance. I know you -- this is your third
12 time. I had the opportunity to meet with you and
13 discuss your candidacy last time so I was -- I
14 was glad to see you come back. And I guess you
15 kind of scared everybody out this time. So, good
16 job on that.

17 A. It's nice to be back. Thank you, Representative.

18 Q. Thank you.

19 CHAIRMAN RANKIN: Any questions?

20 SENATOR YOUNG: Thank you, Mr. Chairman.

21 EXAMINATION BY SENATOR YOUNG:

22 Q. Ms. Crouch, thank you so much for your interest
23 in serving our state on the family court bench.
24 You come from a fine family in Marlboro County.
25 And I know that there are a lot of people in the

1 second judicial circuit that are going to be very
2 pleased to see you move to the family court bench
3 if -- if all this works out for you.

4 A. Thank you, Senator.

5 Q. Just a couple of questions real quick for the
6 record. If you could, just briefly tell us what
7 your judicial philosophy is with respect to the
8 application of the law to the facts or to the
9 issues that would be before you on the family
10 court bench?

11 A. When you ask that question I think back to some
12 of the questions that have been raised about
13 policy. And the -- the court's role in
14 considering policy versus law. A judge is
15 constrained to follow the law. We are -- are
16 judges. Members of the bench are not law makers.
17 We are given the law and we must apply the
18 relevant facts and the evidence received and --
19 and the evidence that is properly before the
20 court to the law. And while there is some
21 subjectivity in Family Court, I'll give you the
22 example, the best interest of the child standard.
23 That's the overriding standard in many issues in
24 front of a Family Court judge. Which could have
25 some subjectivity to it. The ultimate

1 responsibility of the court is to take the law as
2 it's given to us and apply it to the -- to the
3 facts and appropriate evidence received. And so,
4 that's, as a judge, I think, my duty.

5 **Q. Thank you for that answer. Another question I**
6 **have is one -- one area that I've been**
7 **particularly involved in in the last three or**
8 **four years with other members of the General**
9 **Assembly is involving children and DSS and abuse**
10 **and neglect. And so, one question I have for you**
11 **is, is there anything in your professional career**
12 **or otherwise that you believe would make you**
13 **particularly prepared to work from the bench on**
14 **issues as to children and -- and who've been**
15 **abused and neglected?**

16 **A. Well absolutely, Senator. One of the cases that**
17 **it's in my packet references a four-year period**
18 **where I was involved in a -- in a DSS abuse and**
19 **neglect case. And that case involved significant**
20 **issues ranging from jurisdictional issues, the**
21 **UCCJEA, the statutory time frames for DSS. It --**
22 **it involved motions to dismiss, motions for**
23 **failure to prosecute, transfer of jurisdiction**
24 **and custody issues with the Guardian ad Litem.**
25 **And so, that's one case that I would site to you**

1 as being not the normal DSS case but one which
2 really spanned the gamut of what you might see in
3 an abuse and neglect case. I think it's
4 extremely important that the court be aware of
5 the statutory time frames that have been put in
6 place with abuse and neglect cases. Because
7 we've got several cases where the court has noted
8 concerns about children languishing. And we go
9 back to that best interest of the child standard.
10 And so, I think it's incumbent upon a judge to
11 make sure that the law is not only followed but
12 that the court's aware of those procedures so
13 that the best interest of the children can be
14 protected. DSS is an agency that's been created
15 with an -- an overwhelming purpose. And
16 sometimes the purpose isn't always -- I don't --
17 I don't want to sound like I'm criticizing
18 because I'm not. I have the upmost respect for
19 the people at DSS and the job that they do
20 because the ultimate responsibility is to the
21 children. Sometimes the application doesn't
22 always follow the purpose I guess is what I'm
23 trying to say. And so, I think that the Family
24 Court judge can have a very significant
25 responsibility in ensuring that that gets back on

1 track. In addition to my experience in DSS
2 cases, going back to your question and expanding
3 on it a little bit is my role as a Guardian ad
4 Litem. I have significant experience with
5 experts involving alienation, involving abuse and
6 neglect, physical, sexual. And so, in dealing
7 with people, case workers and members of DSS,
8 experts, other attorneys, I certainly have a vast
9 experience in understanding those concepts as
10 well.

11 **Q. Thank you so much.**

12 **A. Yes, sir.**

13 CHAIRMAN RANKIN: Any other questions?

14 EXAMINATION BY CHAIRMAN RANKIN:

15 **Q. I want to -- I want to likewise commend you for**
16 **perseverance. Third time will be the charm for**
17 **you. You're unopposed, correct?**

18 **A. Yes, sir. Thank you.**

19 **Q. So, no thanks to me. Thanks to you in the regard**
20 **that you're held by those who you practice with.**
21 **And you have glowing anonymous endorsers. And**
22 **that is to your credit. One local, though new to**
23 **me -- I saw one of your letters of endorsement on**
24 **the preacher's daughter who is in the Bellamy Law**
25 **Firm down in Myrtle Beach. Not long married, I**

1 think. Has it been two years that they've been
2 married?

3 A. I think it is two years. Yes, sir.

4 Q. So, I'm a Baptist but he's a great Presbyterian -
5 -

6 A. Right.

7 Q. Yeah.

8 A. Right.

9 Q. Anyway. So that, and likewise I want to commend
10 you for the well rounded life experience that you
11 have here. Worked as a paralegal. Saved money
12 to go to law school. This is a -- a good story.

13 A. Thank you.

14 Q. And obviously those who thought to challenge you
15 thought better of it because your story's so
16 strong. Unless any other questions, I want to
17 again thank you for participating. Your husband
18 has not given me the nod. He has not indicated
19 that he wants to testify so we'll not swear him.

20 A. I appreciate that.

21 Q. And this concludes this portion of our screening
22 process. I want to take the opportunity to
23 remind you that pursuant to the Commission's
24 evaluative criteria, we expect candidates to
25 follow the spirit as well as the letter of the

1 ethics laws. And we will view violations or the
2 appearances of impropriety as serious and
3 potentially deserving of heavyweight and
4 screening deliberations. On that note, and as
5 you know, the record will remain open until the
6 formal release of the report of qualifications.
7 And you may be called back at such time if the
8 need arises. Again thank you for offering to do
9 this and for the work that you're about to embark
10 upon. On a quick little personal note, until I
11 became a litigant unfortunately in the early
12 2000s, even in the practice area, I did not hold
13 in this high regard the role that you will soon
14 embark upon until I became, I guess, a contested
15 litigant in the Family Court context. So, you
16 have a huge responsibility. Huge attributes that
17 I think you will carry this well and wear your
18 robe lightly.

19 A. Yes, sir.

20 Q. Thank you.

21 A. Thank you. I appreciate it. Thank you.

22 THE HONORABLE JOHN R. KIRVEN

23 CHAIRMAN RANKIN: Good morning.

24 JUDGE KIRVEN: Good morning.

25 CHAIRMAN RANKIN: My apologizes for your sitting out

1 there for not an hour, at least, waiting on this,
2 but 55 minutes. We've gained five minutes. The
3 last candidate was held up by an hour. We're
4 moving fast.

5 JUDGE KIRVEN: Well, it's fine.

6 CHAIRMAN RANKIN: Welcome. You are The Honorable John
7 Rogers Kirven?

8 JUDGE KIRVEN: That is correct, sir.

9 CHAIRMAN RANKIN: And you an Honorable in?

10 JUDGE KIRVEN: I am a municipal court judge for the
11 municipalities of Quinby, Coward, Scranton, and
12 Johnsonville, which are in Florence County.

13 CHAIRMAN RANKIN: Okay.

14 JUDGE KIRVEN: It's a part-time position. I practice
15 law full time. Office is in Florence.

16 CHAIRMAN RANKIN: Very good. All right. If you will
17 at this time, raise your right hand.

18 JUDGE KIRVEN, having been duly sworn, testifies as
19 follows:

20 CHAIRMAN RANKIN: Judge Kirven, you have before you,
21 I assume, your personal data questionnaire and
22 the sworn that you've submitted to the
23 Commission?

24 JUDGE KIRVEN: Yes, sir.

25 CHAIRMAN RANKIN: And are those correct? Do they

1 need to be amended, changed, updated?

2 JUDGE KIRVEN: No, sir. I do not think there is any
3 amendments or changes. I don't believe any of
4 my information has changed since I submitted
5 this at the end of July.

6 CHAIRMAN RANKIN: Okay. Any objection to us making
7 those apart of the record in addition to your
8 sworn testimony?

9 JUDGE KIRVEN: No, sir. No, sir.

10 CHAIRMAN RANKIN: And Lindi will get those. Hand
11 those to the court reporter and they'll get
12 marked and put in the record. You have been
13 investigated and the Judicial Merit Selection
14 Commission has thoroughly investigated your
15 qualifications for service on the bench. We've
16 focused on nine evaluative criteria, has
17 included a ballot box survey, thorough study of
18 your application materials, verification of your
19 compliance with state ethics laws, search of
20 newspaper articles in which your name appears,
21 study of previous screenings, and check for
22 economic conflicts of interest. To your credit,
23 we received no affidavits in opposition to your
24 election and no witnesses are present to testify
25 against you. You have the opportunity to make a

1 brief opening at this time if you like or a
2 closing statement if you like or neither?

3 (EXHIBIT 4 - JUDICIAL MERIT SELECTION COMMISSION
4 PERSONAL DATA QUESTIONNAIRE OF THE HONORABLE JOHN R.
5 KIRVEN)

6 (EXHIBIT 5 - JUDICIAL MERIT SELECTION COMMISSION
7 SWORN STATEMENT OF THE HONORABLE JOHN R. KIRVEN)

8 JUDGE KIRVEN: Well, Mr. Chairman, this is the first
9 time I've run for this type of judicial seat.
10 This has been a -- a learning experience for me.
11 It's -- it's different. I'm kind of learning as
12 I go but I appreciate the opportunity.

13 CHAIRMAN RANKIN: Very good. Answer any questions of
14 Mr. Maldonado.

15 JUDGE KIRVEN: Yes, sir.

16 EXAMINATION BY MR. MALDONADO:

17 **Q. Thank you, Mr. Chairman. Judge Kirven, can you**
18 **please state for the record the city and circuit**
19 **in which you reside?**

20 A. I live in Florence. I actually live in the
21 County of Florence, which would be in the 12th
22 Judicial Circuit.

23 **Q. Mr. Chairman, I note for the record that based**
24 **on the testimony contained in the candidate's**
25 **PDQ, which has been included in the record with**

1 the candidate's consent, the Honorable John
2 Rogers Kirven meets the statutory requirements
3 for this position regarding age, residence, and
4 years of practice. Judge Kirven, why do you
5 want to serve as a Family Court judge and why do
6 you feel that your legal and professional
7 experience qualify and will assist you in
8 becoming an effective court judge?

9 A. Well, you know, I practice primarily in Family
10 Court. I've done that for quite some time.
11 Been certified as a mediator for quite some
12 time. And I've enjoyed working in the small
13 towns as their municipal judge. At this point
14 in my life, I enjoy helping people. Helping
15 people reach solutions, create stability for
16 families. I think I have a gift at doing that.
17 I think I'd find it fulfilling, and I think I
18 could serve my home circuit and my home county.

19 Q. Okay. Thank you. Judge Kirven, are there any
20 areas of the law for which you would need
21 additional preparation in order to serve as a
22 family court judge and how would you handle that
23 additional preparation?

24 A. Well, in my PDQ I've noted I've handled one
25 juvenile justice matter in all my years of

1 practicing law. I understand the criminal law
2 well from being a municipal judge, but as some
3 of the procedural things in juvenile justice,
4 I'm -- obviously I've studied that and have to
5 look at that a little bit closer. It's just one
6 of those things I've never been involved in. I
7 think that area would -- may need a little bit
8 of -- little bit of help.

9 **Q. Can you please describe your experience in**
10 **handling complex contested family court matters?**
11 **Specifically, discuss your experience with**
12 **financial aspects of family court work.**

13 A. Okay. As far as marital assets, alimony, those
14 kinds of issues. I've dealt with special equity
15 transmutation issues as far as -- excuse me --
16 defining the marital estate, valuing the marital
17 estate. I've prepared my own spreadsheets,
18 equitable division spreadsheets that is.
19 Assigning various portions of property, various
20 percentages of splits of property. Alimony
21 cases, looked at financial declarations, earning
22 capacities. All the elements that -- that are
23 required for that to get a figure to have my
24 client ask the court for in court. I've never
25 been one to decide those issues. Now, in

1 mediation I do create spreadsheets and I do run
2 a couple of Traxlers for alimony and those
3 things. But it's much more than just those.
4 There are a lot of factors that go in to that as
5 far as setting alimony and dividing marital
6 estate once you've determine what the marital
7 estate is.

8 **Q. Judge Kirven, the Commission received 86 ballot**
9 **box surveys regarding you, with six additional**
10 **comments. The ballot box surveys, for example,**
11 **contained the following positive comments, "He**
12 **has superior experience in all facets of this**
13 **chosen seat. Serving as an attorney, a Guardian**
14 **ad Litem and a mediator. He also has judge**
15 **experience. It says a lot that he upheld a**
16 **costly ticket against my wife and I still know**
17 **that he embodied all that the court should have**
18 **been on that day. Fair, polite, compassionate**
19 **yet decisive". Also, another comment stated,**
20 **"Judge Kirven is a stellar candidate for this**
21 **position. He is outshined in terms of**
22 **experience by only one of his competitors for**
23 **this seat. John is a consummate gentleman**
24 **respected by his peers and colleagues and a very**
25 **experienced family court litigator. John has**

1 served as a family court mediator and a Guardian
2 ad Litem for many years. And has -- and has
3 also served a municipal court judge in several
4 municipalities in Florence County. His combined
5 experiences and expertise and his good
6 temperament and rapport with the bench and bar
7 would make him an excellent Family Court judge
8 for the 12th Judicial Circuit". Two of the
9 written comments expressed some concerns. One
10 stated -- slight concerns. One stated, that,
11 "he can be a bit long-winded and may have an
12 issue with keeping the docket moving at a quick
13 pace. But if chosen, he would make a quick and
14 easy transition from private practice to the
15 bench". What would -- response would you offer
16 this concern?

17 A. As far as being long-winded, I think most
18 attorneys are guilty of that. I know I am at
19 times. As far as moving the docket, as I
20 mentioned these small towns, I do primarily
21 traffic. I may walk in and have a dozen cases
22 to hear. I may walk in and have 60 cases to
23 hear. But I move the docket. I -- last thing I
24 want to be is the judge that's keeping folks
25 waiting in the lobby and waiting in the hallway

1 after hours. I -- I certainly can move a
2 docket. And I also understand the long winded
3 nature that I have. And I obviously would need
4 to work on that but I also understand my
5 relationship with my fellow bar members would
6 change if I were elected to the bench and I
7 could not do that as much.

8 **Q. Judge Kirven, another comment detailed -- gave a**
9 **detailed account where in Oconee County the**
10 **comment stated, "Judge Kirven spoke down to me**
11 **like a child and chastised me in the courtroom**
12 **and humiliated and embarrassed me". Do you have**
13 **a response to this comment?**

14 A. I -- I've never sat on the bench in Oconee
15 County. I don't think I've ever been to Oconee
16 County.

17 **Q. Okay.**

18 A. I'm a municipal judge. My jurisdictional limits
19 are those towns. Apparently this is not me.
20 And it's certainly out of my nature. I -- I
21 wouldn't even think of doing something like
22 that.

23 **Q. And for the record, the comment they actually**
24 **did state the -- the -- the cite for the case.**
25 **And I looked that up and that was Master-in-**

1 **Equity Judge Steven Kirven out of Anderson**
2 **County. And just for the record, did you ever**
3 **berate anybody on the bench in -- in Oconee**
4 **County?**

5 A. No, sir. No, sir, I did not.

6 **Q. Can you explain what you feel is the proper**
7 **demeanor for a family court judge?**

8 A. Obviously not berate someone from the bench.
9 Obviously not belittle someone in front of their
10 client nor belittle the clients.

11 CHAIRMAN RANKIN: At least not in Oconee County.

12 A. Statewide. I -- I think you -- a certain amount
13 of temperament, ease controlling your emotions.
14 I think we all have certain buttons or triggers.
15 I think those have been highly tuned in me by
16 being a municipal judge in small towns in
17 Florence County where I deal with pro se's that
18 tend to be very emotional. I think the court
19 has to be temperate. I don't think anger has a
20 place. I don't think belittling someone nor
21 their client has a place. Because it -- someone
22 is going to walk away feeling there was -- they
23 were short shifted or they didn't get a -- a
24 fair hearing if something like that were to take
25 place. It is a personality battle instead of a

1 legal battle.

2 Q. I'll finish up with some housekeeping questions.
3 Judge Kirven, are you aware that as a judicial -
4 - judicial candidate, you're bound by the Code
5 of Judicial Conduct as found in Rule 501 of the
6 South Carolina Appellate Court Rules?

7 A. Yes, sir.

8 Q. Since submitting your letter of intent, have you
9 contacted any members of the Commission about
10 your candidacy?

11 A. No, sir.

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

16 A. No, sir, I have not.

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

21 A. No, sir, I have not and am not.

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

25 A. That'd be the 48-hour rule?

1 **Q. Right.**

2 A. Yes, sir.

3 MR. MALDONADO: I would note that the Pee Dee
4 Citizen's Committee reported that Judge Kirven
5 to be well-qualified as to the ethical fitness,
6 professional and academic ability, character,
7 reputation, experience, and judicial
8 temperament. And qualified as to the
9 constitutional qualifications, physical health,
10 and mental stability. I would note for the
11 record that any concerns raised during the
12 investigation regarding the candidate were
13 incorporated into the questioning of the
14 candidate today. Chairman, I have no further
15 questions.

16 CHAIRMAN RANKIN: All right. Members of the
17 Commission, questions of Judge Kirven? Senator
18 Hayes.

19 EXAMINATION BY MR. HAYES:

20 **Q. I appreciate your willingness to serve and I**
21 **think you have a good background. And I**
22 **appreciate your service as a municipal court**
23 **judge as well. In looking at your, I guess it's**
24 **called PDQ or whatever it -- and it -- you**
25 **mentioned what bar associations you're a member**

1 of and you said none. How do you manage to not
2 be a member of the South Carolina Bar?

3 A. I -- I realized I made a mistake on that. Yes,
4 I am a member of the South Carolina Bar -- I
5 think I'm a member of the South Carolina Bar
6 Association. But I -- I took it as being
7 outside the association.

8 Q. A thing you have to be in, I guess.

9 A. Other than stuff you have to be in. Yes, sir
10 that's correct.

11 Q. So, you are in -- I think you have to be in the
12 Florence Bar and the --

13 A. Yes, sir.

14 Q. -- South Carolina --

15 A. Yes, sir.

16 Q. -- Bar. But I noticed you were not involved in
17 any extra curricular activities other than your
18 law practice and serving as a municipal court
19 judge. I guess that -- are there any -- is
20 there anything that you do outside the practice
21 and your -- and your job as municipal court
22 judge?

23 A. Sir, I enjoy my family. I have children that
24 played sports. Two are in college now, thank
25 goodness. I've got one coming up. You know,

1 I've -- I spend a lot of time with my family.
2 The little bit of free time that I have. I've
3 never been a golfer. I've never been a -- a --
4 a socially active kind of fella. You know, my -
5 - my social circle is very small. And I -- it's
6 just the way I am.

7 **Q. I understand. Thank you.**

8 A. Yes, sir.

9 CHAIRMAN RANKIN: Senator Sabb. I'm sorry.

10 EXAMINATION BY SENATOR SABB:

11 **Q. Thank you, Mr. Chairman. Judge, let me -- let**
12 **me express my appreciation as well for your**
13 **offering for the position. I noted that you**
14 **began practicing with your dad?**

15 A. Yes, sir.

16 **Q. And then you kind of took over the firm as your**
17 **dad got ill?**

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

19 **Q. Was the practice pretty much the way that it is**
20 **now when your dad operated it? He did primarily**
21 **family court or was it --**

22 A. No, sir. My father did -- did criminal
23 practice. My father did workers' comp. My
24 father did very little family court. When I
25 started to -- when I got out of law school, I

1 went to work with my dad. Which I think, you
2 know, that was a dream to work with my father.

3 **Q. Absolutely.**

4 A. His -- his pay theory, I think y'all've heard
5 the term eat what you kill. I had to make money
6 to earn money. And that's kind of how I fell
7 into the family court arena. He was very
8 helpful. I -- I miss him dearly. It was a
9 wonderful time I had with him. But his practice
10 was very different from mine. And --

11 **Q. I understand. So, did your dad get paid with**
12 **potato pies and speckled butter beans sometimes?**

13 A. I've -- I've probably taken some of those too.
14 Yeah.

15 **Q. Yeah. Well, me as well.**

16 A. Yeah.

17 **Q. It's a part of the small practitioner's world.**
18 **I noted that you indicated that you've not done**
19 **very many, I think you indicated one, of the**
20 **juvenile delinquency type hearings?**

21 A. Yes, sir.

22 **Q. But you do a lot of what I consider to be --**
23 **well, I guess it would be misdemeanor criminal**
24 **cases?**

25 A. Yes, sir.

1 Q. Oftentimes you sit as a trier of fact?

2 A. Yes, sir I do.

3 Q. And so you're familiar with the burden of proof
4 those kinds of things. It's just a transition
5 of dealing with juveniles and those specific
6 laws that are --

7 A. That is correct.

8 Q. -- germane to those kinds of --

9 A. Dealing with those specific statutes dealing
10 solely with juveniles. Yes, sir.

11 Q. But you would be comfortable as it relates to --

12 A. Oh yes, sir.

13 Q. -- presiding over those kind of --

14 A. Yes, sir.

15 Q. -- hearings? One of the questions that my
16 chairman likes to ask, and -- I'm going to go
17 ahead and step in his shoes for a moment and
18 pose it. We use these anonymous means of
19 soliciting comments from our members of the bar
20 to try to gather other information about
21 potential jurists. What's your view of that way
22 of doing it?

23 A. I -- I see where anonymous comments would give
24 someone the comfort level they need to be
25 critical of a colleague they may be close to.

1 I've -- I've seen that they may not be accurate
2 in my own case. I really don't have a problem
3 with it to be honest with you. I -- I think
4 that -- that cloaking with that anonymity, if
5 someone is close with a colleague if -- if they
6 don't want to share with them then they can
7 share with the bar.

8 **Q. Thank you, sir.**

9 CHAIRMAN RANKIN: Senator Young.

10 EXAMINATION BY SENATOR YOUNG:

11 **Q. Thank you, Mr. Chairman. Judge, good morning.**
12 **Appreciate your interest in continuing your**
13 **service on the family court bench of South**
14 **Carolina. A question I have is how would you**
15 **describe your judicial philosophy with respect**
16 **to the application of the law to the issues**
17 **and/or the facts that would be before you on the**
18 **family court bench?**

19 A. Are you asking whether my personal feelings
20 would come in to play?

21 **Q. Yes.**

22 A. No, sir, they would not. I -- I'm accustomed to
23 that even with misdemeanors. I have my personal
24 beliefs about certain things but the way I see
25 it, our law is our law and it should be applied

1 the facts as they are. I don't think -- I'm not
2 an activist judge.

3 **Q. All right. Thank you --**

4 A. That's the best summation.

5 **Q. Another quick -- quick question I have is, one**
6 **area that I'm particularly interested in and**
7 **have been involved in with other members of the**
8 **General Assembly for the last three or four**
9 **years, your -- are issues involving children and**
10 **abuse and neglect. And one of the things that I**
11 **would like to know, and I think others on this**
12 **panel would like to know, is what in your**
13 **background or in your private practice or maybe**
14 **-- maybe in your service as municipal judge,**
15 **would make you particularly prepared for dealing**
16 **with issues that involve children who have been**
17 **abused or neglected that may -- as those come**
18 **before the family court?**

19 A. You know, I -- I've been involved in many cases
20 as Guardian ad Litem. I've been appointed to
21 represent children who have been abused and
22 neglected. Even in private cases. It -- it --
23 as shocking as it is, it's something we have to
24 deal with in today's times. I think I'm
25 sensitive to that nature. I think I have enough

1 experience with those situations to know what
2 services need to be offered to -- to help guide
3 a family in the right direction, for lack of a
4 better term. But I do have experience in that
5 area. Just because it's a private guardian case
6 does not mean there is not abuse and neglect
7 unfortunately.

8 **Q. What is your view on children who are in foster**
9 **care and -- and having -- there's a need to have**
10 **a foster case heard in family court? I mean,**
11 **what's your view on having that scheduled as**
12 **soon as possible?**

13 A. I don't think children should linger in the
14 system, foster care. I think stability's the
15 key for children. I think we saw some changes
16 in the past leading -- leading us to push us for
17 more stability quicker for children that are in
18 the system or the foster care system. I'd like
19 to have those cases heard as soon as possible,
20 to be honest with you. If reunification with
21 the family is an option, and that's achievable,
22 it needs to happen. The lingering or withering
23 in foster care may not be in those children's
24 best interest.

25 **Q. Thank you.**

1 CHAIRMAN RANKIN: Okay. Any other questions? Yes,
2 sir.

3 EXAMINATION BY MR. HOWARD:

4 Q. Good morning, Judge Kirven.

5 A. Good morning.

6 Q. As my fellow commissioners have stated, thank
7 you for putting in for this and -- and
8 participating in this process. One of the
9 questions I had for you is I was going to follow
10 up to Senator Hayes' question of -- of you. It
11 looks here -- it looks like you have a 12-year-
12 old-son?

13 A. Yeah.

14 Q. Okay. And you said he likes to play sports?

15 A. He's a football player. Unfortunately, he's got
16 his dad's coordination so that's the only sport
17 he's going to play.

18 Q. Do you like to attend his games?

19 A. I do.

20 Q. Okay. Do those ever come through the week?

21 A. Generally now, for the next couple of years,
22 it'll be Thursday nights. Those games start at
23 6:30 in Florence usually. He attends private
24 school in Florence. So, it'll be a Thursday
25 night. And then when he gets older it'll be a

1 Friday night game.

2 Q. Understood. Understood. So, in that capacity,
3 you know, I take it from -- from your smile and
4 from that that -- that you would understand that
5 there are -- are going to have some lawyers that
6 will come before you if you're the judge that
7 are going to have those similar --

8 A. Uh-huh (affirmative response).

9 Q. -- tugs and pulls --

10 A. Yeah.

11 Q. -- in their own personal life. Do you
12 understand that?

13 A. I do understand that. I'm -- I'm living that
14 tug and pull right now.

15 Q. Yeah. And in -- in the same way, your wife
16 likes you home on the weekend most of the time?

17 A. Most of the time. Yes, sir.

18 CHAIRMAN RANKIN: I move to strike that.

19 Q. Just making sure that, you know, from testimony
20 and this Commission that you're -- that's
21 important to us from the standpoint of -- of --
22 of people understanding and those coming before
23 us and judges sitting that understand in this
24 day and age that it's real important for lawyers
25 and -- and push and pulls of practice and -- and

1 **the stresses that are on all of us.**

2 A. Yeah.

3 **Q. And so, in that vein, how are you going to**
4 **handle that if -- when somebody comes -- how do**
5 **you handle it now?**

6 A. Well, the way I handle it now is, you know, I'm
7 compartmentalized. That's -- that -- that
8 stress of being a sole practitioner. That is
9 the worst stress in the world. I'm balancing
10 that with my family life. My family
11 obligations. Things have to end and things have
12 to begin. That's how I handle that stress. As
13 strange as it sounds, I don't have my email tied
14 to my smart phone. Very few attorneys have my
15 cell phone number. Very few have the nerve to
16 contact me on a weekend. I have to
17 compartmentalize. That's how I handle the
18 balance now. Now, I know there's give and take
19 in everything there is. My family understands
20 there's give and take. There -- there have been
21 times I've missed those Thursday night football
22 games. And it happens. But in the overall
23 picture, it seems to balance out very well.
24 That's how I would handle it if I were on the
25 bench. It's kind of like I'm doing it now.

1 **Q. Thank you. Thank you. One other question I**
2 **had. In -- in the course of your, I guess, you**
3 **know, your judgeships you hold right now, do you**
4 **have -- I know most of them are pro se, but do**
5 **you have represented parties come before you?**

6 A. We do. On occasion I do. On occasion. Very
7 seldom. Very seldom are the cases actually
8 tried when counsel's involved.

9 **Q. Understood. What about when you hold court? Is**
10 **it always through the week or have you ever held**
11 **court on the weekend?**

12 A. Other than setting bond, which I no longer do,
13 I've never held a hearing or a jury docket or
14 anything on a weekend.

15 **Q. Okay.**

16 A. Those -- I have certain days of the week
17 allotted for each town that I have. There are
18 two days a month I go to each of the two
19 different sets of municipalities.

20 **Q. Would you ever start a trial or bring lawyers in**
21 **on the weekend?**

22 A. I think that'd be difficult to do.

23 **Q. Is that something you would want to do?**

24 A. No. Definitely not. No. No. But if -- you
25 know, if you have to do it you have to do it.

1 I'd rather not. I'd rather seek to avoid that.
2 I'd rather stay late, come in early if I could
3 possibly versus a weekend.

4 **Q. Under what circumstances would you say that, you**
5 **know, a weekend would be warranted?**

6 A. That's hard to say. I mean, that -- I -- that's
7 something I would not be -- not be keen on. I
8 don't think I'd -- I'd -- it be a hard set of
9 facts to have me do that.

10 **Q. Gotcha. Thank you, Judge.**

11 A. Yes, sir.

12 CHAIRMAN RANKIN: Mr. Safran.

13 EXAMINATION BY MR. SAFRAN:

14 **Q. Judge, I -- I too appreciate the fact you're**
15 **here. And, you know, I guess what struck me as**
16 **a also a sole practitioner that you're right.**
17 **There's nowhere else to look other than the**
18 **mirror and it's going to look right back at you.**
19 **Is that something that, obviously, has kind of**
20 **tempered you over the years in terms of how you**
21 **go about, I guess, even being a municipal judge**
22 **when you do see the lawyers? That they're**
23 **there. They've got pressures. They may not**
24 **want to be there. But sometimes there's just**
25 **not a lot of choice. I mean, are you, I guess,**

1 **able to kind of again, empathize --**

2 A. Yes.

3 **Q. -- with that?**

4 A. Yes, sir. I -- I -- I'm -- I'm in those shoes.
5 I remember being in those shoes. There are
6 times when I'm sitting on the bench that I don't
7 want to be there. But we've got to be there. I
8 can --

9 **Q. Let me ask you this.**

10 A. -- identifies with that.

11 **Q. And I didn't --**

12 A. No, go ahead.

13 **Q. -- mean to cut you off. I'm sorry.**

14 A. You're good.

15 **Q. Tell me this. Again, you've been doing family
16 court work for a good while?**

17 A. Yes, sir.

18 **Q. And you've run into judges, I'm sure, over a
19 period of time that you love appearing in front
20 of. I'm -- I'm sure that's the case; is that
21 fair?**

22 A. That is fair.

23 **Q. And you've probably run into some that you look
24 and find out who you're going to have to go to
25 see and you go in like, I wish there was another**

1 **day. Been a few of those?**

2 A. Yeah. But it just tells me I need to get ready
3 a different way.

4 **Q. Okay.**

5 A. If that makes sense.

6 **Q. But I guess my question is, is that having kind**
7 **of seen both sides of it, how do you feel like**
8 **that's going to help shape you as far as how**
9 **you're going to be -- trying to be perceived?**
10 **Both -- you know, as somebody who knows that**
11 **there's court business that has to be --**

12 A. Right.

13 **Q. -- done but also do you want to be in a**
14 **situation where lawyers are going to kind of**
15 **dreading coming over there?**

16 A. No. I -- I obviously don't want to be in that
17 position where they dread coming before me. I'd
18 like to be straight down the middle. You know,
19 just the same Judge Kirven every time someone
20 comes in front of me. But I know that won't
21 happen. You know, our moods and things come
22 into play. But as far as being the judge that
23 people dread, when you say dread I'm thinking of
24 some of the retired judges that have taught me a
25 lesson or two years ago. How they taught those

1 lessons to me, I don't intend to teach lessons
2 the same way. If you can understand that.

3 Q. And I think we touched on this maybe in another
4 setting. But there was a day, I'm sure you and
5 I both probably were around during that time
6 where getting those lessons taught a certain way
7 was almost considered to be like a right of
8 passage.

9 A. That's -- that's correct.

10 Q. I don't believe necessarily that people look at
11 it the same way these days. At least is that
12 your perception?

13 A. That's my perception but I still appreciate
14 learning the lessons.

15 Q. Sure.

16 A. Maybe not the way I was taught them. But I did
17 learn a lot from them.

18 Q. Oh, and I -- I get that. I get that.

19 A. Yeah.

20 Q. Thank you, very much.

21 A. Yes, sir.

22 EXAMINATION BY CHAIRMAN RANKIN:

23 Q. Judge, thank you. Likewise, I want to touch on
24 just a couple of quick points. You are not a
25 man for all seasons. You are a man for all

1 **cities it seems. Johnsonville, Scranton,**
2 **Quinby, Coward, and previously Lake City until**
3 **in '09 you decided maybe four was enough?**

4 A. Yes, sir. The decision behind Lake City was I
5 missed -- I missed too many -- too much holiday
6 time. It was just too much on me. I had all
7 the balls in the air and I knew I was going to
8 drop one. And that was a deciding factor. And
9 I tendered my resignation to work my time out.
10 I -- I think I left them on good terms. I still
11 -- still feel like I'm on good terms with them.

12 **Q. Mr. Howard's question earlier about holding**
13 **court on Saturday. I don't know this Judge and**
14 **will remain nameless but apparently decided this**
15 **Clemson, South Carolina game day Saturday --**
16 **football game was the proper time in one**
17 **municipality of this state to hold court. That**
18 **would be a foreign concept to you it sounds**
19 **like?**

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

21 **Q. Okay.**

22 A. Regardless of -- of the football game, any
23 Saturday. And there was a push sometime back as
24 they're probably eluding to dispose of cases on
25 our docket whether we had to do them on a

1 weekend or not. You can find time during the
2 week.

3 Q. And just to dovetail Senator Sabb's comments,
4 the -- the bench/bar ballot box surveys hold you
5 in very high regard, sir. So, you are
6 sentencing folks in a -- in a most delicate way.
7 Or the pro se folks don't know that they can
8 participate in this survey.

9 A. I -- I bet some of them do.

10 Q. They can't obviously.

11 A. Yeah, I bet some of them wish they could.

12 Q. All right. Unless there's anything else this
13 will conclude this portion of your screening
14 process. And again, thank you for your offering
15 for your continued service and willingness to
16 move up. Also, let me remind you that pursuant
17 to the Commission's evaluative criteria, the
18 Commission expects candidates to follow the
19 spirit as well as the letter of the ethics laws.
20 And we will view violations or the appearance of
21 impropriety as serious and potentially deserving
22 of heavyweight and screening deliberations. On
23 that note, and as you know, the record will
24 remain open until the formal release of the
25 report of qualifications. And you may be called

1 back to testify and asked -- be asked questions
2 if the need arises.

3 A. Yes, sir.

4 Q. And thank you for offering and thank you for
5 your service to those in the Pee Dee and the
6 four or five cities that you are holding court
7 now.

8 A. Well, thank you. Thank you. I -- I -- I
9 appreciate the opportunity. And y'all have a
10 good afternoon.

11 Q. Very good. Thank you.

12 **FITZLEE H. MCEACHIN**

13 CHAIRMAN RANKIN: Good morning.

14 MR. MCEACHIN: Good morning.

15 CHAIRMAN RANKIN: Welcome.

16 MR. MCEACHIN: Thank you.

17 CHAIRMAN RANKIN: We apologize for the delay in your
18 testifying. We have gained -- now we're seven --
19 we -- you are 53 minutes late, if I'm counting
20 correctly. You were supposed to be up at 11:00.
21 So, we're late but we're getting better.

22 MR. MCEACHIN: Hopefully, I -- I can help you with
23 that too.

24 CHAIRMAN RANKIN: My apologizes to you and your --
25 your guests and/or family. You -- and -- FitzLee

1 Howard --

2 MR. MCEACHIN: McEachin.

3 CHAIRMAN RANKIN: -- McEachin.

4 MR. MCEACHIN: Yes, sir.

5 CHAIRMAN RANKIN: Very good. Lindi, you're close by.

6 We've got before you -- let me swear you first.

7 Raise your right hand.

8 MR. MCEACHIN: I do.

9 FITZLEE HOWARD MCEACHIN, having been duly sworn, testifies
10 as follows:

11 CHAIRMAN RANKIN: Thank you. You have before you the
12 personal data questionnaire and sworn statement
13 that you've submitted to the Commission; is that
14 correct?

15 MR. MCEACHIN: That's correct.

16 CHAIRMAN RANKIN: And do you need to amend, modify,
17 update anything within those documents at this
18 time?

19 MR. MCEACHIN: I do not.

20 CHAIRMAN RANKIN: Okay. If you will hand those over
21 to your left. And do you object to our making
22 those apart of the record in addition to your
23 sworn testimony?

24 MR. McEACHIN: I do not.

25 CHAIRMAN RANKIN: And that will be put in the record.

1 And let me go right next to the -- the meat of
2 this. The Judicial Merit Selection Commission
3 has thoroughly investigated your qualifications
4 for the bench. Our inquiry is focused on nine
5 evaluative criteria and has included a ballot box
6 survey, thorough study of your application
7 materials, verification of your compliance with
8 state ethics laws, search of newspaper articles
9 in which your name appears, study of previous
10 screenings, and a check for economic conflicts of
11 interest. And we have received no affidavits
12 filed in opposition to your candidacy or your
13 election. Congratulations for that.

14 (EXHIBIT 6 - JUDICIAL MERIT SELECTION COMMISSION
15 PERSONAL DATA QUESTIONNAIRE OF FITZLEE H. MCEACHIN)
16 (EXHIBIT 7 - JUDICIAL MERIT SELECTION COMMISSION SWORN
17 STATEMENT OF FITZLEE H. MCEACHIN)

18 MR. MCEACHIN: Thank you.

19 CHAIRMAN RANKIN: And no witnesses are present to
20 testify unless these three behind you would like
21 to be sworn and offer testimony in opposition or
22 in support.

23 MR. McEACHIN: If I knew they had that opportunity, I
24 probably would have asked them to stay outside.

25 CHAIRMAN RANKIN: Let -- tell us who -- who these

1 folks are if you will.

2 MR. McEACHIN: Certainly. Seated right almost
3 directly behind me is my wife, Erin McEachin. My
4 mother Amy McEachin, and my father and law
5 partner Malloy McEachin.

6 CHAIRMAN RANKIN: Very good. Greetings. Welcome. Do
7 you have a brief opening statement that you'd
8 like to make at this time?

9 MR. MCEACHIN: Simply that I certainly appreciate the
10 consideration and time that the Committee's going
11 to give here today. As well as I'd say that we
12 certainly appreciate what the Committee does for
13 the citizens of the State of South Carolina.

14 CHAIRMAN RANKIN: Very good. You'll answer questions
15 now of staff counsel and members of the
16 Commission.

17 MR. MCEACHIN: Thank you.

18 EXAMINATION BY MR. COHL:

19 **Q. Mr. McEachin, please state for the record the**
20 **city and circuit in which you reside?**

21 A. Florence, South Carolina, 12th Judicial Circuit.

22 **Q. Thank you. Mr. Chairman, I note for the record**
23 **that based on the testimony contained in the**
24 **candidate -- candidate's PDQ, which has been**
25 **included in the record with the candidate's**

1 consent, FitzLee McEachin meets the statutory
2 requirements for this position regarding age,
3 residence, and years of practice. Mr. McEachin,
4 why do you want to serve as a family court judge
5 and why do you feel that your legal and
6 professional experience qualify and will assist
7 you to be an effective judge?

8 A. Well, the primary reason is at least as far as
9 I'm concerned, the family court in the State of
10 South Carolina on an annual basis probably deals
11 with more individual citizens than any other of
12 our court systems. And specifically with regard
13 to children, it's almost the exclusive court that
14 deals with children. I firmly believe and -- and
15 the main reason that I'm seeking this position is
16 that I will have the ability to help children in
17 ways that only a family court judge can. And
18 ultimately, that may be in a private action
19 whether it be divorce, custody, or adoption. It
20 could be in a DSS action or it could be in a DJJ
21 action. But in any event, the family court
22 judges are really the ones that have some ability
23 to guide these young people who are going through
24 something that really they don't have any control
25 over. So, because of that that's the main

1 reason. I -- I firmly believe that -- that I
2 could help the children of South Carolina. That
3 when they go through a process they really have
4 no -- certainly nothing they requested to come
5 upon themselves.

6 **Q. Thank you. Are there any areas of the law for**
7 **which you would need additional preparation in**
8 **order to serve as a family court judge and how**
9 **would you handle that additional preparation?**

10 A. When I originally filled out my PDQ I did say
11 that I had not participated in any DJJ matters.
12 I have worked for the solicitor's office for
13 right at ten years, the past seven only on a part
14 time basis. But during that time I had not
15 handled any juvenile cases specifically. Since
16 filling out my PDQ, I have had an opportunity to
17 sit with the solicitor and public defender in our
18 circuit on two separate occasions during their
19 DJJ days and have been able to gain some
20 experience there. So, really from a procedural
21 standpoint I learned a lot there. And that would
22 be the primary area where I thought I would need
23 maybe a little bit more knowledge and
24 understanding. And I think I've now received
25 that.

1 **Q. Thank you. Please briefly describe your**
2 **experience in handling complex contested family**
3 **court matters, and specifically, discuss your**
4 **experience with the financial aspects of family**
5 **court work?**

6 A. Well, as far as complexity in family court cases
7 are concerned, you've got the financial complex
8 cases which deal with people who have businesses
9 and large retirement accounts and large marital
10 estates in general. In addition to that, you've
11 got the emotionally complex cases which are going
12 to be your custody cases. And like I said, I
13 think most people who go through the family court
14 system know, anything dealing with children is
15 going to create more complexity than anything
16 else. But to get directly to -- to your -- your
17 question, as far as complex family court cases,
18 I've handled several. Dealt with one case in
19 which we had two individuals that were in the
20 medical profession. They had a marital estate
21 valued at a little over three and a half million
22 dollars. Fortunately, it didn't turn out to be a
23 contested matter. We were able to work together
24 and ultimately reach a resolution for those
25 folks. But we were dealing with -- with a large

1 marital estate. There have also been two other
2 cases I've been involved in recently wherein
3 businesses were at issue. Family businesses were
4 at issue as part of the equitable distribution of
5 the estate. So, with regard to those two cases,
6 we had to determine how to value the businesses
7 and ultimately the appropriate way to divide
8 those as part of any sort of equitable division
9 in a case.

10 **Q. Thank you. Mr. McEachin, the Commission received**
11 **170 ballot box surveys regarding your candidacy.**
12 **With 22 additional comments. The ballot box**
13 **survey, for example, contained the following**
14 **positive comments. "FitzLee is a person of**
15 **integrity and would be an asset to the bench. He**
16 **has the temperament to be a fair, impartial, and**
17 **wise judge." Four of the written comments**
18 **expressed a concern with your experience in the**
19 **family court. What response would you offer to**
20 **this concern?**

21 **A. Well, what I would tell the Committee as far as**
22 **that's concerned is with regard to this**
23 **particular seat, I have been anticipating and**
24 **planning on running for this particular seat for**
25 **a significant amount of time. With that in mind,**

1 I have tailored my practice understanding that
2 that's what I was going to do. As the Committee
3 members have probably seen in my PDQ, over 50
4 percent of my private work is in the domestic
5 relations or family court arena. I also practice
6 in the civil arena as well as criminal law. Both
7 from a prosecutor's standpoint and some defense
8 work in the Federal Court system. I think it's
9 imperative for all judges, not just relegated to
10 the family court, but for all judges to be able
11 to -- be able to kind of cross over lines. If
12 you simply focus on one area of law, especially
13 in family court where you're dealing with
14 juvenile justice issues. So, you've got to have
15 some understanding of the criminal law with
16 regard to juvenile justice issues. My civil
17 practice has helped me with regard to issues of
18 equitable distribution, alimony, things that have
19 come up. And then of course, like I said, the
20 majority of my practice in private law is in the
21 family court sector. So, with regard to all that
22 I -- I have, like I said, tailored my practice in
23 an effort to prepare for -- for this seat that
24 I'm now seeking.

25 **Q. Thank you. Now just a few brief housekeeping**

1 issues. Mr. McEachin, are you aware that as a
2 judicial candidate, you are bound by the Code of
3 Judicial Conduct as found in Rule 501 of the
4 South Carolina Appellate Court Rules?

5 A. Yes.

6 Q. Since submitting your letter of intent, have you
7 contacted any members of the Commission about
8 your candidacy?

9 A. No.

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

14 A. No.

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

19 A. No.

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

23 A. I do.

24 Q. Thank you.

25 MR. COHL: I would note that the Pee Dee Citizen's

1 Committee found Mr. McEachin to be qualified in
2 the evaluative criteria of constitutional
3 qualifications, physical health, mental
4 stability, and experience and well qualified in
5 the evaluative criteria of ethical fitness,
6 professional and academic ability, character,
7 reputation, and judicial temperament. I would
8 just note for the record that any concerns raised
9 during the investigation regarding the candidate
10 were incorporated into the questioning today.
11 Mr. Chairman, I have no further questions.

12 CHAIRMAN RANKIN: Thank you. All right. Members of
13 the Commission? Senator Hayes.

14 EXAMINATION BY MR. HAYES:

15 **Q. Thank you. I appreciate your willingness to**
16 **serve.**

17 A. Yes, sir.

18 **Q. We have things in common. I had the honor of**
19 **serving with your dad in the House of**
20 **Representatives a few years ago. And -- so, I**
21 **think you come from -- certainly from good stock.**
22 **And I -- I have my son practicing law with me**
23 **now. So, I -- I can identify with -- with that**
24 **as well. I notice you had some interesting extra**
25 **curricular things that you've been involved in**

1 over the years. One of them was -- we have this
2 in common too, Dancing with the Stars. You
3 probably couldn't look at me and see that I was
4 in Dancing with the Stars. No. No. No. That
5 would be dangerous to me and everybody else
6 around me if I tried to dance with the stars.
7 But tell me about some of the things that you do
8 outside of law that might affect your ability to
9 be a judge?

10 A. Sure. And -- and the Dancing with the Stars I'll
11 be very brief on that. That was something --
12 that was a fundraiser we did for the school
13 foundation in Florence. It more or less you --
14 you get chosen. You don't necessarily volunteer
15 for that. And I -- and then they pick the song
16 for you as well. So, I -- they picked Smooth
17 Criminal by Michael Jackson for me, which was
18 somewhat trying. But we -- we made it through
19 it. I -- I didn't win unfortunately but I gave
20 it the best effort. With regard to some of the
21 other things I do. I'm -- I'm an assistant scout
22 master with Troop 477 in Florence, South
23 Carolina. I actually got my Eagle Scout from
24 that same troop several years ago. It's probably
25 been more than 20 years ago now that I think

1 about it. So, that's one of the main things I
2 do. I was on the board at the Florence Family
3 YMCA. I cycled off of that about two years ago.
4 And I'm still part of the Pee Dee area Citadel
5 Club. I've been involved with that ever since I
6 graduated from Citadel and -- and got back to
7 Florence after law school. The Boy Scouts
8 probably is -- is the one that would -- would
9 apply most with regard to, I guess, how I would
10 approach judging or -- or being a judge. The
11 values they teach you in Boy Scouts certainly I
12 think should apply to every human being and
13 definitely with respect to -- to a judge. I
14 mean, if you can live by the -- the 12 points of
15 the scout law, then you're going to do just fine.
16 Really, in anything you do in life but certainly
17 in judging.

18 CHAIRMAN RANKIN: Mr. Hitchcock.

19 EXAMINATION BY MR. HITCHCOCK:

20 Q. I just wanted to thank you for your -- your
21 willingness to -- to take on -- to run for a
22 position that I consider to be one of the most
23 important members of the judiciary. It's a -- as
24 you say, it's probably the court where -- I mean,
25 probably with exception maybe Magistrate's Court

1 that touches the lives of -- of the most citizens
2 in our state. And -- and unlike many of the
3 other courts, it touches them in such a personal
4 way. So, I -- I greatly appreciate your
5 willingness to take this on. I just wanted to
6 ask you a couple of questions in regards to --
7 you -- you're still a -- you're still a part-time
8 solicitor?

9 A. I am.

10 Q. Okay. About how much of your -- would you say
11 percentage wise your -- of your time does that
12 take up?

13 A. Okay. So, as far as my assistant solicitor's
14 work is concerned, I -- I do it solely in Marion
15 County and it's two weeks every quarter. So,
16 it's eight weeks out of the year.

17 Q. Okay. All right. And then you would say that
18 between your -- in your private practice that, I
19 think, you indicated that you divide that up
20 between about 40 percent civil and about 55
21 percent domestic?

22 A. That's correct.

23 Q. That's what -- okay. One of the things that I
24 notice in your -- in your PDQ and let me -- let
25 me preface this question with, I think that in --

1 you know, it's my opinion that one of the -- the
2 most important types of cases that -- that family
3 court judges deal with are abuse and neglect
4 cases. And, you know, in those cases, you know,
5 there's a -- not necessarily a competing interest
6 but there's a lot of different things that a
7 judge has to consider. Obviously, the best
8 interest of the child being the paramount
9 concern. There's also issues regarding the --
10 the -- the desire to reunify the family. And
11 you're also, you know, hearing from a lot of
12 different perspectives. The -- you know, the
13 Guardian and the Guardian's attorney, the
14 parties. And I notice that -- that you don't
15 have a great deal of experience in that regard.
16 So, somewhat of a two-part question. How would
17 you attempt to gain more experience in -- in that
18 arena before or -- or those types of cases before
19 you took on the judgeship? And what would be your
20 approach to weighing the different factors in
21 considerations that you have to -- to weigh in
22 those cases, which are probably some of the most
23 crucial that any type of judge at any level
24 faces?

25 A. Sure. With regard to gaining additional

1 experience, our -- our current four judges we
2 have over in the 12th Circuit have been very open
3 to allow me to sit in on any type of cases I want
4 to sit in on. So, that's certainly -- on DSS
5 days which are typically Tuesday mornings in
6 Florence, I have the ability to sit in with them
7 on those days as well as any -- any days that
8 they have them over in Marion County. Which I
9 think they only do maybe once or twice a month.
10 Just depending on the case load. With regard to
11 the factors you have to weigh in making those
12 determinations, a large amount of -- of the
13 evidence that is received in a DSS abuse and
14 neglect case comes from the DSS investigation.
15 So, more or less, it's a way -- it's a
16 credibility issue with regard to the evidence
17 obtained by the DSS investigation with regard to
18 the individuals they bring before the court. And
19 I'm not sure that I'm exactly answering your
20 question as you -- you're asking it but, you
21 know, unfortunately there -- there are some
22 people who abuse the DSS system. There's certain
23 people who have -- who filed multiple claims with
24 DSS and sometimes they become unfounded and
25 sometimes they don't. So ultimately, the

1 credibility of the witnesses and the ultimate
2 outcome of any sort of DSS investigation's going
3 to play a large role. But as -- as you correctly
4 indicated the overarching theme is what's in the
5 best interest of the child? And if upon making a
6 determination that the child has been abused and
7 neglected, well then the remedy associated with
8 that is -- is -- well, there's several remedies
9 associated with it that -- that the court can --
10 can suggest, ultimately trying to get the family
11 reunified. I mean, that's always the plan. You
12 always want to try and get a family back together
13 if at all possible. And that's why you have the
14 safeguards in place such as the safety plan, the
15 treatment plans. If they're able to complete
16 those and successfully complete them then not
17 only have they gained some knowledge and
18 education in what not to do in the future, but
19 they've also made it a better home environment
20 for their children. And I hope that answers your
21 question.

22 CHAIRMAN RANKIN: Senator Young.

23 EXAMINATION BY SENATOR YOUNG:

24 **Q. Mr. Chairman, thank you so much. Mr. McEachin,**
25 **thank you so much for your interest in serving on**

1 the family court Bench. And I have just a couple
2 of questions. One is as to your judicial
3 philosophy and the application of the law to any
4 facts or issues that would be before you on the
5 family court, how would you apply the law?

6 A. Well, I certainly apply it -- if we're talking
7 about a statutory situation, I would certainly
8 apply it however the legislature intended the law
9 to be applied. I'd give the statute it's clear
10 meaning and I'd apply the law in that form or
11 fashion. If we're talking about a case law
12 situation, which either a Court of Appeals
13 opinion is directly on issue or a Supreme Court
14 issue is directly on issue, I'd apply the law as
15 either the Court of Appeals or the Supreme Court
16 said the situation should be handled.

17 Q. Thank you for that answer. Another question I
18 have is, there is a good bit of interest in
19 children who have been abused and neglected and
20 how we can improve the system for them. And if
21 you're elected to the family court what in your
22 prior law practice or your current law practice
23 or your past do you think would make you
24 particularly prepared to address issues that come
25 before you that involve children who've been

1 **abused and neglected?**

2 A. And I -- I can -- what I can point to and I think
3 -- I believe these are two of the cases I listed
4 in my PDQ. There are two cases that I prosecuted
5 specifically over in Marion County. The State
6 versus Jimmy Turner and The State versus Daniel
7 Owens. Both of those cases were sexual assault
8 cases where the victims were all under 11 years
9 of age. Obviously, the -- what happened in the
10 court room and -- and the verdicts, I mean, most
11 everybody knows. You can read about them. And -
12 - and you -- if you were there you understand.
13 But what a lot of people don't understand in
14 those situations is when you have to meet with
15 these six year olds and seven year olds and eight
16 year olds and prepare them for practice. That's
17 when you actually see how traumatizing this --
18 this is to children. And we're fortunate, at
19 least in our circuit, in that we've got the
20 ability to send these children to counseling.
21 Get them the help that they need and get them
22 away from anybody who's -- who's had the -- or
23 has abused and neglected them. So specifically,
24 at least as far as I'm concerned, counseling and
25 therapy seem to be the -- the best mechanism we

1 have in place right now to help these children
2 overcome whatever terrible situation they found
3 themselves in.

4 **Q. Thank you.**

5 CHAIRMAN RANKIN: Senator Sabb.

6 EXAMINATION BY SENATOR SABB:

7 **Q. Thank you, Mr. Chairman. And really I just have**
8 **a comment more so than anything. Obviously, I**
9 **practice law down in the area where the McEachins**
10 **practice. And I will just tell you all that they**
11 **enjoy a stellar reputation amongst members of the**
12 **bar and the community and all of those kind of**
13 **things. And they're the kinds of lawyers that**
14 **make me proud to be a lawyer and be associated**
15 **with them.**

16 CHAIRMAN RANKIN: Good. Representative Murphy?

17 EXAMINATION BY REPRESENTATIVE MURPHY:

18 **Q. Just real quickly. Now, you graduated in '04?**

19 A. That's correct.

20 **Q. Is that your -- was your brother an '07?**

21 A. He was.

22 **Q. Okay. And then that would have been your -- I**
23 **guess, your grandfather?**

24 A. Yeah. My great-grandfather.

25 **Q. Great-grandfather.**

1 A. Great-grandfather.

2 Q. Thank you. I was in November Company.

3 A. Right.

4 Q. Little -- little bit before your time.

5 A. Yeah.

6 Q. Thank you.

7 CHAIRMAN RANKIN: Any other questions?

8 EXAMINATION BY CHAIRMAN RANKIN:

9 Q. A couple of questions on my end. And as Senator
10 Sabb just alluded to and you heard from the
11 questions earlier the ballot box replies offer a
12 stellar endorsement of your fitness to serve on
13 multiple key points that this Commission is
14 looking at. Where did the name FitzLee come
15 from?

16 A. I was actually named after my great-great
17 grandfather FitzLee Howard. So, as far as I know
18 -- there was a FitzLee Coker who was a -- a
19 distant cousin who's a good bit older than me.
20 But other than that, I think we may be the only
21 FitzLees still around.

22 Q. You're the first I've met, so great meeting you.
23 And I want to commend you for marriage and
24 fatherhood. Y'all are new parents it looks like
25 of a six month old; is that correct?

1 A. He's actually 11 now -- 11 months old.

2 Q. Well, again I'm looking as this the --

3 A. Sure.

4 Q. -- present time. But seemed like forever ago.

5 A. He's a lot of fun.

6 Q. Three numbers. If you haven't heard them, hear
7 them and what is it they do in the Bible --
8 ponder them in your heart. Five, twenty, nine.
9 Have you ever heard of that?

10 A. I have not.

11 Q. Well, we'll talk after the record is closed but
12 that's where you need to be focusing for your --
13 your 11 month old and college expenses.

14 A. Oh, absolutely. Absolutely.

15 CHAIRMAN RANKIN: Your father-in-law, ma'am, has heard
16 of that and grandparents can give too. Do you
17 know?

18 Q. I -- I want to commend you for running as well.
19 Your father, we -- we're familiar with. You --
20 he served in the House from when until when?

21 MR. MCEACHIN: From 1979 to '90?

22 MR. MALLOY MCEACHIN: That's right.

23 A. From '79 to '90.

24 Q. Well, and it's a -- I commend you for your
25 willingness to step out in public service.

1 That's what this is in a particular vein of -- of
2 -- as Mr. Hitchcock said, it's crucially, vitally
3 important. So, thank you. Any other questions?
4 If not, this will close this portion of the
5 record. And I want to just again thank you for
6 offering. And then take the opportunity to
7 remind you that pursuant to the Commission's
8 evaluative criteria, the Commission expects you
9 and candidates to follow the spirit as well as
10 the letter of the ethics laws. And that we will
11 view violations or the appearances of impropriety
12 as serious and potentially deserving of heavy
13 weight screening deliberations. On that note,
14 and as you know, the record will remain open
15 until the formal release of the report of
16 qualifications. And you may be called back at
17 such time if the need arises. Again, thank you
18 for offering. Thank you for being here. Thank
19 you for bringing your family. And what are those
20 three numbers?

21 A. Five, twenty, nine.

22 Q. There you go.

23 A. Thank y'all very much. I appreciate it.

24 STUART W. SNOW, JR.

25 CHAIRMAN RANKIN: Your -- your arrival time was

1 supposed to be this morning. My apologizes for
2 moving 18 minutes into the afternoon. We have
3 been held up and apologize.

4 MR. SNOW: Quite all right. And if y'all need to
5 start eating your lunch while you're questioning
6 me, that's fine too.

7 CHAIRMAN RANKIN: Thank you. Thank you. And let me
8 ask you if you will to raise your right hand.

9 STUART W. SNOW, JR., having been duly sworn, testifies as
10 follows:

11 CHAIRMAN RANKIN: Thank you. Before you, I assume,
12 are the personal data questionnaire and sworn
13 statement that you have submitted; is that
14 correct?

15 MR. SNOW: Yes.

16 CHAIRMAN RANKIN: And do those need to be amended,
17 updated, or edited in anyway?

18 MR. SNOW: No.

19 CHAIRMAN RANKIN: Okay. And do you object to our
20 making those documents a part of the record in
21 addition to your sworn testimony?

22 MR. SNOW: No objection.

23 CHAIRMAN RANKIN: If you'll hand those to your left to
24 Lindi. Those will be made a part of this record.
25 Mr. Snow, the Judicial Merit Selection Commission

1 has thoroughly investigated your qualifications
2 for the bench. Our inquiry is focused on nine
3 evaluative criteria and has included a ballot box
4 survey, thorough study of your application
5 materials, verification of your compliance with
6 state ethics laws, search of newspaper articles
7 in which your name appears, study of previous
8 screenings, and check a for economic conflicts of
9 interest. We've received no affidavits in
10 opposition to your election and there are no
11 witnesses present to testify. Invite you at this
12 -- at this time if you'd like to make an opening
13 statement before the questions.

14 (EXHIBIT 8 - JUDICIAL MERIT SELECTION COMMISSION
15 PERSONAL DATA QUESTIONNAIRE OF STUART W. SNOW, JR.)
16 (EXHIBIT 9 - JUDICIAL MERIT SELECTION COMMISSION SWORN
17 STATEMENT OF STUART W. SNOW, JR.)
18 (EXHIBIT 10 - AMENDMENT TO THE PERSONAL DATA
19 QUESTIONNAIRE OF STUART W. SNOW, JR.)

20 MR. SNOW: I just want to thank y'all for the
21 opportunity to be considered to serve the State
22 of South Carolina.

23 CHAIRMAN RANKIN: All right, sir. If you'll answer
24 questions now of -- of counsel and other members
25 of the Commission I'd appreciate it.

1 MR. SNOW: Certainly.

2 EXAMINATION BY MR. FIFFICK:

3 Q. Mr. Snow, please state for the record the city
4 and circuit in which you reside?

5 A. Florence, South Carolina, which is the 12th
6 Circuit.

7 Q. Mr. Chairman, I note for the record that based on
8 the testimony contained in the candidate's PDQ,
9 which has been included in the record with the
10 candidate's consent, Mr. Snow meets the statutory
11 requirements for this position regarding age,
12 residence, and years of practice. Mr. Snow, and
13 I found this novel answer in our -- our screening
14 interview, why do you now want to serve as a
15 family court judge?

16 A. I guess the first thing to know is that I am not
17 doing this out of any dissatisfaction with what
18 I'm doing right now. The impetus for deciding to
19 run for judge was quite frankly for a number of
20 years other attorneys have -- have suggested why
21 don't you run for judge. And so, it told me
22 amongst the community that I deal with that they
23 thought I would be a good judge. And that meant
24 a lot to me. As far as personally, I was a
25 little reluctant at first to consider doing it

1 because I was concerned about in family court,
2 you know, you're making some big decisions.
3 You're involving a lot of money involved in
4 divorces and you're dealing more importantly with
5 children. And -- and determining contact with
6 children. Determining adoptions, things like
7 that. And I didn't know if that was something
8 that -- dealing with that day in and day out,
9 whether that would be difficult to do. But over
10 the past 15 years, I have done -- I became a --
11 a certified family court mediator and I do a lot
12 of family court mediations. And I realized that
13 I got a tremendous amount of satisfaction in
14 helping people that are at a real tough part in
15 their life to come to a -- a satisfactory
16 resolution. A fair resolution. And so, that
17 concern that I had about as -- as far as serving
18 as a judge no longer concerned me. In fact, it
19 was just the opposite that I finally realized
20 that that is something that would give me a lot
21 of satisfaction. And frankly I think that --
22 that I've got the qualifications and -- and
23 experience to be an effective family court judge.

24 **Q. Thank you, sir. And -- and if you could please**
25 **expand on that and why do you believe that your**

1 **legal and professional experience qualify you and**
2 **will assist you to be a family court judge?**

3 A. Well, I've been a lawyer for a long time, as you
4 can see. I graduated from the University of
5 Virginia in 1979 and then '82 from a law school
6 there. And then practiced in Atlanta for a
7 couple of years with a medium sized firm that
8 specialized in family court matters. And then I
9 came to Florence and joined my father-in-law in
10 his practice. And over the years, more and more
11 of my practice even though it was a general
12 practice became involved in the family court
13 matters. As I said, I've been a certified family
14 court mediator for 15 years now. I probably
15 average 100 to 150 mediations that I do per year.
16 For the -- the past 15 or 16 years, I've
17 represented the volunteer guardians and DSS abuse
18 and neglect cases. So, I have a lot of
19 experience in that area, which seems to be ever
20 expanding. Also, I was, until the end of last
21 year, I served two terms as a bar examiner in the
22 area of family law. So, that required me to kind
23 of stay on top of the law in the family court
24 area. And of course, in addition to handling a
25 lot of private cases in all of the areas,

1 divorce, adoption, and things like that over the
2 years.

3 **Q. Thank you, sir. That being said, are there any**
4 **areas of family law that you believe you need to**
5 **prepare for additionally before you were to**
6 **become a family court judge?**

7 A. Certainly juvenile matters. I do not have much
8 experience whatsoever with regard to juvenile
9 matters. But other than that, I believe that
10 I've had experience in -- in virtually all of the
11 other areas.

12 **Q. Thank you, sir. And could you briefly describe**
13 **your experience in handling complex contested**
14 **family court matters? Specifically, discuss your**
15 **experience with the financial aspects of family**
16 **court work.**

17 A. Well, in private cases I've been involved in a
18 number of cases that involve millions of dollars
19 in assets dealing with equitable division. Also,
20 in -- in the mediations that I do most of those
21 cases involve not just child custody issues,
22 alimony issues, equitable division issues,
23 attorney's fee issues, child support. All of
24 those things are involved in those cases. And
25 obviously I have to have a pretty thorough

1 knowledge of the law in those areas to try to
2 assist the parties in reaching an agreement in
3 those areas. So, you know, I hope that explains
4 that sufficiently.

5 Q. Thank you, sir. Mr. Snow, the Commission
6 received 98 ballot box surveys regarding you.
7 With 17 additional comments none of which were
8 negative. The ballot box survey, for example,
9 contained the following positive comments. "Mr.
10 Snow is balanced and cheerful and is a powerhouse
11 of knowledge." Comments indicated that even with
12 the most hostile parties, Stuart can usually
13 settle a case in half a day. He is humble and
14 extremely -- an extremely effective attorney
15 mediator. He -- he is a scholar of incomparable
16 magnitude and has been the most highly sought-
17 after family court mediator in the Pee Dee region
18 for decades." Ms. Snow, could you please explain
19 a lawsuit that was filed against you in 1992 by a
20 Plaintiff John Gaines? Could you please give us
21 the nature and disposition of this lawsuit?

22 A. Okay. First, I want to say thanks mom for those
23 comments. We -- Mr. Gaines had approached me and
24 -- and Mr. Dusenbury, my father-in-law that I
25 practiced with shortly before he was to have a

1 federal discrimination, wrongful termination
2 trial in Federal Court in Florence, to -- to help
3 him with the trial of the case. And Mr.
4 Dusenbury agreed to do so. So, we helped him
5 with the trial of the case and we got a verdict.
6 And after we got the verdict, of course, the
7 defense appealed. And in doing my research in
8 the 4th Circuit at that time it was -- there were
9 a lot of reversals of Plaintiff's verdicts in w
10 wrongful termination cases. And -- and so, I was
11 concerned whether it would hold up on appeal.
12 Evidently, and as I discovered after the fact,
13 Mr. Gaines had borrowed some money from people
14 based upon his expected contingency fee out of
15 that verdict. When I discovered that that was
16 occurring I advised him, you know, this could be
17 reversed. You shouldn't be doing that. You
18 know, and in fact I -- I seem to recall a couple
19 of people calling me that were considering
20 loaning money and -- and saying, look this is on
21 appeal. And you understand things can be
22 reversed on appeal. Everybody needs to
23 understand this. Lo and behold, the 4th Circuit
24 reversed the case. We ended up settling it after
25 it was reversed but at that time, you know,

1 obviously it wasn't for the full amount of the
2 verdict. And I told Mr. Gaines that I -- because
3 I had knowledge of the loans and claimed liens
4 that a declaratory judgement would need to be
5 brought before I could disburse anything to him,
6 naming his creditors as co-defendants as well as
7 us. Which is what was done. And we went to a
8 hearing and the judge determined, you know, what
9 -- who got what out of his share. And then the
10 remaining balance of his portion of the
11 attorney's fees went to him. So, it was merely a
12 vehicle to resolve competing claims arising from
13 that verdict.

14 **Q. Thank you, sir. Mr. Snow, given your extensive**
15 **experience as a mediator, how do you see the role**
16 **of mediation in family court evolving in the**
17 **coming years?**

18 A. It's probably one of the best developments that -
19 - that we've had in the area of family court in
20 South Carolina. You know, the gradual expansion
21 to where it's now in every county and it's
22 mandatory it allows a lot of cases to be
23 resolved. And, you know, litigation is an
24 imperfect solution. Unfortunately, litigation is
25 expensive. And we have to pay not only for

1 attorney's fees but when there are child custody
2 issues involved you -- you get a guardian
3 involved. And that is usually another attorney
4 that the parties are going to have to pay for.
5 And that's already difficult because a lot of
6 times in these situations of separation and
7 divorce, finances are often difficult at that
8 time anyway. Also, litigation can be acrimonious
9 because it's an adversarial proceeding. So,
10 regardless of what the judge rules, these people
11 are going to have to deal with one another if
12 they have children together five minutes after
13 they walk out of the courtroom. And going
14 through the full blown cross-examination and all
15 of the aspersions that are cast in trial that
16 could -- it can make that more difficult too.
17 And it also avoids the uncertainty of trial. But
18 we're always going to have to have trial because
19 you aren't always going to be able to get the
20 parties to agree to resolve the issues. And we
21 need to be there to -- to make those decisions
22 when the parties can't make the decisions
23 themselves. But I am a firm believer in -- in
24 having cases be required to go to mediation prior
25 to having a final hearing in front of a judge.

1 And a lot of times with child custody issues the
2 judges are requiring the kind of bifurcating
3 mediation in saying we want one mediation fairly
4 early on because if the parties can resolve the
5 child custody issues, you can avoid the expense
6 of a guardian. And then later on, if the
7 attorneys themselves haven't been able to resolve
8 all of the financial issues then we'll get
9 together and attempt to resolve those issues.
10 And you know, again I don't have an exact count
11 but I would guesstimate probably 80 to -- 80
12 percent or higher of the cases that I've been
13 involved in, they've been able to -- to reach a
14 mediated settlement and avoiding all of those
15 negatives.

16 **Q. Thank you, sir. I have some housekeeping issues.**
17 **Mr. Snow, are you aware that as a judicial**
18 **candidate, you are bound by the Code of Judicial**
19 **Conduct as found in Rule 501 of the South**
20 **Carolina Appellate Court Rules?**

21 A. Yes.

22 **Q. Mr. Snow, since submitting your letter of intent,**
23 **have you contacted any members of the Commission**
24 **about your candidacy?**

25 A. No.

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

5 A. No.

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

10 A. No.

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

14 A. Yes.

15 MR. FIFFICK: I would note that the Pee Dee Citizen's
16 Committee found Mr. Snow to be well-qualified in
17 the evaluative criteria of ethical fitness,
18 professional and academic ability, character,
19 reputation, experience, and judicial temperament.
20 And qualified in the remaining evaluative
21 criteria of constitutional qualifications,
22 physical health, and mental stability. I would
23 just note for the record that any concerns raised
24 during the investigation regarding the candidate
25 were incorporated in the questioning of the

1 candidate today. Mr. -- Mr. Chairman, I have no
2 further questions.

3 CHAIRMAN RANKIN: Thank you. Questions of the
4 Commission? Senator Young.

5 EXAMINATION BY SENATOR YOUNG:

6 Q. Thank you, Mr. Chairman. Mr. Snow, I'm impressed
7 with your PDQ and your presentation. I have a
8 couple of questions.

9 A. Yes, sir.

10 Q. One of which is as to the application of the law,
11 if you are elected to the family court and you
12 are on the bench, how would you apply the law to
13 the facts and/or the issues that would be before
14 you on the family court bench?

15 A. Well, all obviously the law as the legislature
16 has -- has passed, I have to follow that 100
17 percent. My personal beliefs on whether a law is
18 right or wrong or good or bad, that's not
19 involved in -- in my decision. The -- in family
20 court, the -- the judge serves as both judge and
21 jury. You -- you -- judge has to find the facts
22 but then apply the law to -- to the facts. The
23 law as-given to us by the legislature and the
24 Appellate Courts.

25 Q. Did you -- did you grow up -- grow up in Florence

1 **or somewhere over toward Augusta?**

2 A. I was born -- very quickly, I was born in
3 Augusta. My dad worked for DuPont and went to
4 Michigan and Virginia and that's where I met my
5 wife. She's from Florence. She brought me back
6 to Florence. And that's the -- she's the former
7 Susan Dusenbury. She -- my former partner's
8 daughter.

9 **Q. Another question I have is, there is a lot of**
10 **interest with certain members of the General**
11 **Assembly as to children who've been abused and**
12 **neglected and how to improve the -- the system as**
13 **it exists to address concerns related to children**
14 **who are in that situation. And one of the**
15 **questions I have is, if you are elected to the**
16 **family court bench, what do you think in your**
17 **prior -- in your background or in your law**
18 **practice would make you particularly prepared to**
19 **deal with issues that come before you that**
20 **involve children who've been abused and**
21 **neglected?**

22 A. Again, for the past 15 years I've been
23 representing the volunteer guardians in Florence
24 and Marion County in the DSS abuse and neglect
25 cases. It is one aspect of the cases that I run

1 into, personally, that I think makes it difficult
2 is, you know, you -- you have the judge who only
3 knows what is brought before him in the
4 courtroom. You have DSS who is representing the
5 State as far as -- and that's kind of a -- you
6 know, it all -- it involves to some aspect a
7 prosecutorial role against the parent who has
8 abused or neglected the -- the kids. You have
9 the defense lawyers representing the -- the
10 parents or other care takers who have been
11 alleged to have abused or neglected their
12 children. And then we have the volunteer
13 guardians. And I know from time to time because
14 they are volunteers sometimes we have difficulty
15 getting sufficient numbers of volunteer
16 guardians. And a lot of these guardians -- you
17 know, these aren't just retired people. These
18 are people that have day jobs. And if we go to
19 court and you've got 10 cases lined up and that
20 guardian -- and a lot of times all of the 10
21 cases are set at the same time, 9:30 in the
22 morning or 10:00 in the morning usually, 9:30,
23 the volunteer guardian has to take all of that
24 time off of work. And they're -- and they are
25 volunteers. They're not compensated for their

1 time. They don't even get mileage when they have
2 to go -- you know, they have to at least visit
3 the child at least once a month. And -- and
4 visit the parents to see whether they are
5 remedying the conditions that led to the removal
6 of their child. So, that is one aspect that --
7 to -- to try to -- and I don't know if that's
8 something that -- you know, how to -- to get that
9 done. But we -- we've got to keep the numbers up
10 for the volunteer guardians. Because they're the
11 eyes and ears for the judge -- the impartial eyes
12 and ears for the judge outside of the courtroom.
13 There's a lot of times where just the delays that
14 are caused -- the statutory time table is very
15 strict because you're dealing with children. You
16 know, the -- either a police officer or the judge
17 takes emergency protective custody. Then you
18 have a probable cause hearing within 72 hours.
19 Then a merits hearing's supposed to be 65 days
20 after that. But quite often, someone was -- you
21 know, just learned that they were appointed an
22 attorney three days before the -- the merits
23 hearing and so it has to be continued. And there
24 are just too many merits hearings that are six
25 months down the road. Or judicial review

1 hearings that are postponed for -- for various
2 reasons. And again, when you're dealing with
3 kids we need to stay on top of things. And --
4 and the whole idea of the system is to remedy
5 whatever condition led to the removal so that the
6 parents can get the child back. You don't want
7 them languishing in foster care. But by the same
8 token if -- if the parents aren't getting their
9 act together, you need to find a different
10 permanent plan for the child. But all of those
11 things need to be done quickly. I hope that
12 answers your question.

13 **Q. It does and it looks like you've had a very --**
14 **pretty broad practice in your years of practicing**
15 **law in Florence?**

16 A. Yes.

17 **Q. Handling a lot of -- I mean, primarily family**
18 **court matters but a very wide variety of cases.**
19 **Is that --**

20 A. Social security disability, workers' comp,
21 personal injury. I don't do much criminal law.
22 Haven't done that in -- in years. I've tried to
23 avoid real estate like the plague. But other
24 than that it's pretty much anything else. And
25 that's what I enjoy about practicing in Florence.

1 You know, in a small town you can still have a
2 pretty broad practice. And unlike in a big city
3 where you're almost forced to specialize.

4 **Q. Thank you.**

5 A. Thank you.

6 CHAIRMAN RANKIN: All right. Any further questions?

7 EXAMINATION BY CHAIRMAN RANKIN:

8 **Q. Mr. Snow, I've -- I want to echo on questions --**
9 **comments about your bench bar results in terms of**
10 **the responses that you've gotten. And it is --**
11 **it is a perhaps rare sight to see nary not one**
12 **negative complaint on any of the particular**
13 **questions that we all get to participate in. So,**
14 **sometimes I hear why did you run for public**
15 **office? Well, folks said that I should. My --**
16 **my father said, don't say that Luke. You really**
17 **want to do it don't you? And others are saying**
18 **yeah, that's a good idea. In your case, not that**
19 **I discounted what you said earlier, but for a**
20 **fact you are not only a lawyer's lawyer but if**
21 **you're successful it appears that you would be**
22 **held as a judge's judge. So --**

23 A. Thank you.

24 **Q. -- no -- no fly on you in that category. Quick**
25 **kind of personal question. Dusenbury, your --**

1 **your wife's family. Are they Florence or they --**

2 A. Yeah. But he dad was Richard "Dick" Dusenbury.
3 He was the solicitor for the 12th Circuit back in
4 the '60s and, I guess, early '70s back when the
5 12th Circuit included Horry County at that time.
6 That's how far back that was.

7 Q. Well, that's a good name. Dusenbury is a
8 particularly a good name. And back to the other
9 point which I've kind of messed up my flow here.
10 But your letters of endorsement come from folks
11 who I would be -- would consider lawyer's
12 lawyers. Carl Folkins, particularly --

13 A. I do as well.

14 Q. -- mediated many a case and enjoys a wide
15 reputation -- widely-known reputation as the go-
16 to mediator. So, if you're able to settle
17 complex cases in half a day as one wrote about
18 you, perhaps you need to be advertising that so
19 that Carl Folkins won't have all the mediations
20 until this election goes forward.

21 A. Well, actually Carl was the one that suggested
22 that I become a mediator years ago.

23 Q. Well he is dynamite.

24 A. He is.

25 Q. Anyway, Kevin Barth as well. Rene Josey. So on

1 and on. Unless there are other questions, I want
2 to again thank you for participating --

3 A. Thank you.

4 Q. -- thus far. This concludes this portion of our
5 screening process. Again, take -- take this
6 opportunity to just remind you that pursuant to
7 the Commission's evaluative criteria, the
8 Commission expects candidates to follow the
9 spirit as well as the letter of the ethics laws.
10 We will view violations or the appearances of
11 impropriety as serious and potentially deserving
12 of heavyweight and screening deliberations. On
13 that note, and as you know, the record will
14 remain open until the formal release of the
15 report of qualifications. And you may be called
16 back if the need arises. Again, thank you for
17 participating. Thank you for your willingness to
18 -- to step out and step up into serving the folks
19 of South Carolina.

20 A. Thank y'all for doing what y'all do and going
21 through probably more than 100 of us candidates.
22 I know it's a tough task for y'all to do.

23 Q. And again, our apologizes for the delay, so.

24 A. That's quite all right.

25 Q. Peace. Thank you.

1 A. Thank you.

2 THE HONORABLE ELIZABETH B. YORK

3 CHAIRMAN RANKIN: It's 12:00 o'clock where you are.

4 JUDGE YORK: Good afternoon.

5 CHAIRMAN RANKIN: Turn around and look at that clock.

6 We're late. We've been later though. We started
7 out an hour late. And my apologizes for being 44

8 minutes late in starting your hearing. And

9 Judge, you are Elizabeth Biggerstaff York; is

10 that correct?

11 JUDGE YORK: Yes, sir. I have a lot of letters.

12 CHAIRMAN RANKIN: And you -- you've got before you a

13 personal data questionnaire and sworn statement;

14 is that correct?

15 JUDGE YORK: That's correct.

16 CHAIRMAN RANKIN: Okay. Let's go on the record and

17 ask you to raise your right hand and swear an

18 oath.

19 THE HONORABLE ELIZABETH BIGGERSTAFF YORK, having been duly

20 sworn, testifies as follows:

21 CHAIRMAN RANKIN: All right. Are those documents that

22 you've submitted -- are they correct?

23 JUDGE YORK: They are.

24 CHAIRMAN RANKIN: Do they need to amended, edited in

25 any way?

1 JUDGE YORK: They do not.

2 CHAIRMAN RANKIN: Okay. Any objection to those going
3 into the record in addition to your sworn
4 testimony?

5 JUDGE YORK: I do not.

6 CHAIRMAN RANKIN: Okay. If you'll hand those to the
7 young lady to your left. And we will put those
8 in the record. The Judicial Merit Selection
9 Commission has thoroughly investigated your
10 qualifications for the bench. Our inquiry is
11 focused on nine evaluative criteria and has
12 included a ballot box survey, thorough study of
13 your application materials, verification of your
14 compliance with state ethics laws, search of
15 newspaper articles in which your name appears,
16 study of previous screenings, and a check for
17 economic conflicts of interest. We received no
18 affidavits filed in opposition to your candidacy
19 and no witnesses are present to testify. And at
20 this time, if you like, given our late hour and
21 delay of you by 44 minutes, you have the
22 opportunity to make an opening statement if you'd
23 like.

24 (EXHIBIT 11 - JUDICIAL MERIT SELECTION COMMISSION
25 PERSONAL DATA QUESTIONNAIRE OF THE HONORABLE ELIZABETH

1 B. YORK)

2 (EXHIBIT 12 - JUDICIAL MERIT SELECTION COMMISSION
3 SWORN STATEMENT OF THE HONORABLE ELIZABETH B. YORK)

4 JUDGE YORK: I'll waive that. That's fine.

5 CHAIRMAN RANKIN: Okay. No harm no foul.

6 JUDGE YORK: I saw your lunch.

7 CHAIRMAN RANKIN: Please answer questions of Erin who
8 will lead this and then questions of the members
9 of the Commission.

10 JUDGE YORK: Okay. Thank you.

11 EXAMINATION BY MS. CRAWFORD:

12 Q. Hi Judge.

13 A. Hi.

14 Q. Judge York, will you please state for the record
15 the city and circuit in which you reside?

16 A. I reside in Florence, South Carolina. That is in
17 the 12th Judicial Circuit.

18 Q. Mr. Chairman, I note for the record that based on
19 the testimony contained in the candidate's PDQ,
20 which has been included in the record with the
21 candidate's consent, Judge York meets the
22 statutory requirements for this position
23 regarding age, residence, and years of practice.
24 Judge York, I know you've applied before. Why do
25 you want to continue to want to serve as a family

1 **court judge?**

2 A. Well, after the first time I did have some
3 questions. I grew up in a family that was in
4 public service. My mother was a teacher. My dad
5 worked for the local recreation department. I
6 feel like I have a lot to offer to the family
7 court bench. I've primarily practiced in the
8 family court for 23 years. I'm not going to tell
9 any of you that I don't learn something new all
10 the time. But I have done a lot of different
11 things in the family court and I think I have the
12 experience that will be good for the bench.

13 **Q. Can you tell the Commission about your varied**
14 **experience and how all -- all of this including**
15 **your position as a part time judge would aide you**
16 **in being a better judge?**

17 A. Sure. I graduated from law school. I clerked
18 for Don Rushing, who I'm now dating myself.
19 Although you have my date of birth. I grew up in
20 Lancaster. He was from Lancaster. He was a
21 tough circuit judge. It was a wonderful
22 experience. And we went to Charleston where --
23 which he thought was very stressful. And that
24 was a really good experience for me. I left that
25 job and went to work in the 4th Circuit as an

1 assistant solicitor. I then practiced with Doug
2 Jennings in the Pee Dee. That really gave me my
3 taste of the Pee Dee. Practice with him for nine
4 years. Got married to a boy from Florence.
5 Practiced in Florence for two. Had a high risk
6 pregnancy. Decide- -- he traveled a lot. Looked
7 at available state jobs. At that time, the
8 Department of Social Services had a opening for a
9 managing attorney for four counties. And that
10 was in Darlington. And that's when I took that
11 position. Which I kept that position for almost
12 10 years. I left that position to open my
13 private practice where at -- the focus is all on
14 family court. I was offered the part-time
15 judgeship in Hartsville. Which growing up in
16 Lancaster was quite ironic because they are --
17 were football rivals. Hartsville's dominating
18 that rivalry. But -- and that has been a
19 wonderful experience. It's easy -- you know, I
20 think a judge is -- can sometimes look at
21 attorneys and think they should be doing certain
22 -- you know, they should be doing certain things.
23 But it's -- it's easy to sit as an attorney and
24 think judges should be doing certain things.
25 Doing -- serving as the part-time municipal judge

1 has been a wonderful experience.

2 **Q. Are there any areas of the law for which you**
3 **would need additional preparation in order to**
4 **prepare to be a family court judge?**

5 A. I have practiced in every area of the family
6 court. If I had to pick one that I was weakest
7 in, it would probably be the Department of
8 Juvenile Justice cases. And my service as a
9 municipal judge is getting me back into that --
10 more in to that criminal area to give me that
11 experience. But I have served as a Guardian ad
12 Litem for -- in the DJJ cases. I've represented
13 Defendants in the DJJ cases. I'm just telling
14 you out of all the areas, that would probably be
15 my weakest. But I -- I certainly think I would
16 be prepared in that area.

17 **Q. Have you handled complex contested family court**
18 **matters, including financial aspects?**

19 A. I have. I have. I have two pending ones now.
20 One involves seven car dealerships statewide in
21 the State of South Carolina. One involves a
22 purchase of a pathology lab. I -- I have handled
23 complex financial issues in the family court.
24 And have it -- have used -- utilized accountants
25 and that sort of thing in the family court.

1 Q. Okay. Judge, the Commission received 148 ballot
2 box surveys regarding you, with 16 additional
3 comments. The ballot box survey, for example,
4 contained the following positive comments.
5 "Extremely well qualified. Has a wide array of
6 experience in all of the fields of law that
7 family court judges are involved in. Currently
8 serves as a municipal court judge where is
9 revered in her ability to treat all parties
10 fairly and to aid pro se litigants in navigating
11 the judicial system." Another positive said,
12 "high intellect, diligent worker, should have
13 proper temperament for the bench, compassionate".
14 Only one of the written comments expressed
15 concern and they noted that you had only recently
16 moved to the 12th Circuit and your practice is
17 primarily in the 4th Circuit. How would -- well,
18 can you address that?

19 A. I certainly can address that. And -- and I -- I
20 -- one thing, I'm not sure about the concern
21 about that. But I will tell you, with regards to
22 the Department of Social Services cases if I had
23 -- if I had done that in Florence County, I would
24 be conflicted out of all of their cases, at least
25 initially. And that would be an issue with

1 regards to scheduling in the 12th Circuit. So,
2 if that was an issue that would -- that would
3 resolve that issue. But I also -- if the
4 question is involvement in Florence County, I'm
5 very involved in the Florence Community and
6 always have been. I've owned property there
7 since 1998. I have lived in my current home
8 since 2010. My children have been at the same
9 school in Florence for eight years. They're
10 young. But very involved in their school. I've
11 always been involved in the Florence Tennis
12 Association. I still captain teams there. I was
13 on the board that decided that we wanted to
14 petition the City for funds for the Florence
15 Tennis Center which now hosts a professional
16 tournament and the state mixed doubles
17 tournament. I'm active in Central United
18 Methodist Church in Florence County. I'm a
19 greeter. I serve on two committees, including
20 the Finance Committee. No, I didn't go to high
21 school in Florence. I'm not old Florence. But
22 I'm very vested in the Pee Dee and vested in
23 Florence.

24 **Q. Thank you, Judge. Just a few housekeeping**
25 **issues. Are you aware that as a judicial**

1 candidate, you are bound by the Code of Judicial
2 Conduct in Rule 501 of the South Carolina
3 Appellate Court Rules?

4 A. I am.

5 Q. Since submitting your letter of intent, have you
6 contacted any members of the Commission about
7 your candidacy?

8 A. No.

9 Q. And since submitting your letter of intent, have
10 you sought or received the pledge of any
11 legislator either prior to this date or pending
12 the outcome of this screening?

13 A. No.

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

18 A. I am not.

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

22 A. I am.

23 MS. CRAWFORD: Mr. Chairman, I would note for the
24 record that the Pee Dee Citizen's Committee found
25 Judge York to be well-qualified in the evaluative

1 criteria of ethical fitness, professional and
2 academic ability, character, reputation,
3 experience, and judicial temperament. And
4 qualified in the remaining evaluative criteria of
5 constitutional qualifications, physical health,
6 and mental stability. I would note for the
7 record that any concerns raised during the
8 investigation regarding Judge York were
9 incorporated into the questioning of her today.
10 And I have no further questions.

11 CHAIRMAN RANKIN: All right. Thank you. Senator
12 Young.

13 EXAMINATION BY SENATOR YOUNG:

14 Q. Thank you, Mr. Chairman. Ms. York, it's good to
15 see you again.

16 A. Good to see you.

17 Q. Haven't seen you in a long time. I appreciate
18 your interest in serving on the family court
19 bench. And I just have a couple of questions.
20 One is as to the application of the law and your
21 judicial philosophy. How would you apply the law
22 to any facts or issues that would be before you
23 on the family court bench?

24 A. I certainly -- I -- I don't believe in judicial
25 activism. I -- I certainly would take law as it

1 is written as well as I could and apply it to the
2 situation at hand. Now certainly, I'd -- I'd not
3 only serve as a municipal judge but I serve, you
4 know, as an attorney representing Plaintiffs and
5 Defendants. And I also serve as a Guardian ad
6 Litem. We all know that sometimes a Plaintiff
7 and Defendant may read the law in a different
8 way. I certainly, in the proper situation, would
9 have the attorneys submit briefs and review -- or
10 -- or listen to their arguments.

11 **Q. Another question I have is -- is -- relates to**
12 **the issues involving children who have been**
13 **abused and neglected. We have several people in**
14 **the General Assembly who are very interested in**
15 **those issues and how we can improve the system**
16 **with children that are in that situation. What,**
17 **in your past or in your prior -- in your current**
18 **practice, your past practice, or in your personal**
19 **life, do you believe would make you particularly**
20 **prepared to address and work on issues from the**
21 **bench and be prepared for the issues that come**
22 **before on the bench that involve children who've**
23 **been abused and neglected?**

24 **A. In 1996 I was asked by Chesterfield County**
25 **Department of Social Services if I would be their**

1 contract attorney. In 1996 I took that job as a
2 young lawyer. And in 1998 the General Assembly
3 as well as the Federal Government changed the
4 majority of the laws that dealt with abused
5 children. And that's when a lot of the federal
6 funding issues occurred. Since that time, I have
7 continued to work for the Department of Social
8 Services and right now have a statewide contract
9 for them going to different counties. A lot of
10 times handling termination of parental rights
11 actions or other actions. I've had to manage
12 dockets. At one time I had the highest case load
13 in the State of South Carolina. I know how to
14 look at the numbers. I also had a very high
15 rating as far as making sure that the orders and
16 the federal funding complied. So -- so, I have a
17 lot of experience. I will tell you that all
18 sounds well and good but I will also tell you
19 that there are cases that I have handled as an
20 attorney for the Department of Social Services
21 that will always stick out in my mind. As that
22 young lawyer that took that contract in a small
23 county that thought it was a -- a way to bring
24 money in to my law firm, not long after taking
25 that job and this one -- one of these cases is

1 one of the cases I listed. A foster parent beat
2 a child -- a foster child to death in my county.
3 And if you think that doesn't wake you up to the
4 practice of law, it does. And it -- I will never
5 ever forget questioning that pathologist on the
6 stand. And in that case, I not only represented
7 the Department of Social Services, I -- I sat
8 with the Department of Social Services as they
9 were sued in that case as well as a principal who
10 failed to report alleged abuse or neglect. The
11 Department of Social Services actually by jury in
12 Chesterfield County was not found to be at fault
13 in that case. But I additionally assisted in the
14 prosecution of that defendant, that foster parent
15 as well, at the request of the solicitor's
16 office. Cases like that do stick out and want
17 you to help change things. Could I burn ears
18 about what I think DSS could do better?
19 Absolutely. Do I do it with judges that I appear
20 in front of? Absolutely. But I do think there
21 are -- and DSS is like any other agency. There -
22 - there are really good people and dedicated
23 people and there are some that aren't. But I do
24 think that keeping dedicated people and people
25 that care about the welfare of children is very

1 important to that department. As a -- as a judge
2 -- a family court judge, I think it would be my
3 job to keep DSS' feet to the fire. Make sure
4 they're complying with the statutes. Make sure
5 they're staying with these federal guidelines.
6 Keeping these timelines. And I -- I have the
7 background to do that.

8 **Q. Okay.**

9 CHAIRMAN RANKIN: Any other questions?

10 EXAMINATION BY CHAIRMAN RANKIN:

11 **Q. Likewise, welcome. It's been a while since I've**
12 **seen you.**

13 A. Yes, sir.

14 **Q. Nice having you and offering for an elective**
15 **office in the judiciary. The comments in the --**
16 **the ballot box section is exemplary. And in**
17 **almost every -- every barometer you rate**
18 **extremely high. And so, I want to commend you**
19 **for that. Your -- your talk today is not without**
20 **witnesses in your -- among your peers. So,**
21 **that's -- that's a great testament to you.**

22 A. Thank you.

23 **Q. You are -- you have touched on one of the cases**
24 **and I read another -- just a heart wrenching**
25 **story of abuse involving JC, a different case**

1 **than you've just talked about.**

2 A. It -- that's a different case. That's also one
3 that will -- that has stayed with me. I can also
4 tell you that one has stayed with Judge
5 Henderson. Those children -- the pictures of
6 those children are -- still remain in Judge
7 Henderson's office.

8 **Q. And that was in '09? What year -- or what year**
9 **was that if you recall? Some --**

10 A. Judge Henderson was still on the family court
11 bench, '09s probably about right.

12 **Q. Okay. And I say '09. That's the case number.**
13 **'09-DR, yadda yadda (ph).**

14 A. In a Department of Social Services case it would
15 be the case -- we have to file within 24 hours
16 after children enter foster care. So, the case
17 number would correlate to the -- the correct
18 year.

19 **Q. Got it. That and the other case you mentioned**
20 **and obviously others has not dimmed your view of**
21 **what -- what the court system is about. If**
22 **anything, I would say it has made you more**
23 **acutely aware and passionate about the ability to**
24 **do something about those -- about our children,**
25 **correct?**

1 A. I -- I do. Yes. Absolutely. It has not or --
2 or I would have -- when DS -- you know, when I
3 left the Department of Social Services, it was
4 just because it was time for a change. It was
5 not -- they asked me to stay on -- Hartsville and
6 DSS actually had an understanding. They signed
7 an agreement because they couldn't -- they
8 couldn't fill my -- the State sometimes is slow
9 in filling positions, asked me to stay on as a
10 full-time attorney for about a month and a half,
11 until DSS could fill my position with someone
12 they were happy with, and I'm happy with my
13 replacement. But I could've easily told DSS that
14 I wouldn't accept any contracts. But instead,
15 I've accepted a statewide contract. I mean, this
16 year alone I've been to Union to try a sex abuse
17 case. I've been to Berkeley to try a termination
18 of parental rights action. Right now, I'm
19 helping Kershaw County because they -- they're
20 without an attorney right now.

21 **Q. Very good. And -- and forgive me. I did not**
22 **realize because this is my first time sitting on**
23 **this side of the desk in -- or for that matter,**
24 **that side of the Judicial Merit Selection, but**
25 **you ran offered last year?**

1 A. I did.

2 Q. And so, those who've been on this Commission
3 before are well familiar with you. All right.
4 Unless there's anything else from the others, I
5 want to again thank you for your willingness to
6 serve and willingness to appear before us. And
7 again, my apologizes for the delay in getting you
8 on the record. And so, this concludes this
9 portion of our screening process. I want to take
10 the opportunity to remind you that pursuant to
11 the Commission's evaluative criteria, the
12 Commission expects candidates to follow the
13 spirit as well as the letter of the ethics laws.
14 And we will view violations or the appearance of
15 impropriety as serious and potentially deserving
16 of heavyweight and screening deliberations. On
17 that note, and as you know, the record will
18 remain open until the formal release of the
19 report of qualifications. And you may be called
20 back at such time if the need arises. Again,
21 thank you for offering. And thank you for your
22 service to the judiciary and for running for this
23 office and for your service to South Carolina.

24 A. Thank y'all very much for your service. I know
25 y'all have been -- had some late nights. So,

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thank you.

Q. Very well. Take care.

A. Thank y'all.

CHAIRMAN RANKIN: Let's take a recess. Senator Sabb moves that we go into executive session, seconded by Mr. Joshua Howard. We are now in executive Session.

(Executive Session.)

(There being nothing further, the proceeding adjourned at 1:15 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 THURSDAY, THE
30TH DAY OF NOVEMBER, 2017, AND THAT THE FOREGOING 114
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 12TH DAY OF DECEMBER, 2017.

JENNIFER NOTTLE, COURT REPORTER
MY COMMISSION EXPIRES JULY 11, 2023

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

9

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

17

ANDREW N. SAFRAN

18

ERIN B. CRAWFORD, CHIEF COUNSEL

19

* * * * *

20

DATE: November 30th, 2017

21

TIME: 12:00 p.m.

22

LOCATION: Gressette Building

23

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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1 Court Reporter's Legend:

2 dashes [--] Intentional or purposeful interruption

3 ... Indicates trailing off

4 [sic] Written as said

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1 CHAIRMAN SMITH: We're out of executive
2 session. There were no decisions made and no votes taken.
3 With that, we're going to proceed to vote on some races.
4 And so if you'll tell us what races, and let's begin
5 voting.

6 MS. CRAWFORD: The first race is the Circuit
7 Court At-Large Seat 9.

8 SENATOR SABB: Mr. Chairman.

9 CHAIRMAN SMITH: Senator Sabb.

10 SENATOR SABB: Mr. Chairman, I'd like to
11 make a motion that we find all the candidates qualified.

12 MS. CRAWFORD: Can I list them?

13 CHAIRMAN SMITH: Why don't we go through the
14 existing candidates, right now, and then if you'll hold
15 that motion, Senator.

16 SENATOR SABB: Yes, sir.

17 MS. CRAWFORD: Jerome P. Askins, III;
18 Meredith L. Coker; The Honorable Marvin H. Dukes, III; Joey
19 Randal Floyd; Jenny A. Horne; The Honorable Jennifer
20 Blanchard McCoy; Grady L. Patterson, III; Robert L.
21 Reibold; Benjamin Chad Simpson; Sara Heather Savitz Weiss.

22 SENATOR SABB: Thank you, ma'am. Mr.
23 Chairman.

24 CHAIRMAN SMITH: Yes, sir, Senator Sabb.

25 SENATOR SABB: I'm in order, I make a motion

1 that all of the candidates previously named be deemed
2 qualified.

3 CHAIRMAN SMITH: Is there any seconds to
4 that motion?

5 MR. HAYES: Second.

6 CHAIRMAN SMITH: Senator Hayes seconds. All
7 in favor, raise your hand by signifying "aye."

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

9 CHAIRMAN SMITH: All opposed?

10 (Hearing none.)

11 CHAIRMAN SMITH: The ayes have it. Let the
12 record reflect the vote was unanimous. All right. Guys,
13 we're going to proceed to a vote here, and we're going to
14 proceed in alphabetical order. The likelihood is, with
15 this many candidates, you're going to have many -- we may
16 have many votes. So try to take a line through it, 'cause
17 you've got to record every vote you make through this
18 process. So just draw a line down each candidate, and
19 let's see how we vote from there. All right. We'll
20 proceed to ballot, please.

21 MS. CRAWFORD: And I'll list -- I'll name
22 the candidates in order. You have three -- three votes, so
23 keep that in mind. Jerome P. Askins, III.

24 (Commission members cast their vote.)

25 MS. CRAWFORD: Meredith L. Coker.

1 (Commission members cast their vote.)

2 MS. CRAWFORD: The Honorable Marvin H.
3 Dukes, III.

4 (Commission members cast their vote.)

5 CHAIRMAN SMITH: Joey Randall Floyd.

6 (Commission members cast their vote.)

7 MS. CRAWFORD: Jenny A. Horne.

8 (Commission members cast their vote.)

9 MS. CRAWFORD: The Honorable Jennifer
10 Blanchard McCoy.

11 (Commission members cast their vote.)

12 MS. CRAWFORD: Grady L. Patterson, III.

13 (Commission members cast their vote.)

14 MS. CRAWFORD: Robert L. Reibold.

15 (Commission members cast their vote.)

16 MS. CRAWFORD: Benjamin Chad Simpson.

17 (Commission members cast their vote.)

18 MS. CRAWFORD: Sara Heather Savitz Weiss.

19 (Commission members cast their vote.)

20 MS. CRAWFORD: Two candidates having
21 received more than six votes qualified and nominated would
22 be Jerome Askins and Jennifer McCoy. Yes, I'll remove the
23 people that got zero votes. Do you want me to read how
24 many votes everybody got, or not?

25 The candidates remaining are: The Honorable

1 Marvin H. Dukes, III; Joey Randall Floyd; Jenny A. Horne;
2 Grady L. Patterson, III; and Sara Heather Savitz Weiss.

3 CHAIRMAN SMITH: So everybody gets one vote
4 at this point?

5 MS. CRAWFORD: Yes.

6 CHAIRMAN SMITH: Everybody gets one vote.

7 MS. CRAWFORD: The first one is The
8 Honorable Marvin H. Dukes, III.

9 (Commission members cast their vote.)

10 MS. CRAWFORD: Joey Randall Floyd.

11 (Commission members cast their vote.)

12 MS. CRAWFORD: Jenny A. Horne.

13 (Commission members cast their vote.)

14 MS. CRAWFORD: And then Grady L. Patterson,
15 III.

16 (Commission members cast their vote.)

17 MS. CRAWFORD: And Sara Heather Savitz
18 Weiss.

19 (Commission members cast their vote.)

20 MS. CRAWFORD: Now to another ballot. So
21 the remaining candidates on the ballot are Dukes, Horne,
22 Patterson, and Weiss. Correct?

23 CHAIRMAN SMITH: Correct.

24 MS. CRAWFORD: I'll proceed to call the
25 names. The Honorable Marvin H. Dukes, III.

1 (Commission members cast their vote.)

2 MS. CRAWFORD: Grady L. Patterson, III.

3 (Commission members cast their vote.)

4 MS. CRAWFORD: Jenny A. Horne.

5 (Commission members cast their vote.)

6 MS. CRAWFORD: Heather Savitz Weiss.

7 (Commission members cast their vote.)

8 MS. CRAWFORD: Equal remaining would be
9 Jenny A. Horne, Grady L. Patterson, III, and Sara Weiss.

10 Jenny A. Horne?

11 (Commission members cast their vote.)

12 MS. CRAWFORD: Grady L. Patterson, III.

13 (Commission members cast their vote.)

14 MS. CRAWFORD: Sara Weiss.

15 (Commission members cast their vote.)

16 MS. CRAWFORD: The next ballot. Jenny A.
17 Horne.

18 (Commission members cast their vote.)

19 MS. CRAWFORD: Grady L. Patterson, III.

20 (Commission members cast their vote.)

21 MS. CRAWFORD: The third candidate was
22 qualified -- oh, I'm sorry. Heather Savitz Weiss.

23 (Commission members cast their vote.)

24 MS. CRAWFORD: The three candidates that
25 were qualified and nominated are: Jerome P. Askins, III,

1 The Honorable Jennifer Blanchard McCloy, and Grady L.
2 Patterson, III.

3 CHAIRMAN SMITH: Off the record.

4 (Off-the-record discussion.)

5 MS. CRAWFORD: Mr. Chairman, the next race
6 we need to vote in, is the Family Court 6th Circuit Seat 2.
7 The Family Court 6th Circuit Seat 2, there are two
8 candidates.

9 REPRESENTATIVE MURPHY: Mr. Chairman, I move
10 that we move that all candidates are qualified and
11 nominated.

12 MS. CRAWFORD: Those are two candidates:
13 Debra A. Matthews and Catherine S. Hendrix.

14 (Off-the-record discussion.)

15 CHAIRMAN SMITH: In regards to family court
16 seat -- the 6th Circuit Seat No. 2, Representative Murphy
17 moves to find both candidates qualified and nominated.
18 That motion is seconded by Senator Sabb. All in favor,
19 raise their hands and signify "aye."

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

21 CHAIRMAN SMITH: All opposed?

22 (Hearing none.)

23 CHAIRMAN SMITH: And I should say before we
24 do that if there was any discussion that anyone wanted to
25 have about it.

1 MS. CRAWFORD: The next race is the Family
2 Court 2nd Circuit Seat 2, with one candidate, Angela W.
3 Abstance.

4 REPRESENTATIVE MURPHY: Same motion.
5 Qualified and nominated.

6 CHAIRMAN SMITH: So for Family Court 2nd
7 Circuit Seat 2, Representative Murphy moves that we find
8 Angela W. Abstance qualified and nominated, as seconded by
9 Senator Sabb. Any discussion?

10 (Hearing none.)

11 CHAIRMAN SMITH: All in favor raise their
12 hand and signify "aye."

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

14 CHAIRMAN SMITH: All opposed?

15 (Hearing none.)

16 CHAIRMAN SMITH: So the ayes have it. And
17 let the record reflect that was a unanimous vote. All
18 right. Can y'all hold on, one second, so we can catch up?

19 MS. CRAWFORD: Yes, sir

20 CHAIRMAN SMITH: So we'll stand at ease for
21 a second.

22 (Off the record from 3:40 p.m. to 3:43 p.m.)

23 SENATOR SABB: Mr. Chairman?

24 CHAIRMAN SMITH: Yes, sir. Senator Sabb.

25 SENATOR SABB: I move that we find the

1 candidates nominated and qualified.

2 CHAIRMAN SMITH: No, we just find them
3 qualified. Senator, we're just going to find them
4 qualified, 'cause we don't nominate masters.

5 So Senator Sabb moves that we find
6 qualified, for the master for the -- in Equity for Florence
7 County, William A. Porter qualified. Seconded by
8 Representative Murphy. Any discussion?

9 (Hearing none.)

10 CHAIRMAN SMITH: All in favor raise their
11 hands "aye."

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

13 CHAIRMAN SMITH: All right. And then let
14 the record reflect that was a unanimous vote. And I have
15 the proxy of Representative Rutherford, vote aye on that.

16 MS. CRAWFORD: Next race is Family Court
17 11th Circuit Seat 2. There was one candidate: Huntley
18 Smith Crouch.

19 CHAIRMAN SMITH: All right. Representative
20 Murphy moves that we find Huntley Smith Crouch qualified
21 and nominated. That's seconded by Senator Sabb. Any
22 discussion?

23 (Hearing none.)

24 CHAIRMAN SMITH: All in favor raised their
25 hands, signify "aye."

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

2 CHAIRMAN SMITH: All opposed?

3 (Hearing none.)

4 CHAIRMAN SMITH: The ayes have it. And let
5 the record reflect that I have Representative Rutherford's
6 proxy, and he votes aye. So the vote is unanimous.

7 The next candidate, please, ma'am.

8 MS. CRAWFORD: The next race is the -- Mr.
9 Chairman, the next race is Family Court 12th Circuit Seat
10 2. I'll read the candidates: The Honorable John Rogers
11 Kirven; FitzLee Howard McEachin; Stuart Wesley Snow; and
12 The Honorable Elizabeth Biggerstaff York.

13 SENATOR SABB: Mr. Chairman.

14 CHAIRMAN SMITH: Senator Sabb.

15 SENATOR SABB: Mr. Chairman, I'd like to
16 make a motion that we find all the candidates qualified.

17 CHAIRMAN SMITH: Senator Sabb moves that we
18 find all the candidates qualified. Mr. Safran seconds
19 that motion. Any discussion?

20 (Hearing none.)

21 CHAIRMAN SMITH: All in favor raise their
22 hand by signifying "aye."

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

24 CHAIRMAN SMITH: All opposed?

25 (Hearing none.)

1 CHAIRMAN SMITH: The ayes have it. Let the
2 record reflect that Representative Rutherford has given me
3 his proxy, and he votes aye. And the vote is unanimous.

4 All right. Any more motions on -- well,
5 let's call the roll then. Yes, ma'am. Please proceed to
6 ballot.

7 MS. CRAWFORD: The Honorable John Rogers
8 Kirven.

9 CHAIRMAN SMITH: No proxy.

10 (Commission members cast their vote.)

11 MS. CRAWFORD: FitzLee Howard McEachin.

12 CHAIRMAN SMITH: And having Representative
13 Rutherford's proxy, he votes for Mr. McEachin as being
14 nominated.

15 (Commission members cast their vote.)

16 MS. CRAWFORD: Stuart Wesley Snow.

17 CHAIRMAN SMITH: Representative Rutherford
18 votes for Mr. Snow to be nominated.

19 (Commission members cast their vote.)

20 MS. CRAWFORD: The Honorable Elizabeth
21 Biggerstaff York.

22 CHAIRMAN SMITH: And let the record reflect
23 that Representative Rutherford votes for Judge York to be
24 nominated.

25 (Commission members cast their vote.)

1 MS. CRAWFORD: Those candidates found
2 qualified and nominated are: FitzLee Howard McEachin;
3 Stuart Wesley Snow; and The Honorable Elizabeth Biggerstaff
4 York. That's it. Can we call the next candidate?

5 CHAIRMAN SMITH: Yes. Yes, ma'am.

6 (Off-the-record discussion.)

7 CHAIRMAN SMITH: Mr. Able, welcome.

8 JUDGE ABLE: Thank you.

9 CHAIRMAN SMITH: How are you doing? I see
10 you brought a guest today. Would you like to introduce
11 your guest to the Commission?

12 JUDGE ABLE: Yes, sir, I would. Allow me to
13 introduce my best friend and my wife, Esther Able. She
14 goes by "Toni." I call her "Toni."

15 CHAIRMAN SMITH: All right. Well,
16 wonderful. Good to see you. I appreciate you being here
17 today.

18 MRS. ABLE: No place else I'd be.

19 CHAIRMAN SMITH: Judge Able, will you please
20 raise your right hand.

21 WHEREUPON,

22 THE HONORABLE BRYAN C. ABLE, being duly
23 sworn and cautioned to speak the truth, the whole truth and
24 nothing but the truth, testifies as follows:

25 CHAIRMAN SMITH: Judge Able, you've got

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

4 JUDGE ABLE: Yes, sir. They appear to be
5 so.

6 CHAIRMAN SMITH: Are they both correct to
7 the best of your knowledge?

8 JUDGE ABLE: To the best of my knowledge,
9 yes, sir.

10 CHAIRMAN SMITH: Does anything need to be
11 changed or updated at this time?

12 JUDGE ABLE: Not at this time. No, sir.

13 CHAIRMAN SMITH: All right. Do you have any
14 objection to us making these documents, and any amendments
15 that you may have made, a part of the record of your sworn
16 testimony?

17 JUDGE ABLE: No, sir, I have no objection.

18 CHAIRMAN SMITH: All right. Without
19 objection, if you'll hand those to Lindi. We're going to
20 make those an exhibit to your sworn testimony here today.

21 JUDGE ABLE: Thank you.

22 (EXHIBIT NO. 13 - JUDICIAL MERIT SELECTION
23 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THE
24 HONORABLE BRYAN C. ABLE)

25 (EXHIBIT NO. 14 - JUDICIAL MERIT SELECTION

1 COMMISSION SWORN STATEMENT OF THE HONORABLE BRYAN
2 C. ABLE)

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

12 We received no affidavits today filed in
13 opposition to your election. And there are no witnesses
14 who are here to testify. Do you wish to make a brief
15 opening statement to the Commission?

16 JUDGE ABLE: I can. Gentleman, and ladies,
17 I've been practicing law for 30 years. I've been
18 practicing family court law for 30 years. I started my
19 first -- or tried my first family court case in January of
20 1988, two months after I was sworn in. And I have
21 basically spent more time in a family courtroom, over the
22 past 30 years, than any other place except maybe my home
23 and my office. I'm in court a lot.

24 For a twelve-year period, I was a DSS
25 contract attorney for four counties -- basically the 8th

1 Circuit. And I was in court extremely -- and extreme
2 amount of time during that -- during that twelve years.

3 I enjoy family court. That's what I
4 primarily work in. I do a lot of family court and I do a
5 lot of family court and a lot of criminal defense. And
6 I've been doing all that for thirty years. Thank you.

7 CHAIRMAN SMITH: Thank you so much. Judge
8 Able, will you answer any questions that counsel may have
9 for you, please, sir.

10 JUDGE ABLE: Yes.

11 EXAMINATION BY MR. HINSON:

12 **Q. Good afternoon, Judge Able.**

13 A. Hey.

14 **Q. Please state for the record, the city and circuit**
15 **in which you reside.**

16 A. I live in the city of Laurens, the County of
17 Laurens, 8th Circuit.

18 **Q. Thank you.**

19 MR. HINSON: Mr. Chairman, I note for the
20 record, that based on the testimony contained in the
21 candidate's PDQ, which has been included in the record with
22 the candidate's consent, Judge Able meets the statutory
23 requirements for this position, regarding age, residence,
24 and years of practice.

25 BY MR. HINSON:

1 **Q. Judge Able, why do you want to serve as a family**
2 **court judge? And why do you feel that your legal and**
3 **professional experience qualify and will assist you to be**
4 **an effective judge?**

5 A. I think a lot of it goes back to my opening
6 statement that I just made. Why do we do anything in life?
7 Well, we think it's going to be enjoyable. I chose to be a
8 lawyer because I thought it would be an enjoyable life.
9 And it has been for 30 years.

10 My desire to be a family court judge is based
11 upon that same criteria. I believe that it would be an
12 enjoyable job. I think it's something that I would enjoy
13 doing. And I base that upon my 30 years appearing in
14 family court.

15 I serve now as associate probate judge in Laurens
16 County. I've done that for about four years -- a little
17 over four years, I believe, since Judge Hocker got elected
18 to the circuit court bench. And I've enjoyed that as well.

19 So the primary reason to want any job is, you
20 believe you'll do well at it and that you'll enjoy it. I
21 think that 30 years of experience in the family court,
22 together with the fact that I've served as associate
23 probate judge, now, for a little over four years, I believe
24 I'll do a good job.

25 **Q. Thank you for that. Judge Able, are there any**

1 **areas of the law for which you would need additional**
2 **preparation in order to serve as a family court judge? And**
3 **how would you handle that additional preparation?**

4 A. I cannot think -- that's a question I believe
5 that -- that would be asked of me. I cannot think of a
6 case, or a type of case, that I have not handled in family
7 court except maybe prosecution of DJJ cases.

8 As I said, I worked with DSS for a twelve-year
9 period in four counties. I handled hundreds, maybe
10 thousands, of abuse and neglect cases. I've done -- I
11 would venture to say I've probably terminated more parental
12 rights and adoptions than anybody in the 8th Circuit, just
13 by virtue of the fact that I worked with DSS all that time.

14 But other than the prosecution of a DJJ case,
15 that's the only thing, I think, in family court I haven't
16 done.

17 **Q. Adding on that, please briefly describe your**
18 **experience in handling complex contested family court**
19 **matters, and specifically discuss your experience with the**
20 **financial aspects of family court work.**

21 A. Well, I can't think of any specifics where, as
22 far as the complexities of any particular case I may have
23 handled over the years. But as far as the financial part
24 of it -- I mean, I believe 30 years has equipped me well to
25 understand how to proceed in a family court, as far as all

1 issues, whether it's financial, custody, alimony, things of
2 that nature. I don't think I would have any problem in
3 handling those.

4 Q. Judge Able, the Commission received 123 ballot
5 box surveys regarding you, with 12 additional comments.
6 The ballot box survey, for example, contained the following
7 positive comments.

8 One stated that you were more than qualified.
9 Another said you would make a fantastic family court judge.
10 One comment said that you were even-tempered and
11 thoughtful.

12 One of the written comments did express concern
13 regarding your work ethic and temperament. What response
14 would you offer to this concern?

15 A. Well, I've always believed that, in my
16 experience, I work well with the other attorneys. I
17 believe that life's too short to fight all the time. I
18 mean, I'll go in there and do my job for my client. I'm
19 going -- I'm going to fight to try to achieve the things
20 that my client wants, but I don't take it personally.

21 I consider myself to be a friendly-type person,
22 and I try to approach the practice of law in the same
23 fashion. We're lucky in the 8th Circuit, that, you know, I
24 -- I know most, if not all, the family court lawyers in the
25 8th Circuit. And we all get along very well -- or at least

1 I consider that I get along with them very well.

2 As far as my work ethic, I don't think you
3 practice law for 30 years and not have a good work ethic.
4 I mean, I'm -- you know, I'm a sole practitioner. I'm the
5 first one there in the morning. I get there at -- a little
6 before eight or eight o'clock. I leave -- you know, I'm
7 the last one to leave at night at 5:30 or 6:00. I used to
8 stay till 6:30 and 7:00, but I've gotten too old for that
9 now.

10 But I think I have a good work ethic. You know,
11 I'm not trying to be disparaging of anyone, but one of the
12 main things I think that if I am elected, or when I am
13 elected, I would like to try to start family court a little
14 earlier than 9:30 or ten o'clock in the morning.
15 I think you can work before 9:30 or ten o'clock. I'd like
16 to start at 8:30 or nine.

17 But as far as temperament, it's kind of hard to
18 discuss that, because I really can't think of an instance
19 where I've had a problem with anybody. And I don't think -
20 - I think, you know, as a -- as a probate judge, I've
21 always made it a goal not to try to have a problem with
22 people. I try to handle things as effectively as we can,
23 and move on.

24 **Q. Along those lines, what do you believe the proper**
25 **temperament for a family court judge to be?**

1 A. Well, first of all, I think there has to be a lot
2 of patience. And you have -- especially when you're
3 dealing with pro se litigants, you should be helpful but
4 not giving legal advice.

5 But I think patience is the best quality, in
6 trying to make sure the courtroom is handled in a certain
7 way, and that people act in a certain way. It takes some
8 time to make -- people just want to be heard most the time.
9 They just want their side of the story to be heard. And
10 you try to give them as much time as you can, knowing that
11 you have to keep a docket moving. But I would say
12 patience.

13 **Q. Judge Able, should you ascend to the family court**
14 **bench, what do you believe would be the biggest challenge**
15 **in this new role?**

16 A. I really don't know. I'm trying to think. As I
17 said, I'm -- I think -- I guess the major thing would --
18 would be giving up a law practice. That's all I know what
19 to do. You know, I've been practicing law all this time.

20 Just a couple days ago, I didn't feel very well
21 and I was thinking about, you know, I might just stay home
22 today. But I got up and put my clothes on and went to work
23 and went down to the office. That's what I do. So I think
24 it would be not having a law practice, being a judge full
25 time.

1 With the probate judge, it's only a part-time
2 position. And I think it would get -- being getting used
3 to being a judge and not being a lawyer. I think that
4 would be the biggest adjustment for me.

5 **Q. Thank you for those answers. I just have a few**
6 **housekeeping issues. Judge Able, since submitting your**
7 **letter of intent, have you contacted any members of the**
8 **Commission about your candidacy?**

9 A. No, sir, I don't believe I have.

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

14 A. No, sir, I have not.

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

19 A. No, I am not.

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

23 A. Yes, sir, I have.

24 MR. HINSON: I would note that the Piedmont
25 Citizens Committee found Judge Able qualified in the

1 evaluative criteria of constitutional qualifications,
2 physical health and mental stability. The Committee found
3 him well qualified in the evaluative criteria of ethical
4 fitness, professional and academic ability, character,
5 reputation, experience, and judicial temperament.

6 I would just note for the record that any
7 concerns raised during the investigation regarding the
8 candidate, were incorporated into the questioning of the
9 candidate today. And with that, Mr. Chairman, I have no
10 further questions.

11 CHAIRMAN SMITH: Thank you. Is there any
12 questions for Judge Able? Senator Young.

13 SENATOR YOUNG: Thank you, Mr. Chairman.
14 EXAMINATION BY SENATOR YOUNG:

15 **Q. Judge Able, thank you so much for your interest**
16 **in continuing your service to the citizens of the Upstate**
17 **in your circuit on the family court bench.**

18 A. Yes. Thank you.

19 **Q. I wanted to ask you just a handful of questions,**
20 **one of which is as to your judicial philosophy with respect**
21 **to the application of the law. You're obviously already on**
22 **the bench. My question to you is on -- if and when you are**
23 **elected to the family court bench, and you're serving**
24 **there, how would you apply -- or how will you apply the law**
25 **to the facts and the issues that would be before on the**

1 **bench?**

2 A. Well, first of all, judges don't make laws. You
3 gentleman make the laws. As a judge -- now as probate
4 judge, I listen to the facts, of course, and take the law
5 as it is written and apply the law to those facts.

6 Words have meanings. And they mean what they
7 say. And you take those statutes and you apply them as
8 they are written. You don't interpret them. You take them
9 and apply them as written to the facts that you have in
10 front of you.

11 Q. One of the areas that we have certain members of
12 the General Assembly -- or several members in General
13 Assembly who are working constantly on the issues that
14 relate to children who have been abused and neglected. And
15 I'm one of those who is particularly interested in that
16 area.

17 And so what I wanted to know is, what do you
18 think, in your current practice or your background, will
19 make you prepared and will allow you to be able to -- let
20 me rephrase. What do you think in your background has
21 prepared you for the issues that you'll face, that are --
22 that are impacting children who have been abused and
23 neglected when you serve on the bench?

24 A. Going back to what I said in my opening
25 statement, I was -- for twelve years I served as a contract

1 attorney for DSS for the 8th Circuit: Laurens, Newberry,
2 Greenwood, and Abbeville. It was a part-time job, it was a
3 contract, but it evolved into almost a full-time job for
4 me.

5 I was in -- it was not unusual, during that time
6 -- I was a much younger man then and could do it -- but I
7 would start in Laurens that morning, and go to Newberry,
8 and be in Greenwood in court, and then back in Laurens.

9 There were -- there were times when I would have
10 a docket in Newberry County, for Wednesday afternoon, I
11 would handle 20 to 25 cases that afternoon. I think that -
12 - that's going -- that well prepared me to address issues
13 involving children, to protect children.

14 Because of course in the family court, that's one
15 of the primary considerations the court has to have are the
16 children, whether it's a DSS case, whether it's a divorce
17 case, in what's best for those children.

18 So I think my experience there is -- I have a lot
19 of experience there, with just the fact that I was the DSS
20 attorney.

21 SENATOR YOUNG: I don't have any more
22 questions at this time, Mr. Chairman. Thank you, sir.

23 JUDGE ABLE: Thank you, sir.

24 CHAIRMAN SMITH: Senator Hayes.

25 MR. HAYES: Thank you.

1 EXAMINATION BY MR. HAYES:

2 Q. I appreciate you being willing to serve, and
3 your service in the probate -- assistant probate judge.
4 How much of your time does that take, being an assistant
5 probate judge?

6 A. A couple hours --

7 Q. Average.

8 A. A couple hours a week. All I do is hear the
9 contested cases, and put agreements on the record. Our
10 probate judge does all the administrative part of it. All
11 I do is -- is if there's a contested case, I hear that. Or
12 if somebody wants to put an agreement on the record, I hear
13 that.

14 There are times when -- I think the longest case
15 I've ever tried as a probate judge, it's been a two-day
16 case. And but 90 percent of the time, I would say it's
17 agreements that we're putting on the record, or short,
18 little hearings. So I would say on average, it probably --
19 I'd say five hours a week.

20 Q. Do you think that experience will help you in any
21 way, as you're looking at becoming a family court judge?

22 A. Yes, sir, I do. I think it -- I think it has
23 assisted me. And when you're standing where the lawyer
24 stands, it's a whole different perspective. When you're
25 sitting up there as a judge, the first thing you have to do

1 is understand how to control a courtroom, making sure that
2 things are done in a proper way, and they're done a certain
3 way.

4 I believe that my experience over the past four
5 or five years in doing that has taught me this is how you
6 run a courtroom, this is how you maintain a courtroom and
7 get things done. Yes, sir, I do.

8 **Q. We just missed you in law school. I graduated in**
9 **'83, and I think you started in '84.**

10 A. I started in '84. Yes, sir, I sure did.

11 **Q. And you had a son -- or your daughter's a public**
12 **defender?**

13 A. My daughter, Elizabeth, is a public defender in
14 Greenwood. And my son, Edward, started law school this
15 year.

16 **Q. I have a son who is a public defender now. So**
17 **I'm with you there. I appreciate your experience. Thank**
18 **you.**

19 A. Thank you, sir.

20 CHAIRMAN SMITH: Senator Sabb.

21 SENATOR SABB: Thank you, Mr. Chairman.

22 EXAMINATION BY SENATOR SABB:

23 **Q. And thank you, Judge, for offering for the**
24 **position. I can appreciate you doing -- practicing law for**
25 **30 years. A quick question: What did you do to celebrate**

1 **the thirtieth?**

2 A. I got up and went to work the next day. I came
3 home and told my wife I've been -- well, no, it was -- we
4 had a New Year -- we had a Thanksgiving dinner. The
5 anniversary of my being sworn in was on Thanksgiving.

6 Q. Okay.

7 A. So I had Thanksgiving. I got to cook a turkey
8 that day. That's how I celebrated.

9 Q. I figured you commemorated it in some way. I
10 certainly did. I've been practicing 30 years this year as
11 well.

12 A. Okay. Yeah, I smoked a turkey. That's how I
13 celebrated.

14 Q. And that's one of the better things to smoke.

15 A. Yes, sir.

16 Q. I will confess, I became just a wee bit concerned
17 when you talked about the notion of starting court earlier.

18 A. Yes, sir.

19 Q. So I want to talk about that. Let me preface my
20 remarks by saying we had a judge close to where I was, that
21 loved the law. One example of how much he loved the law
22 was, we started a case at a dangerous time. Christmas was
23 on a Saturday, and we started the case on a Monday. And it
24 was clear to the lawyers involved that the case may very
25 well have gone over.

1 And some judges hesitate to break a case,
2 especially when we've not gotten permission from the court
3 administration to start it during another week. So the
4 judge said to the lawyers in chambers, when we indicated to
5 him that we might run over into Saturday, he says,
6 "Gentleman, there's nothing I'd rather do on a Christmas
7 morning than be trying a case."

8 A. He was trying to settle your case.

9 Q. And it settled. So if that what he was trying to
10 do, it worked. And the reason why it worked, is because we
11 actually believed him.

12 A. Yes, sir.

13 Q. He would come in to the office very early in the
14 mornings, require court admin -- the court staff to be
15 there sooner than they all normally would come, would keep
16 the court reporter there until six, 6:30, sometimes seven
17 o'clock in the evening, depending on the case.

18 And I'm giving you an extreme example of what
19 some of us thought was being dedicated, committed to the
20 practice, wanting to move cases, wanting to dispense
21 justice, but at the expense of others.

22 And so I want to question you with regard to the
23 idea of starting court earlier; I think you indicated 8:30
24 or nine o'clock. And the first thing that came to mind
25 when you said that was the traveling lawyers and the

1 traveling clients. For those of us who would be near, then
2 it wouldn't be that problematic. But for others --

3 A. Yes, sir, I understand.

4 Q. That's not something that you're really bent on.
5 It's just something that you believe might help?

6 A. What I -- I may have characterized it wrong. But
7 what I would like to do, or what I envision is, the
8 attorneys knowing that if you need something heard earlier,
9 or need something heard -- we now, of course, have to
10 mediate all family court cases.

11 Q. Yes, sir.

12 A. And what I would like to be available to do, if
13 somebody mediates a -- mediates a case on Monday, and the
14 problem we have in smaller counties like Laurens is --

15 Q. And Williamsburg.

16 A. And Williamsburg.

17 Q. Yes, sir.

18 A. -- is getting the time available to put that
19 agreement on the record.

20 Q. I got you.

21 A. And of course in the interim, cases fall apart
22 and mediations fall apart, somebody decides they don't want
23 to do it. What I would envision is if the circuit -- or
24 the lawyers in the circuit knew that, okay, we got a --
25 we've got a case settled on Monday in mediation, "Judge

1 Able, can we be there Friday morning at nine o'clock?"

2 "Yeah, come on. I'll be glad to be here for you.
3 I'll pencil you in and we'll get this thing heard to get it
4 done."

5 I understand people have lives outside of the
6 courtroom, you know. Don't get me wrong. I enjoy my time
7 off as well.

8 **Q. Sure.**

9 A. But I just want to make sure that I'm available,
10 if something needs to be done like that. I don't have any
11 -- I don't have any objection to try to work with lawyers,
12 to try to get cases moved if they need time to get them
13 moved.

14 **Q. Well, I'm glad we've had this exchange, because**
15 **it certainly clarifies it. And it sort of takes me back to**
16 **one of the other judges who we screened, who many of us**
17 **classified as being a lawyer's judge. And one of the**
18 **things that he shared with us was, he believes that it's**
19 **important for him to offer himself, in order to help with**
20 **matters like the one that you talked about --**

21 A. Yes, sir.

22 **Q. -- when we need minor settlements done and all of**
23 **that, just being available.**

24 A. Yeah, and it's --

25 **Q. And that sounds like what you're offering as**

1 well.

2 A. If I were to come in at nine o'clock, and do
3 three or four agreements, quickly, before we go, you know,
4 into contested cases, I'd be -- I'm willing to do that.
5 I'm willing to give that time.

6 Q. Thank you, sir.

7 CHAIRMAN SMITH: Mr. Safran.

8 EXAMINATION BY MR. SAFRAN:

9 Q. I appreciate your offering. I appreciate you
10 being here.

11 A. Thank you.

12 Q. I'm sorry about the wait for today.

13 A. No, that's okay. I'm a family court lawyer. I'm
14 -- I'm used to waiting around.

15 Q. Let me ask you -- I'm just kind of echoing what
16 Senator Sabb was talking about, is that my understanding is
17 you enjoy being at the office, and you enjoy doing what you
18 do.

19 A. Yes, sir.

20 Q. And it's not a matter of really trying to kind
21 of, you know, crunch the lawyers.

22 A. No.

23 Q. It's a matter of actually being there as a --

24 A. No.

25 Q. -- resource for them.

1 A. I would think I would be a judge's -- a lawyer's
2 judge too. When Kay Friday asked me to become the
3 associate probate judge, I sat and I thought about it for a
4 while, prayed about it, and I decided I would do it.

5 But the first thing I made myself aware of, and
6 the first thing that I told myself, "You will not embarrass
7 a lawyer in that courtroom. If you need to, you'll speak
8 to the lawyer in chambers."

9 The job that we do is hard enough. It's a very
10 difficult job. And a lot of the -- most of the people that
11 appear in front of me in Laurens are my friends. I know
12 them. I've known them for 30 years. I'm not going
13 embarrass somebody just to make a point. I enjoy their
14 company, and I hope they enjoy mine. Like I said, most of
15 us are friends. I've known them for a long time.

16 **Q. And I guess that's the thing is, that you want to**
17 **more or less translate what you've become, in terms of your**
18 **own, I guess, love for what you do.**

19 A. Yes, sir.

20 **Q. Are you going to carry that on over to the bench?**

21 A. Oh, yes, sir.

22 **Q. And, basically, you're going to say, "Look, I**
23 **like to be here. I'm here for you if you need me."**

24 A. That's right.

25 **Q. "We'll have court hours as ever they're set, but**

1 if you guys need to be here early for me to do something --

2 A. We'll it is --

3 Q. -- I'm here."

4 A. We'll make arrangements to get it done.

5 Q. And that's good. I mean, I think the other
6 thing, I guess I'm assuming is, like everybody else
7 probably who is of our age group, you probably came to that
8 determination about not embarrassing somebody, 'cause
9 you've seen it actually happen.

10 A. Yes, sir.

11 Q. And that's not a pleasant sight.

12 A. It's a terrible thing. That's right.

13 Q. You've learned from that, just even if it's
14 vicariously.

15 A. That's right.

16 Q. I think it must be something in the water. I
17 think we had, earlier this time, Judge Verdin was in here,
18 and she's up in your area --

19 A. She's in Greenville, yes, sir.

20 Q. And, you know, it just seems like we're hearing
21 the same thing: She seemed to be somebody that also wants
22 to be there for the Bar, and do what it takes. And, you
23 know, I get the sense you've got that same attitude.

24 A. Yes, sir, that's correct.

25 Q. Thank you for your comments.

1 A. Thank you very much.

2 CHAIRMAN SMITH: Any further questions?

3 (Hearing none.)

4 EXAMINATION BY CHAIRMAN SMITH:

5 Q. Judge Able, let me just echo, I appreciate you
6 offering for this position. And I'm glad you cleared up
7 what Senator Sabb was asking you about, you starting court
8 early. 'Cause that caught my attention also. 'Cause we
9 got a school schedule, and I'm on the 8:15 drop-off, so if
10 you had 8:30 court --

11 A. No, no, no.

12 Q. -- you could create some problems with that.

13 A. You're going to be able to drop your children
14 off. It's just if you need me, I'll be glad to schedule
15 something for you.

16 Q. And let me tell you, I appreciate it. You're a
17 better man than I am. I couldn't take the stresses and
18 strains and the lack of payment of bills in family court,
19 so I had to give it up about ten years ago.

20 But I always appreciate we had judges in our
21 circuit, which Mr. Sabb and I reside, who always made
22 themselves available. If there was an agreement, they
23 would come in during lunch, they would come in during the
24 mornings, they would stay as long as court reporter would
25 allow them to stay. Of course you can't control a court

1 reporter.

2 A. You can't control that.

3 Q. But it was nice to have a judge who would
4 accommodate the lawyers, or if you had an emergency hearing
5 or something, they never did anything, as long as it suited
6 the court reporter, from allowing that to come in. So I'm
7 pleased to hear that.

8 And let me say a couple other things is, if you
9 practiced family law for 30 years, it's a contentious area
10 of law, and I want to commend you on your ballot box
11 surveys. When I looked through -- this and these are
12 unanimous surveys, and people can say good things, bad
13 things and there's no accountability to it. But in your
14 case, the good things far exceed the bad things that they
15 say.

16 And I think that's a mark of someone who has
17 operated in the manner of professionalism, respect and --
18 and, you know, I think when people come before here, and I
19 see your negatives of judicial temperament, who would say
20 you were unqualified is minimal to none. And that's
21 unusual for someone that's practiced family law for 30
22 years. So you've obviously carried yourself in a very
23 professional and honorable manner. And I commend you for
24 it.

25 A. Thank you, sir.

1 CHAIRMAN SMITH: Any further questions
2 before we end?

3 (Hearing none.)

4 CHAIRMAN SMITH: Judge Able, thank you so
5 much. This concludes this portion of your screening
6 process. I want to take this opportunity to remind you
7 that pursuant to the Commission's evaluative criteria, the
8 Commission expects candidates to follow the spirit as well
9 as the letter of the ethics laws. And we will view
10 violations, or the appearance of impropriety, as serious
11 and potentially deserving of heavy weight in screening
12 deliberations.

13 On that note, and as you know, the record
14 will remain open until the formal release of the report of
15 qualifications, and you may be called back at such time if
16 the need arises. I thank you for offering for this
17 position. And I thank you for your service to the state of
18 South Carolina.

19 JUDGE ABLE: Thank you, sir. Thank you, Mr.
20 Chairman.

21 CHAIRMAN SMITH: Have a safe trip back home.

22 JUDGE ABLE: Thank you very much.

23 (Candidate excused.)

24 CHAIRMAN SMITH: Senator Sabb moves that we
25 go into executive session. All in favor say "aye."

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

2 CHAIRMAN SMITH: All opposed?

3 (Hearing none.)

4 CHAIRMAN SMITH: The ayes have it. We'll
5 have to go into executive session, real quick.

6 (Off the record from 4:16 p.m. to 5:02 p.m.)

7 CHAIRMAN SMITH: I'd like to state that
8 we've been in executive session. However, no decisions
9 were made and no votes were taken during executive session.

10 All right. Ms. Case, how are you doing
11 today?

12 MS. CASE: I'm doing well. How about you?

13 CHAIRMAN SMITH: I'm well. I see you've got
14 two guests with you. Would you like to introduce them to
15 the Commission.

16 MS. CASE: I would love to. This my husband
17 Roger Case, and my mother Marianne Phillips.

18 CHAIRMAN SMITH: Hey, how are you doing? I
19 appreciate y'all being here. And let me apologize to
20 y'all. You see, we're worse than a family court with the
21 way we run on time. We call it Senate time over here. So
22 I apologize. And I appreciate y'all's patience with us.

23 MS. CASE: Yes, sir.

24 CHAIRMAN SMITH: Will you raise your right
25 hand, please, ma'am.

1 WHEREUPON,

2 ASHLEY PHILLIPS CASE, being duly sworn and
3 cautioned to speak the truth, the whole truth and nothing
4 but the truth, testifies as follows:

5 CHAIRMAN SMITH: Ms. Case, you have a
6 personal data questionnaire and a sworn statement before
7 you. Are those documents that you have submitted to the
8 Commission?

9 MS. CASE: Yes, sir.

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

12 MS. CASE: Yes, sir.

13 CHAIRMAN SMITH: Any changes or updates that
14 you would like to make at this time?

15 MS. CASE: The only update that I would
16 have, would be an updated list of expenditures. And that's
17 very brief.

18 CHAIRMAN SMITH: We'll mark that as an
19 exhibit to your PDQ and your sworn statement. Michelle,
20 would you grab that for me, please. And do you have any
21 objection to us making those as exhibits your sworn
22 testimony here today?

23 MS. CASE: I do not.

24 CHAIRMAN SMITH: All right. Without
25 objection, we'll make those exhibits to your sworn

1 testimony.

2 (EXHIBIT NO. 15 - JUDICIAL MERIT SELECTION
3 COMMISSION PERSONAL DATA QUESTIONNAIRE OF ASHLEY
4 PHILLIPS CASE)

5 (EXHIBIT NO. 16 - JUDICIAL MERIT SELECTION
6 COMMISSION SWORN STATEMENT OF ASHLEY PHILLIPS
7 CASE)

8 (EXHIBIT NO. 17 - AMENDMENT TO THE PERSONAL
9 DATA QUESTIONNAIRE OF ASHLEY PHILLIPS CASE)

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

19 We received no affidavits filed in
20 opposition to your election, and there are no witnesses
21 present here today to testify. Do you wish to make a brief
22 opening statement to the Commission?

23 MS. CASE: I know that it's been a long day
24 and a long week for all of you. Just very briefly, of
25 course, I'm Ashley Case. I graduated from Wofford College

1 in 1985 -- and January of 1985 at the USC School of Law and
2 --

3 (Off-the-record discussion.)

4 CHAIRMAN SMITH: Just for the record, you
5 need to repeat where you went to college. Because it's
6 such a fine college that you attended, I want to make sure
7 all these commission members know.

8 MS. CASE: I would totally agree. I'm a
9 1985 -- January 1985 graduate of Wofford College, and a
10 December 1987 graduate of the University of South Carolina
11 School of Law. You've met my husband and my -- my mom.
12 And I have three children: a stepdaughter who's grown, and
13 another daughter and son who both went to Wofford College
14 and are out on their own.

15 And I just appreciate being here today. I
16 have learned a lot about what y'all do in the last few
17 months, and I have a whole new respect for that. And I
18 just thank you for the opportunity to be here today.

19 CHAIRMAN SMITH: Thank you so much. Will
20 you answer any questions that counsel may have for you,
21 please, ma'am.

22 MS. CASE: Yes, sir.

23 EXAMINATION BY MR. FRANKLIN:

24 **Q. Good afternoon, Ms. Case. Please state for the**
25 **record, the city and circuit in which you reside.**

1 A. I reside in Fountain Inn, South Carolina. And
2 that is in Laurens County. And it's the 8th Judicial
3 Circuit.

4 MR. FRANKIN: Mr. Chairman, I note for the
5 record, that based on the testimony contained in the
6 candidate's PDQ, which has been included in the record with
7 the candidate's consent, Ms. Case meets the statutory
8 requirements for this position, regarding age, residence,
9 and years of practice.

10 BY MR. FRANKIN:

11 **Q. Ms. Case, why do you want to serve as a family**
12 **court judge? And why do you feel that your legal and**
13 **professional experience qualify you and will assist you to**
14 **be an effective judge?**

15 A. Well, I had always aspired to be a family court
16 judge. About 20 years ago when Judge McGowan, whose seat
17 I'm seeking now, first was elected, I thought very hard and
18 began the process to run for family court judge at that
19 time.

20 But after some thought and some consideration, I
21 realized that I was not prepared at that time. I was much
22 younger, I had two small children at home, and I had about
23 ten years in practice. And I made the decision that it was
24 not the right time, that I would not be the best family
25 court judge at that time.

1 But I've never lost sight of that. I've always
2 aspired to be on the family court bench. I have practiced
3 in family court, now, for 27 years. I'm older. My
4 children I've raised -- or we've raised our children, and
5 they're -- they're out on their own. And now is a good
6 time.

7 I have had life experiences, both personal and
8 professional, that I believe have prepared me for the
9 bench. My experience in family court, as I stated, is 27
10 years. And that's where I'm committed, that's where my
11 passion lies, and that's where I want to be. This is not a
12 stepping stone for me. It's what I aspire to be, is a
13 family court judge.

14 One thing that I have become keenly aware over
15 the years, is the impact that a family court judge's
16 decision has on the lives of children and youth and
17 families across this state every single day. I have seen
18 that first-hand.

19 I have -- my work has been focused on the
20 juvenile justice side of it, and that's another reason that
21 I feel like this is a good time to run for family court
22 judge. Because I believe that most people don't realize
23 the magnitude of the family court docket.

24 And when I say "most people," I mean attorneys
25 and some new family court judges, some legislators. I

1 don't believe they realize the magnitude that docket. They
2 think -- when they think of family court, they think of
3 divorce and child custody and property division, and they
4 don't realize that 50 to 60 percent, over half of a family
5 court judge's docket, is institutional or agency-driven.

6 There's so much more to family court. There's
7 the Department of Juvenile Justice, dealing with juvenile
8 criminal offenders and status offenders. There is the
9 truancy aspect of it with educational neglect and truancy
10 issues with children.

11 There's Department of Social Services and abuse
12 and neglect. Vulnerable adult. There's the domestic
13 violence portion of it with orders of protection, child
14 support enforcement, adoptions, name changes. There's just
15 so much more to that. And that is where I have chosen to
16 work, more in that area.

17 And it draws in so much more. Because when
18 you're dealing with a child or juvenile, you're dealing
19 with the family and what put them there. I have seen
20 firsthand, the effect that divorce has on a child or a
21 youth. I've seen the impact that custody arrangements, or
22 lack of visitation or lack of consistent support, has on a
23 child. And I believe that, that experience has given me a
24 unique and much-needed perspective, and would make me an
25 asset to the family court bench.

1 **Q. Are there any areas of the law for which you**
2 **would need additional preparation in order to serve as a**
3 **family court judge? And how would handle that additional**
4 **preparation?**

5 A. I want -- I want to say, first, I am very
6 thankful for the opportunity that I have had to work in the
7 7th and 13th Circuit solicitors offices, after I came out
8 of private practice. I have gained so much from my work
9 there. I have -- I'm also, I guess, most grateful for the
10 opportunities that I've had to work with the children and
11 youth, in one way or another, and to have positive impacts.

12 I know -- I know most people think that the
13 solicitor's office would not have a positive impact on a
14 child. But the whole -- the whole nature of that -- of
15 that relationship with the public defender and the
16 solicitor is just so much different in family court,
17 because we're working to figure out the best thing for this
18 -- for this child, and help them to be a happy and a -- and
19 a productive member of society.

20 So I am grateful for those opportunities. I'm
21 proud of those accomplishments. And I wouldn't change my
22 career at all. And what I want to make sure that you
23 understand is, that even though I've worked in that field,
24 it brings in so many more issues. And I feel very
25 comfortable in all realms of family court.

1 We deal with the -- with the child support. We
2 deal with the custody arrangements and the visitation, and
3 we see that -- you know, how that impacts -- how that put
4 that's juvenile there. You're rarely just are dealing with
5 a juvenile. You're dealing with the environment. And this
6 is most often familial.

7 So I feel very comfortable in areas of family
8 court. The one area I think that would be a little less
9 lacking would be property division. We don't do a lot of
10 that in what I do. But I have been very proactive since
11 deciding to pursue this endeavor, and I have -- you know,
12 my summer reading, and I've lived with Stuckey's Domestic
13 Relations book.

14 I've studied the family court toolkit. I keep up
15 with advanced sheets, and I have prepared myself to deal
16 with any area that I may not have as much practice in.

17 I am very comfortable with marital property, what
18 constitutes marital property, what constitutes marital
19 property when it didn't start out as marital property, you
20 know, the transmutation of that. I am familiar with, you
21 know, retirement and pension accounts. So I have -- I have
22 worked to educate myself on that.

23 And by the nature of me being in the courthouse -
24 my office being in the courthouse, I have been able to
25 observe a lot of court. I practice in Greenville, and we

1 have five to six courtrooms going at any given time. And I
2 go down and I sit in, and I sit in on temporary hearings
3 where the initial determinations are done, and final
4 hearings where it's finally determined what the divisions
5 are going to be. And I've seen contempts and motions. And
6 the judges in Greenville have been very helpful. I mean,
7 I've asked lots of questions.

8 So those are my ways to prepare. Having said
9 that, I fully expect that if I'm fortunate enough to be
10 elected, to have some homework to do. And I'm not opposed
11 to that. I think what you want in a -- in a judge, any
12 judge, is someone who's hardworking and someone who's
13 intelligent enough to know where to look and know what
14 resources to go to, to help make the decisions they need to
15 make.

16 And I'm that person. I work hard. I come in
17 early. Most of the time I cut the lights on, and I never
18 leave at five. So I foresee me doing some homework in the
19 beginning, and reviewing cases for the next day to be
20 prepared. And I'm okay with that.

21 **Q. And how about your experience with the financial**
22 **aspects of family court work? Can you discuss that a**
23 **little bit?**

24 A. Well, going back to the divisions of property, I
25 have -- we don't deal a lot with finances in the areas that

1 I have. But I have private practice experience in
2 bankruptcy law, real estate transactions, and valuations of
3 real property. So I have that to draw on. I also have,
4 you know, documents that are handed to me by the litigants,
5 that will help guide me through that.

6 Q. Mrs. Case, the Commission received 107 ballot box
7 surveys regarding you, with 12 additional comments. The
8 ballot box surveys, for example, contained the following
9 positive comments:

10 "Excellent choice for family court judge. Great
11 legal mind." "Very knowledgeable about the law."
12 "Extensive experience in both circuit and family court,
13 which makes her a very qualified to fill a position at
14 either level."

15 And finally, "Mrs. Case as a prosecutor provides
16 her with the knowledge base that is currently lacking on
17 the family court bench. She also has extensive courtroom
18 experience which is an essential foundation for a judge."

19 However, two of the written comments expressed
20 concerns related to the lack of experience in, first,
21 private practice, and, second, practicing in the 8th
22 Circuit. What response would you offer to these concerns?

23 A. Well, I was in private practice prior to going
24 into -- going into the solicitor's office. And so I have
25 that experience. In the solicitor's office, you know, I

1 deal with clients, just as -- just as people who are in
2 private practice do.

3 You know, I have victims that I have to deal with
4 and talk with and satisfy. And as I said before, in the
5 family court prosecutor position it's not as much
6 prosecutor/defense attorney, it's more you work together to
7 come to the best outcome.

8 So I am -- I'm used to communicating with other
9 attorneys. I'm used to communicating with other agencies
10 and working out the best possible outcome. So I believe
11 that, that translates more to address that concern, than
12 would someone who's just practicing in general sessions.
13 My work has been predominantly in family court.

14 With regard to the 8th Circuit, I don't know
15 that, that should be a concern at all, because judges
16 travel, for one. I live in Fountain Inn, which is -- and
17 I've lived in Laurens County for 27 years. We're just on
18 the top end of Laurens County.

19 My work has been in Spartanburg and Greenville.
20 With regard to that being a concern, I actually would
21 think, since you asked the question, that it would be a
22 positive factor as opposed to a negative, because I'd go in
23 without any preconceived notions, without any biases
24 towards any attorneys or litigants there.

25 **Q. Thank you.**

1 MR. FRANKIN: Mr. Chairman, I'd like to
2 request that we go into executive session to address a
3 matter.

4 CHAIRMAN SMITH: All right. Representative
5 Murphy moves that we go into executive session. All in
6 favor say "aye."

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

8 CHAIRMAN SMITH: All opposed?

9 (Hearing none.)

10 CHAIRMAN SMITH: The ayes have it. If y'all
11 will just step out for us, for a few minutes. We have to
12 take up a couple confidential matters.

13 (Off the record from 5:18 p.m. to 5:30 p.m.)

14 CHAIRMAN SMITH: Representative Murphy moves
15 that we come out of executive session. Let the record
16 reflect that while we were in executive session, no votes
17 were taken and there were no decisions made.

18 All right. Proceed, please, sir.

19 EXAMINATION RESUMED BY MR. FRANKIN:

20 **Q. Ms. Case, it is my understanding that most family**
21 **court judges work without the benefit of having law clerks.**
22 **What strategies would you use to make sure your court**
23 **docket does not get too backed up, and that orders are**
24 **issued in a timely manner?**

25 A. With regard to the family court docket, if that's

1 what you're asking me, one way not for it to back up,
2 individually, is to show up on time and start court on time
3 and work. Which is what I plan to do.

4 With regard to orders, you know, I have -- I'm
5 responsible for orders in what I do now. And I basically
6 don't leave the courtroom or don't leave that day until
7 those orders are done.

8 Orders are due within 30 days, but we like to get
9 them in within ten. I would keep track of those dockets,
10 and make sure that attorneys are notified if they're
11 getting close to a deadline.

12 And with regard to the family court docket, and
13 it moving better, I believe that the things that have been
14 put in place -- mandatory things that have been put in
15 place by the Supreme Court, in which we're going on in
16 Greenville for, long before that, the mandatory mediation,
17 the mandatory ABC docket has worked very well.

18 You know, mediation turns a five-day case into a
19 one-day case, and a, you know, five-hour case into a one-
20 hour case. And then the ABC docket eliminates that wasted
21 court time when cases settle.

22 As far as individually, you know, I believe
23 family court judges are the hardest working judges in the
24 judiciary, frankly. They do this without the benefit of a
25 law clerk. They do this without the benefit of a jury or a

1 panel to bounce things off of.

2 And so when -- you know, if I were to be lucky
3 enough to be on the bench, if my courtroom went down, I
4 would certainly be willing to pick up where another judge
5 may be backed up a little bit. And I think that the -- I
6 think there's a new pilot program about to launch, with
7 regard to digital recording -- although I don't know that,
8 that's the route we need to go for most cases. But for --
9 you know, for short 15-minute-type hearings, I think that,
10 that would be very beneficial.

11 **Q. All right. Now, I have a few housekeeping**
12 **issues. Are you aware that as a judicial candidate, you**
13 **are bound by the code of judicial conduct as found with**
14 **Rule 501 of the South Carolina Appellate Court Rules?**

15 A. Yes, sir.

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

19 A. No -- well, let me put that there. I told Ms.
20 Crawford I was at the beach and we had a death in the
21 family all at the same time, when I sent out an
22 informational postcard. I did that without double-
23 checking, and I'm afraid that they went out to the -- to
24 the Commission.

25 So I called Ms. Crawford. I think they went out

1 on Friday, I called her first thing Monday morning to
2 report that. So I do apologize for that. It was
3 inadvertent.

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

8 A. No, sir.

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

13 A. No, sir.

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

17 A. I'm very aware.

18 MR. FRANKIN: Mr. Chairman, I would note
19 that the Piedmont Citizens Committee found Ms. Case
20 qualified in the evaluative criteria of constitutional
21 qualifications, physical health and mental stability, and
22 experience, and well qualified in the remaining evaluative
23 criteria of ethical fitness, character, professional and
24 academic ability, reputation, and judicial temperament.

25 I would just note for the record that any

1 concerns raised during the investigation regarding the
2 candidate, were incorporated into the questioning of the
3 candidate today. And with that, Mr. Chairman, I have no
4 further questions.

5 CHAIRMAN SMITH: Thank you very much. Any
6 questions of the candidates? Senator Young. You're now my
7 first go-to person for questioning.

8 SENATOR YOUNG: Thank you. Thank you, Mr.
9 Chairman.

10 EXAMINATION BY SENATOR YOUNG:

11 Q. Good evening. And I appreciate your interest in
12 serving on the family court. Ms. Case, I saw where you are
13 the 2005 recipient of the Ernest F. Hollings Award for
14 Excellence.

15 A. Yes, sir.

16 Q. That is quite a testament to your work in the
17 solicitor's office. I just want to recognize you for that.

18 A. Thank you very much.

19 Q. I noticed that you've also received other
20 recognitions for your work there. And I was very impressed
21 by that. I have two questions, and one is: How would you
22 apply the law to the facts and to the issues that will be
23 before you, if and when you're elected to the family court
24 bench? What's your judicial philosophy?

25 A. Well, judges don't make the law. They apply the

1 law to the -- to the facts that come before them. And
2 that's what -- that's what I would do. I don't intend to
3 take any stance if I don't agree with a law. That's not my
4 place to go off on a different path. I would apply the law
5 as it's written.

6 Q. I noticed that you have, obviously, many, many
7 years of experience handling cases in family court that
8 involve children.

9 A. Yes, sir.

10 Q. And one of the areas that some of us are
11 particularly interested in, are issues that arise involving
12 children who've been abused and neglected.

13 A. Yes, sir.

14 Q. It certainly appears, based on your professional
15 career, that you have an enormous amount of experience in
16 dealing with all types of issues that relate to children
17 who have been abused and neglected in the system, and
18 outside of the system. Would you agree with that?

19 A. I would agree with that. And I'm --

20 Q. Do you think -- go ahead. I'm sorry. I didn't
21 mean to cut you off.

22 A. I'm in the courtroom three days a week, every
23 week, dealing with juveniles and children, with all of
24 these issues, whether they be criminal offenses for the
25 juveniles or abuse and neglect with regard to the -- to a

1 child. And so often, they overlap.

2 I think one thing that has prepared me to be a
3 family court judge is, I am very comfortable, I'm very
4 confident in dealing with different agencies, and I think
5 you have to pull all of these agencies together. And I
6 think that's one thing that a family court judge needs to
7 do to be a better judge, to be aware of these resources.
8 and to be aware of how hard they can push to get something
9 to happen.

10 And that would be -- that would be my philosophy
11 if I were fortunate enough to be on the bench, is to make
12 sure that not only are things ordered, but that they're
13 done in a timely manner. Because we have a lot of -- a lot
14 of children out there who are not getting the services
15 timely.

16 **Q. Thank you very much.**

17 **A. Yes, sir.**

18 CHAIRMAN SMITH: Mr. Safran.

19 EXAMINATION BY MR. SAFRAN:

20 **Q. I appreciate you being here today. I don't want**
21 **to go into too much detail. But let me ask: You obviously**
22 **have spent a great deal of your time, more from the**
23 **prosecutorial end, and I get the sense that you have a**
24 **passion for it. And I don't have any doubt that you have**
25 **shined in that area.**

1 A. Yes, sir.

2 **Q. Family court, obviously, has that as a component.**
3 **A lot of the other components are things, maybe you haven't**
4 **had the opportunity to have spent some time doing. And I**
5 **don't think anybody has made a harsh criticism about that.**
6 **I think maybe some of these ballot boxes have just pointed**
7 **it out, and say that there's a little lacking experience in**
8 **that area.**

9 How do you kind of feel, in terms of your
10 **ability, and really the manner in which you might get**
11 **yourself up to speed in that portion of the job?**

12 A. Well, I went to Wofford, so I'm a quick study.

13 CHAIRMAN SMITH: Amen.

14 A. I understand that concern. And I just want to
15 reiterate how intertwined what I do is with so many of the
16 family court issues, that people traditionally think of as
17 family court issues. So I feel like I have more experience
18 than you may think.

19 But as I stated before, I have -- in preparation
20 for this endeavor, I have been studying a lot. I've been
21 reading. I've been reviewing. I've been observing court.
22 I have talked with judges. And I will continue to do so,
23 and go to any trainings that are available. And, again,
24 I'm -- I'm a quick study.

25 **Q. Well, let's switch a little bit. I know that,**

1 basically -- you hear from Senator Young, and he asked
2 about your judicial philosophy.

3 A. Yes, sir.

4 Q. We also look at another aspect of judicial
5 philosophy. I'm sure you've sat in courtrooms, countless
6 hours, and even though it may not have been you in breach,
7 that there have been situations where people have been
8 raked over the coals by judges. And I'm speaking not just
9 litigants, but the attorneys.

10 A. Yes, sir.

11 Q. And I know you had a period of time in private
12 practice, certainly that could have exposed you to it, but
13 I think more so it's been in the context of where you sat
14 as a solicitor.

15 What is your approach to circumstances, where
16 maybe things might not be going the way you would expect
17 them to, how do you handle those, particularly as it would
18 relate to dealing with the attorneys if they need to be
19 spoken to?

20 A. Well, I believe that everybody, litigant and
21 attorney alike, should be treated with respect, and fairly.
22 I think your point could be made without humiliating
23 someone. And I do not think that, that is a judge's job to
24 do. I've been on the receiving end of that from time to
25 time. Not too recently.

1 But I think that it's -- particularly in family
2 court, it's such a volatile, emotional forum because we're
3 dealing with people's lives and their property and their
4 children, I think that the -- as a judge, you need to -- I
5 don't want to say be emotionless, but I think you need to
6 keep a middle-of-the-road demeanor with regard to your
7 voice, with regard to your facial expressions, and try to
8 keep that courtroom calm and keep control over that
9 courtroom.

10 But first and foremost, you treat everybody
11 fairly. And you understand, and I understand, with the
12 caseload that I have managed and the office that I have
13 managed, but sometimes you come in there and you have some
14 glitches and you have some things that have come up.

15 And I think as long as it's not an ongoing
16 thing, or a repetitive behavior of a particular attorney,
17 you have to understand that life happens sometimes, and
18 make amends for that.

19 **Q. Along those same lines, obviously you've gone and**
20 **had a family, you've had two sons go to a great college,**
21 **and I'm sure you're very proud of them. And you've**
22 **probably, during the time frame that you have been an**
23 **attorney, you've also had to be a mother.**

24 A. Yes, sir.

25 **Q. Attend to things that were milestones in their**

1 lives, to be available to them as part of your role in the
2 family.

3 A. Yes, sir.

4 Q. And I'm sure you have given that a high priority,
5 because it brought you back a great deal of joy during that
6 time frame. You know that court sometimes is going to
7 conflict with that, and that lawyers have to balance, that
8 they have to have their personal lives in conjunction with
9 their professional obligations. Are you going to be
10 sensitive to that?

11 A. Yes, sir, I am. And I'm sensitive to that now,
12 because I basically control my own docket. And I work with
13 one of the public defenders who has small children, and I
14 do everything I can to try to arrange where she could be
15 where she needs to be, with regard to school functions.

16 So I definitely would work with that, as long as
17 it's not something that's happening every time they're
18 scheduled for court, and it becomes a pattern, I would most
19 definitely work with that. Because I think that is a very
20 important part of being a parent.

21 Q. Thank you very much.

22 A. Yes, sir.

23 EXAMINATION BY CHAIRMAN SMITH:

24 Q. Ms. Case, I appreciate that last answer. Mr.
25 Safran asked you something that I was going to ask you,

1 because I see you practice mainly as a solicitor. Over
2 time in my experience with family court solicitors, is
3 y'all basically have a day or a half a day, or whatever the
4 court gives you, and you call the cases and you run the
5 docket. And, you know -- and I guess it's important for me
6 to understand is -- from each of the candidates is, as we
7 see a rise in alcoholism and mental health treatment for
8 lawyers because of the stress and strains of court, and
9 balancing life and balancing all the different areas of
10 practice, you have what your philosophy is on attorneys who
11 might have a similar situation as Mr. Safran described, or
12 even get yanked to different courts and -- and, you know,
13 have conflicts from, you know, the -- "I have a deposition
14 that's been scheduled for weeks, they got three attorneys.
15 You've got someone with a subpoena, and they're coming from
16 out of state. I paid for their travel."

17 You know, how would you balance all those vis-a-
18 vis the demands from court administration, for you to move
19 your cases that are on your docket?

20 A. Well, as you stated, me coming from the
21 solicitor's office, I rarely ever get anybody to cover for
22 me. But I do have that pool of attorneys that can cover
23 for me if I need to be somewhere. And I realize that in
24 private practice, oftentimes it's just you or it's a case
25 that you have become vested in, and don't -- and a partner

1 that does not feel comfortable taking that over.

2 So I would work in any way I can. You know, I'm
3 -- I think that's more important than probably satisfying
4 court administration all the time. But again, it can't
5 become a pattern.

6 **Q. As you probably know, from your practice of**
7 **having criminal cases, you know who the attorneys are who**
8 **have legitimate conflicts, and who the attorneys are that**
9 **are trying to abuse --**

10 A. Yes, sir.

11 **Q. -- the patience of the solicitor, the court, or**
12 **whomever they're trying to deal with.**

13 A. It becomes very clear, very quickly. Yes, sir.

14 **Q. I understand that. Let me commend you on a**
15 **couple of things. 'Cause in addition to you going to**
16 **Wofford, which means you're academically qualified, unlike**
17 **some other schools around the state, that you -- I look at**
18 **your ballot box surveys -- and these are anonymous surveys**
19 **from your peers.**

20 And when I look at this, and you're a solicitor,
21 and I know you're in family court and you're right -- you
22 know, my experience has been doing juvenile work in family
23 court, is that it's more of a team effort. But it still
24 can be confrontational.

25 A. Yes.

1 Q. And it's still adversarial, and people are
2 wanting to be acquitted sometimes. And then they're found
3 delinquent as a result of this, or you decide to pursue a
4 certain charges against somebody. But the one thing that I
5 want to commend you on is temperament, it is very important
6 to me when we look at the qualifications of a judge.

7 And when I look at the temperament that the
8 ballot box surveys have been provided to you, "unqualified"
9 is minimal to nonexistent. And that's very rare when you
10 see people who are solicitors or public defenders, who get
11 in those adversarial situations with one another in the
12 courtroom.

13 So I want to commend you for the way you conduct
14 yourself as a professional, that this is something you
15 ought to be proud of. So as you carry yourself throughout
16 your practice, you ought to be proud that you've built a
17 solid reputation with your peers. And that's something
18 that will always be -- they always take into consideration.

19 A. Thank you.

20 CHAIRMAN SMITH: Mr. Murphy has a motion for
21 us to make, real quick, before we conclude.

22 REPRESENTATIVE MURPHY: Thank you, Mr.
23 Chairman. Mr. Chairman, I would move that the contact that
24 Ms. Case -- that she has not violated -- affirmative
25 finding that she has not violated statute 2-18-70,

1 Subsection C, or the procedural rules of the Judicial Merit
2 Selection Commission, particularly Rule 26; and that there
3 has been no inappropriate contact with a member of the
4 Commission.

5 CHAIRMAN SMITH: No intentional.

6 MR. MURPHY: No intentional contact. Yes,
7 sir.

8 CHAIRMAN SMITH: All right. And that's
9 seconded by Mr. Safran. Any discussion to that?

10 (Hearing none.)

11 CHAIRMAN SMITH: All in favor raise their
12 hands.

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

14 CHAIRMAN SMITH: All opposed?

15 (Hearing none.)

16 CHAIRMAN SMITH: Let the record reflect that
17 it's a unanimous finding, that Ms. Case has not violated 2-
18 19-70 and Rule 26 of the Judicial Merit Selection
19 Commission.

20 All right. With that being said, any further
21 questions?

22 (Hearing none.)

23 CHAIRMAN SMITH: Mrs. Case, thank you so
24 much. This concludes this portion of your screening
25 process. I want to take this opportunity to remind you,

1 that pursuant to the Commission's evaluative criteria, the
2 Commission expects candidates to follow the spirit as well
3 as the letter of the ethics laws. And we will view
4 violations, or the appearance of impropriety, as serious
5 and potentially deserving of heavy weight in screening
6 deliberations.

7 On that note, and as you know, the record
8 will remain open until the formal release of the report of
9 qualifications, and you may be called back at such time if
10 the need arises. I thank you for offering for this
11 position. And I thank you for your service to the state of
12 South Carolina.

13 MS. CASE: Thank you very much.

14 CHAIRMAN SMITH: Y'all have a safe trip back
15 to Fountain Inn.

16 MS. CASE: Yes, sir.

17 CHAIRMAN SMITH: And hopefully pulling for
18 the Terriers on Saturday.

19 MS. CASE: We will do that.

20 CHAIRMAN SMITH: All right. Good to see
21 y'all.

22 MS. CASE: Thank you all.

23 (Candidate excused.)

24 CHAIRMAN SMITH: Mr. Turner, how are you
25 doing today?

1 MR. TURNER: Doing well. How you are doing?

2 CHAIRMAN SMITH: I'm well. I think I see a
3 person behind you. Do you want to introduce your guests to
4 the Commission, please?

5 MR. TURNER: I would. This is Meg. This is
6 my lovely wife of 15 years.

7 CHAIRMAN SMITH: All right. Meg, welcome.
8 Good to see you here today.

9 MR. TURNER: Thank you all for having me.

10 CHAIRMAN SMITH: Mr. Turner, will you raise
11 your right hand, please, sir.

12 WHEREUPON,

13 MATTHEW PRICE TURNER, being duly sworn and
14 cautioned to speak the truth, the whole truth and nothing
15 but the truth, testifies as follows:

16 CHAIRMAN SMITH: Mr. Turner, before you is
17 your personal data questionnaire and your sworn statement.
18 Are these both documents that you have submitted to the
19 Commission?

20 MR. TURNER: They are.

21 CHAIRMAN SMITH: Are they correct to the
22 best of your knowledge?

23 MR. TURNER: They are.

24 CHAIRMAN SMITH: Is there anything that
25 needs to be changed or updated at this time?

1 MR. TURNER: Not to my knowledge.

2 CHAIRMAN SMITH: Do you have any objection
3 to use marking those as exhibits to your sworn testimony?

4 MR. TURNER: I do not.

5 CHAIRMAN SMITH: Will you hand those to
6 Lindi, for me, please, sir. We're going to mark those,
7 without objection, exhibits to the testimony of Mr. Turner.

8 (EXHIBIT NO. 18 - JUDICIAL MERIT SELECTION
9 COMMISSION PERSONAL DATA QUESTIONNAIRE OF MATTHEW
10 PRICE TURNER)

11 (EXHIBIT NO. 19 - JUDICIAL MERIT SELECTION
12 COMMISSION SWORN STATEMENT OF MATTHEW PRICE
13 TURNER)

14 CHAIRMAN SMITH: Mr. Turner, 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 it has included a ballot box
18 survey, a thorough study of the 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 have received no affidavits filed in
24 opposition to your election, and no witnesses are present
25 here today to testify. Do you wish to make a brief opening

1 statement to the Commission?

2 MR. TURNER: I know you-guys are busy, and
3 you're tired and ready to go. I just want to say I thank
4 you for the opportunity to be here, and thank you for your
5 time.

6 CHAIRMAN SMITH: Okay. And let me also say
7 this to you, you and your wife, we apologize for the delay.
8 We always think we're going to be on time. And as you can
9 tell, we're not.

10 MR. TURNER: That's all right.

11 CHAIRMAN SMITH: But it's not as bad as
12 court sometimes.

13 MR. TURNER: Absolutely.

14 CHAIRMAN SMITH: Okay. Thank you. Answer
15 any questions that counsel may have.

16 EXAMINATION BY MR. STIMSON:

17 **Q. Mr. Turner, please state for the record, the city**
18 **and circuit in which you reside.**

19 A. I reside in the city of Laurens. And that's in
20 the 8th Judicial Circuit.

21 MR. STIMSON: Mr. Chairman, I note for the
22 record, that based on the testimony contained in the
23 candidate's PDQ, which has been included in the record with
24 the candidate's consent, Mr. Turner meets the statutory
25 requirements for the position regarding age, residence, and

1 years of practice.

2 BY MR. STIMSON:

3 Q. Mr. Turner, why do you want to serve as a family
4 court judge, and why do you feel that your legal and
5 professional experience qualify and will assist you to be
6 an effective judge?

7 A. Well, for one, I see this as a form of public
8 service for me. I have no intention of running for the
9 General Assembly at any point in the future, and so I see
10 this as a way that I can serve my community and my state.
11 Also, I think I have the right education, experience,
12 knowledge, and temperament to be a good family court judge.

13 I've been in private practice my entire career.
14 I've tried many different types of cases, in many different
15 courts. I've argued cases in the Court of Appeals and the
16 Supreme Court. But the majority of the cases that I have
17 handled, the majority of my trials and the majority of my
18 caseload, is in family court.

19 I'm a certified family court mediator. I am a
20 guardian ad litem on occasion. I've had judges to appoint
21 me as guardian, including on a case that was very
22 complicated because of allegations of sexual abuse against
23 one of the parents.

24 My experience is primarily in the family court,
25 and that's where I feel the most comfortable and that's

1 where I feel that I have excelled.

2 Throughout the years I've had other colleagues --
3 a guardian and other people -- suggest that I should
4 consider running for family court judge. And that's what
5 led me to begin thinking about this. And that's why I'm
6 here today. And I think that's due to my personality and
7 my temperament.

8 I've always gotten along well with others. I've
9 always treated people with respect. I'm always kind. I
10 don't -- I don't have any enemies, and I try not to make
11 any enemies. I'm kind to my opponents, to my clients, and
12 to the judges. And so I think those things make me a good
13 candidate for family court.

14 I'm also a driven and motivated person. And for
15 me this is a new opportunity, it's a new challenge in my
16 legal career. And I think it's a good time for me 'cause
17 I'm fairly young, I have a lot of energy and motivation
18 needed to put in a hundred and ten percent into this job.

19 **Q. Thank you. Mr. Turner, are there any areas of**
20 **the law for which you would need additional preparation in**
21 **order to serve as a family court judge? And how would you**
22 **handle that additional preparation?**

23 A. I don't know that I necessarily need any
24 additional preparation. I would say that the area with
25 which I have the least experience in family court would be

1 with juveniles.

2 Earlier in my practice I represented juveniles,
3 and sometimes their parents, in DJJ cases. But I have not
4 had any in recent years. Obviously, I'm not a prosecutor.
5 I'm not a public defender. And so that's not, you know,
6 something I see on a regular basis.

7 Typically, you don't have juveniles coming to
8 hire a private attorney to defend them in those cases. And
9 so what I would do if elected, is go talk to the staff at
10 DJJ, talk to the solicitor that's in charge of prosecuting
11 juveniles in my circuit, to get ideas on the way to better
12 address the juveniles and handle that.

13 I would also go and sit in, of course with
14 permission of the judge, on the DJJ cases and just make
15 sure that I felt comfortable with it. Which I believe I
16 would.

17 **Q. Thank you. Mr. Turner, please briefly describe**
18 **your experience in handling complex contested family court**
19 **matters, and specifically, discuss your experience with the**
20 **financial aspects of family court work.**

21 A. Sure. I've been involved in numerous cases as
22 co-counsel in cases where the marital assets were
23 multimillion dollars. One of those was in Beaufort, one of
24 those -- or two of those were in Laurens. And I've also
25 had other cases that I've handled on my own, where the --

1 where the parties had substantial assets.

2 I've had to deal with issues of transmutation
3 with non-marital property, or claims in special equity in
4 non-marital property. I've dealt with cases where we had
5 to have forensic accountants to come in to evaluate and --
6 you know, to help us with our case.

7 I've also been involved in contested custody
8 disputes between litigants that were single parents, both
9 of them. Like I said, I've been a guardian in a case where
10 there were allegations of sexual abuse by one of the
11 parents, in a private custody and visitation action.

12 I've mediated several cases where there were
13 substantial assets involved. And so I believe I've had
14 plenty of experience in contested family court matters.

15 **Q. Thank you. Mr. Turner, the Commission received**
16 **114 ballot box surveys regarding you, with 13 additional**
17 **comments. The ballot box survey, for example, contained**
18 **the following positive comments:**

19 "Outstanding candidate. Treats people with
20 respect and can make difficult decisions. Intelligent and
21 ethical," as well as, "Through my experience in dealing
22 primarily family law, I can state unequivocally, that Mr.
23 Turner has the experience and candor to be an outstanding
24 family court judge with the highest moral and ethical
25 character."

1 **Not a single one of the written comments**
2 **expressed a concern. Mr. Turner, what do you believe is**
3 **the proper judicial temperament for a family court judge?**

4 A. I believe a judge should be humble, kind and
5 patient, and respectful to everybody that they come in
6 contact with. I know that's a lot of adjectives, but I
7 believe that a judge should have all of those.

8 I think it's important for a judge to remember
9 what it's like to practice law, what it's like to deal with
10 clients who are a lot of times highly emotional or highly
11 upset, what it's like to try to manage a law practice and
12 to have to deal with deadlines.

13 I think it's also important for a judge to
14 remember that lawyers have lives outside of the courtroom,
15 and sometimes things come up, and sometimes you need to be
16 accommodating of that.

17 But what I do -- what I've always lived by is to
18 try to treat people the way that I want to be treated. And
19 I think that showed in the comment that you just read. And
20 that's what my wife and I preach to my kids every day, is
21 that you treat people the way you want to be treated, and
22 with respect, no matter where they come from, what they
23 look like or how they treat you.

24 And that's how I think a family court judge
25 should be. I think that's a perfect example, you know, of

1 what a family court judge should be. You should be fair
2 and impartial and respectful and open-minded.

3 **Q. Thank you, Mr. Turner. What do you envision**
4 **being the most challenging aspect of serving as a family**
5 **court judge?**

6 A. Well, all judges face challenges. But one thing
7 that I think would be specifically challenging to a family
8 court judge would be temporary hearings. I believe that
9 anybody's that practiced in family court knows that most
10 temporary hearings are only scheduled for 15 minutes at a
11 time. And they're typically scheduled back to back to
12 back. So a judge may have to listen to four an hour, all
13 morning, or even a whole day.

14 And temporary hearings are very important. The
15 decisions made there sometimes last up to a year, or even
16 more. If there's been no movement on the case, whatever is
17 ordered at the temporary hearing sometimes stays in effect.

18 It also sometimes sets the groundwork or -- or
19 kind of sets the tone for what may happen on a permanent
20 basis, with respect to where the children are placed and
21 the award of alimony. And for those reasons, the decision
22 made there at the temporary hearing is very, very
23 important.

24 Well, the judge has to make a decision, and only
25 has 15 minutes to consider the facts, and so the judge has

1 to balance that important decision against the fact that
2 you've got lawyers and other litigants standing out in the
3 hallway, waiting to come in, and you don't want to cause
4 any further backlog. And so to me that seems to be one of
5 the -- one of the biggest challenges in being a family
6 court judge.

7 Q. Thank you, Mr. Turner. I just have a few more
8 housekeeping issues for you. Are you aware that as a
9 judicial candidate, you are bound by the code of judicial
10 conduct as found in Rule 501 of the South Carolina
11 Appellate Court Rules?

12 A. I am.

13 Q. Since submitting your letter of intent, have you
14 contacted any members of the Commission about your
15 candidacy?

16 A. I have not.

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

20 A. I have not.

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

25 A. I have not.

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

4 A. Yes.

5 MR. STIMSON: I would note for the record
6 that the Piedmont Citizens Committee found Mr. Turner to be
7 well qualified in the evaluative criteria of ethical
8 fitness, character, professional and academic ability,
9 reputation, experience, and judicial temperament, and
10 qualified in the remaining evaluative criteria of
11 constitutional qualifications, physical health and mental
12 stability.

13 The Committee further commented, "Although
14 Mr. Turner has not practiced as long as the other two
15 candidates for this seat, he has broad experience in the
16 family court, handling a variety of different cases. His
17 pleasant confidence reflects a good temperament which would
18 serve him well on the bench."

19 I would just note for the record that any
20 concerns raised during the investigation regarding Mr.
21 Turner, were incorporated into the questioning of him
22 today. Mr. Chairman, I have no further questions.

23 CHAIRMAN SMITH: All right. Does anyone
24 have questions? Senator Young.

25 SENATOR YOUNG: Thank you, Mr. Chairman.

1 EXAMINATION BY SENATOR YOUNG:

2 Q. Good afternoon.

3 A. Good afternoon.

4 Q. Sorry you had to wait a while. We've been
5 running behind. But anyway, we'll try to be quick about
6 this. And one of the questions I have for you is, if you
7 could just briefly tell us what your judicial philosophy
8 is, and that is how would you apply the law to the facts
9 and to the issues that would be before you on the family
10 court bench?

11 A. Sure. To me it's the duty of the Legislature to
12 make the law. It's the duty of the family court judge, or
13 any judge, to apply the relevant law to the facts of each
14 case. I don't think a judge has any, you know, business
15 trying to change the law or set the law.

16 And if -- you know, if the Court of Appeals or
17 Supreme Court wants to change precedent, you know, then
18 that's their prerogative, or if the Legislature wants to
19 change the law, then that's their prerogative. But the
20 judge is to apply the existing laws to the facts of the
21 case.

22 Q. One of the issues that's important to several
23 people in the General Assembly, are issues related to child
24 abuse and neglect. Is there anything in particular in your
25 private practice background, or personal or otherwise

1 professional background, that you believe would make you
2 particularly prepared to deal with abuse and neglect
3 matters as they come before the family court?

4 A. Well, I have defended a few clients in private
5 cases, dealing with DSS, with abuse and neglect. And again
6 like I said, I've served as a guardian on a case where
7 there were allegations of abuse and neglect, and so I have
8 had some experience with that. So it's not something brand
9 new to me.

10 Q. How much of your practice is in family court?

11 A. I would say it ranges probably 50 to 60 percent.

12 Q. And I see you put 50 percent on your PDQ. Have
13 you been in private practice with the same -- your own
14 firm, the entire time you've been out of school?

15 A. I have. It's me and my father, and then Rhett
16 Burney is another partner.

17 Q. All right. Thank you very much.

18 CHAIRMAN SMITH: Any questions?

19 (Hearing none.)

20 EXAMINATION BY CHAIRMAN SMITH:

21 Q. Mr. Turner, let me just ask you a couple
22 questions, if I could, please, sir. As it relates to
23 attorneys, I presume you've got a small-town practice in --

24 A. That's it.

25 Q. -- Laurens, with you and your father and another

1 partner. You probably know the demands of practicing law
2 of trying to, in a small town, doing a Jack-of-all-trades
3 and a master of none in trying to practice in all different
4 courts.

5 But from time to time, lawyers are going to have
6 conflicts with courts, and even to the more what I -- what
7 I would call non-important issues to the judges these days.
8 But, you know, depositions or other commitments that you've
9 made, including maybe some family commitments of going to a
10 school program or having the kid's basketball game at four
11 o'clock one day.

12 If you were elected in this position, how would
13 you handle lawyers' requests, as opposed to the pressures
14 that are going to be placed upon you from court
15 administration to move cases?

16 A. Sure. I think that -- several things you have to
17 look at. One, obviously, if it's a conflict with another
18 court, you have to look at Rule 601 and see who -- which
19 one takes priority. Which of course a lot of those take
20 priority over family court unless it's a matter of
21 juveniles who are detained or abuse and neglect cases.

22 But as far as -- you know, if it were
23 depositions, or if it were, you know, going to see a kid's
24 play or a basketball game or something that they were
25 involved in. I have two young kids and I, you know, want

1 to try to get to all the events I can, and so I'm very
2 cognizant of that. And I have, you know, no problem with
3 that.

4 But I think what you have to look at it is, you
5 know, what type of case that's supposed to be heard, has it
6 been continued before, and is this lawyer in particular
7 somebody who makes it a habit of doing this.

8 And so I think, you know, those are some of the
9 things that you learn, once you get on the bench. And, you
10 know, of course in a small town, we kind of know, just from
11 practicing with several individuals, how they are. But
12 that's the way I would approach that.

13 I would be willing to help the people out. I
14 think I mentioned that earlier, that I think it's important
15 for a judge to remember what it's like to be a lawyer, and
16 that you have a life outside of the court and outside of
17 the law practice, and to try to be accommodating when it's
18 most possible.

19 **Q. How long have you practiced law?**

20 A. Fourteen years.

21 **Q. And most of that is -- I heard you talking to**
22 **Senator Young, you know, about 50 to 60 percent's family**
23 **court. What's the other percentage? What do you do?**

24 A. It's hard to say. I would say that the largest
25 remaining percentage would be civil litigation, some, you

1 know, personal injury. I've had some business disputes.
2 I'm general counsel for the Commission of Public Works in
3 Laurens, and that makes up the other biggest.

4 I do a little bit of criminal defense. Not as
5 much as I used to, but I do some DUIs and some -- and some
6 minor stuff in criminal cases. And then just some probate
7 and wills and that type of thing.

8 **Q. As it relates to children in the DJJ system,**
9 **obviously, you've probably read in the papers we had some**
10 **challenges there in addition to the Department of Social**
11 **Services. What's your philosophy on -- what would you do**
12 **as a -- if you were elected to the position, as to how you**
13 **would handle juveniles, and, you know, work with DJJ and**
14 **solicitors and public defenders and other private attorneys**
15 **in trying to process them through the system?**

16 A. Well, I think that I would handle them with
17 fairness. I think that dealing with juveniles, you have to
18 keep in the forefront of your mind that these are kids.
19 And I would look at, first, trying to rehabilitate them,
20 trying to find alternatives to locking them up, to help
21 them, you know, to be productive citizens and to get away
22 from that life -- or that lifestyle that they've been
23 living.

24 And so I think that would be in the forefront of
25 my mind, you know, at all times. And I mentioned earlier,

1 I would -- you know, if elected, I would be willing to go
2 and -- I plan to go talk to staff at DJJ and the -- and the
3 prosecutor in the circuit, and discuss with them, you know,
4 ways to improve the system, you know, things that I could
5 do as a judge to help improve it.

6 But I think that's the -- the main thing is to
7 remember you're dealing with kids, and that you want to try
8 to rehabilitate them and try to make them productive
9 citizens. Of course, you know, there's some situations
10 where you've got a repeat offender, or, you know, you have
11 a crime that's pretty heinous, then, you know, you need to
12 dole out the necessary punishment on those.

13 CHAIRMAN SMITH: All right. Any further
14 questions or Commission members?

15 SENATOR YOUNG: Mr. Chairman, just real
16 quick.

17 RE-EXAMINATION BY SENATOR YOUNG:

18 **Q. Did you grow up in Laurens?**

19 A. I did.

20 **Q. Do you have twins?**

21 A. I do. Twin boys.

22 CHAIRMAN SMITH: So I bet it's doubly
23 important that you need to make sure you go to your
24 children's events.

25 MR. TURNER: Absolutely. They're usually on

1 the same team and everything. Which that helps, though.

2 CHAIRMAN SMITH: That makes it easy.

3 MR. TURNER: It does.

4 CHAIRMAN SMITH: Lucky you. I have to go
5 between two different games, most of the time. So --

6 MR. TURNER: That's right. At least they're
7 on the same field.

8 CHAIRMAN SMITH: Yeah. All right. Mr.
9 Turner, thank you so much. This concludes this portion of
10 our screening process. I want to take this opportunity to
11 remind you that pursuant to the Commission's evaluative
12 criteria, the Commission expects candidates to follow the
13 spirit as well as the letter of the ethics laws. And we
14 will view violations, or the appearance of impropriety, as
15 serious and potentially deserving of heavy weight and
16 screening deliberations.

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

23 MR. TURNER: Well, thank you-guys for your
24 time. I appreciate it.

25 CHAIRMAN SMITH: Thank you for your

1 patience.

2 MR. TURNER: Absolutely.

3 CHAIRMAN SMITH: And y'all have a safe trip
4 back.

5 MR. TURNER: All right. We will. Thanks.

6 (Candidate excused.)

7 CHAIRMAN SMITH: How are you today?

8 MR. SIMPSON: I'm fine, sir. Thank you.

9 CHAIRMAN SMITH: I appreciate your patience.
10 Senator Hayes, over here, tells us that we were saving the
11 best for last.

12 MR. SIMPSON: Well, I hope that he's correct
13 in this. And I just wanted to say thank you-guys for
14 sticking around. You've been here for many, many hours.
15 I'm much impressed.

16 CHAIRMAN SMITH: This is the last -- well,
17 you're the second to the last hearing for the two-week
18 session here. So we are in what we call the short roads in
19 Sumter County.

20 MR. SIMPSON: Well, that's a good place to
21 be, I think.

22 CHAIRMAN SMITH: It is. I see you brought a
23 guest with you. Would you like to introduce her to the
24 Commission?

25 MR. SIMPSON: I certainly would. This is my

1 wife, Wanda. And we -- both of us are glad to be here.

2 CHAIRMAN SMITH: All right. Welcome, Wanda.
3 I appreciate you being here. And I'm sorry to make you
4 wait through this whole process.

5 Mr. Simpson, will you raise your right hand,
6 please, sir.

7 WHEREUPON,

8 DAVID EUGENE SIMPSON, being duly sworn and
9 cautioned to speak the truth, the whole truth and nothing
10 but the truth, testifies as follows:

11 CHAIRMAN SMITH: Mr. Simpson, you have your
12 personal data questionnaire and sworn statement before you.
13 Are these documents that you've submitted to the
14 Commission?

15 MR. SIMPSON: They are.

16 CHAIRMAN SMITH: Are both of them correct to
17 the both -- are both of them correct to the best of your
18 knowledge?

19 MR. SIMPSON: With the addendum, yes, sir.

20 CHAIRMAN SMITH: Okay. And you've got an
21 addendum. Is that marked already?

22 MR. SIMPSON: It is.

23 CHAIRMAN SMITH: Anything else that needs to
24 be changed or updated at this time?

25 MR. SIMPSON: No, sir.

1 CHAIRMAN SMITH: Do you have any objection
2 to us making these documents and addendums a part of your
3 record of your sworn testimony?

4 MR. SIMPSON: I have no concerns, no
5 problems with it.

6 CHAIRMAN SMITH: All right. Without
7 objection, if you'll hand them to Lindi for me, please,
8 sir. And we're going to make those exhibits to your sworn
9 testimony here today.

10 (EXHIBIT NO. 20 - JUDICIAL MERIT SELECTION
11 COMMISSION PERSONAL DATA QUESTIONNAIRE OF DAVID
12 EUGENE SIMPSON)

13 (EXHIBIT NO. 21 - JUDICIAL MERIT SELECTION
14 COMMISSION SWORN STATEMENT OF DAVID EUGENE
15 SIMPSON)

16 (EXHIBIT NO. 22 - AMENDMENT TO THE PERSONAL
17 DATA QUESTIONNAIRE OF DAVID EUGENE SIMPSON)

18 CHAIRMAN SMITH: Mr. Simpson, 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 no affidavits today filed
3 in opposition to your election. And there are no witnesses
4 here to testify. Do you wish to make a brief opening
5 statement to the Commission?

6 MR. SIMPSON: Very brief.

7 CHAIRMAN SMITH: Yes, sir.

8 MR. SIMPSON: I just want to again thank you
9 for the opportunity. The position of master in equity in
10 York County is a very important position, and I hope that
11 you would look at my experience and my qualifications.

12 I believe that I'm qualified as far as the
13 subject matter. I've did that for many years, worked in
14 real estate, worked in -- I actually did a stint with a
15 collection law firm, so I'm familiar with the supplemental
16 proceedings and those types of things.

17 In addition to being, I think, experienced
18 with the -- with the subject matter, I'm experienced in
19 managing an office; I've been doing that for a long time as
20 well. This office has two full-time -- or now one full-
21 time and one half-time employee, who manages a good bit of
22 money out of York County. I'm familiar with that process.

23 So again, I just hope you'll look at that
24 experience and the -- and what I've done in the past. And
25 I feel comfortable in putting forth my qualifications and -

1 - and myself for that position.

2 CHAIRMAN SMITH: All right. Thank you very
3 much. Will you answer any questions that Counsel may have.

4 MR. PEARCE: Mr. Chairman, and members of
5 the Commission, I note for the record that based on the
6 testimony contained in this candidate's PDQ, which has been
7 included in the record, as amended with the candidate's
8 consent, David Eugene Simpson meets the statutory
9 requirements for this position, regarding age, residence,
10 and years of experience.

11 EXAMINATION BY MR. PEARCE:

12 Q. Good evening, Mr. Simpson.

13 A. Thank you.

14 Q. How do you feel your legal and professional
15 experience -- and you touched on it in your earlier
16 comments -- but how do you feel your legal and professional
17 experience thus far renders you qualified, and will assist
18 you to be an effective master in equity?

19 A. Well, I appreciate it, Mr. Pearce. The time that
20 I spent the majority of -- at the very beginning of my
21 career, was in a collection law firm. We did -- did a good
22 bit of special hearings, special referee-type work. Part
23 of that as well, I actually served as special referee on
24 occasion.

25 The work that I did after that with the legal

1 services, that work involved a whole different perspective
2 -- a perspective in housing, employment, bankruptcy; a lot
3 of different areas that I think will assist whenever asked
4 to do the special circuit judge job.

5 The master in equity in York County has over the
6 last -- at least the last two terms, the last two appointed
7 masters has included an appointment as a special circuit
8 judge. So we hear not only the real estate partitions,
9 foreclosures, special proceedings, but we also hear all of
10 the non-jury motions and -- and a good number of the non-
11 jury cases.

12 So it is a very important position. I think
13 recently I've been doing a lot of litigation with the
14 Department of Social Services in family court. And while
15 that's a little different, I think the experience there
16 will help as well, dealing with the rules of civil
17 procedure and any litigation and arguments and those types
18 of things.

19 In addition to that, I served just very briefly,
20 after just a couple of weeks, as a fill-in city judge. And
21 I've also over several years, acted as the referee for the
22 housing authorities in York County, different housing
23 authorities including the housing authority for the Catawba
24 Indian Nation.

25 So I think all of that together gives me the

1 experience. I think all of that experience applies to this
2 particular position.

3 Q. The Commission received 128 ballot box surveys
4 regarding you. Thirteen of these had additional comments.
5 The survey, for example, contained some -- the following
6 positive comments:

7 "Knows the law. Honest and unbiased. Great
8 temperament. Very thoughtful. Fair and equitable, and
9 would be an asset to the South Carolina judicial."

10 A. Those are very nice comments.

11 Q. Three of the comments expressed some concerns.
12 The first concern went to your preparation. And commentators
13 mentioned that you were often ill-prepared, and sought out
14 an easy result rather than the right result. What response
15 would you offer to this type of concern?

16 A. Again, I -- you know, not knowing the exact
17 circumstances, the ones I do at DSS, includes doing what is
18 best for the child. And frequently, I -- that's my primary
19 goal is to do what's best for the family and what's best
20 for the child. So it may appear that what would seem to be
21 an easy way out, would be some type of settlement regarding
22 the child and regarding the family.

23 Certainly, we've had our share of cases that were
24 not an easy out. We've had -- I've had -- I think I've
25 been involved in about 15 appeals, and we've been involved

1 in, you know, a seven-day trial in Union County. So a
2 three-day trial -- you know, I don't think we seek the easy
3 way out.

4 But it may appear that way because we do settle a
5 good number of our cases, trying to do what's best for the
6 child and the family.

7 **Q. Another concern was expressed about are you**
8 **intellectual ability to handle the type cases that would**
9 **come before this particular master in equity. Some folks**
10 **expressing -- or I say "some folks" -- a person expressing**
11 **that you didn't have any business even being considered to**
12 **be master in equity. Do you have a response to this**
13 **concern?**

14 A. That's a tough one to respond to. I certainly --
15 I certainly think I have the intellectual ability. I've
16 been a -- I've been an attorney for quite some time. I
17 don't know what it means, but I was in the 92nd percentile
18 with the SAT, and I passed law school -- passed the Bar on
19 the first exam. So, you know, I think I have the
20 intellectual ability. I'm certainly sad to hear that
21 someone thinks that I do not.

22 **Q. And again amongst the 128 ballot box surveys,**
23 **there was just one other concern that was expressed as far**
24 **as your ability to be effective as a master in equity for**
25 **York County. How would you respond to that concern that**

1 **was expressed?**

2 A. I think I'd be very effective. I have the
3 experience necessary. I have the -- you know, it involves
4 a -- it involves dealing with and working with a lot of
5 different people -- county people, employees. It requires
6 you to deal with budgetary matters, it requires you to deal
7 with the cases and the caseload. Master in equity -- the
8 current master in equity, Judge Kimbell, has approximately
9 200 cases at a time that he's dealing with. It is a
10 substantial caseload.

11 And at DSS, I manage approximately 400 cases at a
12 time. So, you know, I have that experience. And that's
13 something quite effective -- it's more than just being a
14 judge at an individual hearing, which I certainly wouldn't
15 have any problem doing that either. But it involves much
16 more than that to do the job to be an effective master.

17 **Q. Mr. Simpson, you indicated in your PDQ, that you**
18 **were sued twice by the same client. And I believe you**
19 **reported that, that resulted in a Court of Appeals'**
20 **decision in the case of Moore v. Mr. Simpson. Could you**
21 **tell us about the nature of those lawsuits?**

22 A. I'd be glad to. From what I remember, it's been
23 quite some time. The first case was a case that involved
24 not only myself, but other members of the law firm, and it
25 involved one or two other law firms.

1 From my perspective, it was a case of a client
2 that did not take the advice as he was given, and then when
3 things didn't go well it resulted in some -- a good bit of
4 financial loss for her. And at that point in time, she
5 sued everyone that was involved.

6 And for our -- she initially contacted attorneys
7 to try to take her case. And then the -- she couldn't find
8 anyone to take her case, so we extended her time to find an
9 attorney who would take her case. When that time extension
10 was up, she attempted to serve us at the last minute, and
11 was unsuccessful in her service.

12 And that's why the Court of Appeals case was
13 fortunately, or unfortunately, I was a named person in that
14 appeal. But it involved more than just myself. It was a
15 case where there was really no case involved, and she
16 couldn't find anyone to take the case. But so the appeal
17 was on the service issues.

18 **Q. You also indicated that a lawsuit was filed**
19 **against you as a bankruptcy action.**

20 A. It was. Mr. Roman had -- he was a client of mine
21 for quite some time. He had a limousine business, and was
22 doing quite well, and then ended up in bankruptcy. But the
23 -- part of the case that involved me was a case of -- he
24 and his family were seeking to find a property with a
25 mother-in-law unit.

1 And he had initially hired me to do a closing on
2 a -- on a property like that. And then he wanted to move
3 to a bigger and better property. So he was looking for one
4 with a mother-in-law unit. And he found one advertised
5 that way, and the realtor assured him that it was that.
6 And then I informed him that the restrictive covenants
7 would not allow for that.

8 And so in my opinion, in the title insurance that
9 was issued he was -- that was excluded from coverage. And
10 I explained to him that I did not think that he would be
11 able to have a mother-in-law unit. But he relied upon the
12 assurances of the real estate agent.

13 And in the end, he had to remove the work that
14 was done to try to put in the unit. So he sued myself, the
15 title company, and another attorney that helped him with
16 the zoning issue, and everybody else he could find.

17 But that was dismissed. He did not make that
18 part of his bankruptcy petition; I guess he forgot to list
19 that asset. And when the trustee found out about that, the
20 trustee took -- Mr. Anderson took that over, he reviewed
21 the claim and decided it was -- had no value.

22 **Q. And then one last set of litigation were some**
23 **foreclosure actions against T and D Properties; one was by**
24 **Wells Fargo Bank, and the other by Carolina First Bank.**
25 **Can you tell us about those two foreclosures?**

1 A. I'd be glad to. When I was doing real estate
2 law, I was involved in a lot of different partnerships and
3 several corporations. One of the partnerships, T and D was
4 a -- we owned a -- we owned an apartment complex and, I
5 don't know, maybe ten houses. When that -- when we decided
6 to break up the partnership, we each would take over the
7 funding for the particular properties that we received.

8 The other partner was taken me out of the
9 mortgages, and then that was about the same time that the
10 mortgage crisis occurred. He was not able to obtain a
11 mortgage. And he -- and I still owned the property, so we
12 were foreclosed on. We had an agreement to sell to the
13 City of Rock Hill, and that took a lot longer than was
14 expected. So it -- the foreclosure was filed, but it was -
15 - you know, they were waiting for the sale of the property.
16 And eventually, the property did sell and there was no --
17 no foreclosure.

18 **Q. The actions were actually dismissed?**

19 A. They were.

20 MR. PEARCE: Mr. Chairman, and members of
21 the Commission, we do have some housekeeping issues for Mr.
22 Simpson.

23 BY MR. PEARCE:

24 **Q. Sir, are you aware that as a judicial candidate,**
25 **you are bound by the code of judicial conduct as found in**

1 **Rule 501 of the South Carolina Appellate Court Rules?**

2 A. I am.

3 **Q. Since submitting your letter of intent, have you**
4 **contacted any members of this Commission about your**
5 **candidacy?**

6 A. Of this commission? I have not.

7 **Q. And since submitting your letter of intent, have**
8 **you sought or received a pledge of any legislator, either**
9 **prior to this date or pending the outcome of your**
10 **screening?**

11 A. No, I have not. I did a letter just introducing
12 myself, letting them know I was in the position when I
13 first applied. But I have not spoke with or had contact
14 since that time.

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

19 A. I have not. And I do not know of anyone who has.

20 **Q. Have you received, and do you understand, the**
21 **Commission's guidelines on pledging, as well as South**
22 **Carolina Code Section 2-19-70 Subsection E?**

23 A. I believe I do. Yes, sir.

24 MR. PEARCE: I would note for the record,
25 that the Piedmont Citizens Committee reported Mr. Simpson

1 to be well qualified in the evaluative criteria of ethical
2 fitness, professional and academic ability, character,
3 reputation, experience, and judicial temperament, and
4 qualified in the remaining evaluative criteria of
5 constitutional qualifications, physician health and mental
6 stability.

7 The Committee noted that, "Mr. Simpson would
8 bring to the master in equity position, a wealth of real
9 estate experience from decades of legal practice, as well
10 as significant management expertise from managing a small
11 law firm, and a regional office for DSS. He has a quiet,
12 steady demeanor which suggests good judicial temperament."

13 Mr. Chairman, I would note for the record
14 that any concerns raised during the course of this
15 investigation by staff, regarding this candidate, were
16 incorporated into my questioning of him today. And I don't
17 have any further questions.

18 CHAIRMAN SMITH: Any questions? Senator
19 Hayes.

20 MR. HAYES: Thank you. This is more in the
21 way of a statement than a -- than a question. But I have
22 known David for a number of years. Matter of fact, you
23 were at one time the partner of the outgoing master in
24 equity; is that correct?

25 MR. SIMPSON: That is correct.

1 MR. HAYES: Jack Kimball, who has done a
2 great job for us over the years. I would just point out to
3 the Committee, that I don't know of any lawyer -- and if
4 you look at his PDQ, he's had a varied career. Mr. Simpson
5 -- I mean, he has run a legal serves -- Piedmont Legal
6 Services, which is a large legal service office in York
7 County, then he went in private practice and carried a huge
8 -- at one time, one of the busiest real estate lawyers in
9 York County.

10 Then he went to work for DSS, carrying a --
11 running a large DSSS office, and dealing with our juvenile
12 issues in York County. So I think that Mr. Simpson will
13 bring a wealth of experience to this job, and a good
14 judicial temperament as well. So I think he is imminently
15 qualified.

16 MR. SIMPSON: Thank you, Senator Hayes.

17 CHAIRMAN SMITH: Thank you, Senator Hayes.
18 Any further questions?

19 (Hearing none.)

20 CHAIRMAN SMITH: All right. Mr. Simpson,
21 thank you so much. This concludes this portion of our
22 screening process. I want to take this opportunity to
23 remind you, that pursuant to the Commission's evaluative
24 criteria, the Commission expects candidates to follow the
25 spirit as well as the letter of the ethics laws. And we

1 will view violations, or the appearance of impropriety, as
2 serious and potentially deserving of heavy weight and
3 screening deliberations.

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

10 MR. SIMPSON: Thank you, sir. And thank you
11 all for hearing me. I appreciate it.

12 CHAIRMAN SMITH: Have a safe trip back home.

13 (Candidate excused.)

14 CHAIRMAN SMITH: Ms. Weaver, good evening.

15 MS. WEAVER: Good evening.

16 CHAIRMAN SMITH: You're supposed to be
17 starting at four o'clock, I see on the scheduled. And it's
18 6:30. So let me apologize for that. We are always
19 optimistic that we're going to finish earlier than we are,
20 and I think we're starting to learn. This is worse than
21 court at times. I see you have two guests with you. Would
22 you like to introduce them to the Commission?

23 MS. WEAVER: Yes. With me today is my
24 father Stan Weaver, and his wife Margie.

25 CHAIRMAN SMITH: Well, welcome. Glad to

1 have y'all here today. Sorry to make y'all wait too. I
2 know you didn't sign up for that.

3 Ms. Weaver, will you raise your right hand,
4 please, ma'am.

5 WHEREUPON,

6 TEASA KAY WEAVER, being duly sworn and
7 cautioned to speak the truth, the whole truth and nothing
8 but the truth, testifies as follows:

9 CHAIRMAN SMITH: Ms. Weaver, before you is
10 your personal data questionnaire and the sworn statement.
11 Are these documents that you've submitted to the
12 Commission?

13 MS. WEAVER: They are.

14 CHAIRMAN SMITH: Are they both correct to
15 the best of your knowledge?

16 MS. WEAVER: Yes, they are.

17 CHAIRMAN SMITH: Does anything need to be
18 changed or updated at this time?

19 MS. WEAVER: Not at this time.

20 CHAIRMAN SMITH: All right. Do you have any
21 objection to us making these documents, and any amendments,
22 a part of the record of your sworn testimony here today?

23 MS. WEAVER: No objections.

24 CHAIRMAN SMITH: Without objection, if
25 you'll hand those to Lindi. We're going to make those a

1 record -- an exhibit to your sworn testimony.

2 (EXHIBIT NO. 23 - JUDICIAL MERIT SELECTION
3 COMMISSION PERSONAL DATA QUESTIONNAIRE OF TEASA
4 KAY WEAVER)

5 (EXHIBIT NO. 24 - JUDICIAL MERIT SELECTION
6 COMMISSION SWORN STATEMENT OF TEASA KAY WEAVER)

7 (EXHIBIT NO. 25 - AMENDMENT TO THE PERSONAL
8 DATA QUESTIONNAIRE OF TEASA KAY WEAVER)

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

18 We've received no affidavits today filed in
19 opposition to your election. And no witnesses are present
20 here to testify. Do you wish to make a brief opening
21 statement to the Commission?

22 MS. WEAVER: No.

23 CHAIRMAN SMITH: Thank you so much. That's
24 the best opening statement of the evening. Answer any
25 questions Counsel may have.

1 MS. DEAN: Thank you, Mr. Chairman. I note
2 for the record that based on the testimony contained in the
3 candidate's PDQ, which has been included in the record with
4 the candidate's consent, Ms. Weaver meets the statutory
5 requirements for this position, regarding residence and age
6 and years of practice.

7 EXAMINATION BY MS. DEAN:

8 Q. Ms. Weaver, how do you feel your legal and
9 professional experience thus far renders you qualified and
10 will assist you to be an effective master in equity?

11 A. Well, I've been a prosecutor for my 15 years as
12 an attorney, and in court a lot. I'm familiar with the
13 rules of evidence, which is the same for civil or criminal.
14 And appearing in court with trials, I have the trial
15 experience to know the rules of evidence.

16 And also, that I'm comfortable in court. So I --
17 my profession is some -- a profession where we have court
18 every other week, so that's a place that I feel very
19 comfortable. Again, the same rules of evidence. And so I
20 just would feel very comfortable in that setting.

21 Q. Thank you. Ms. Weaver, the Commission received
22 101 ballot box surveys regarding you, with 18 additional
23 comments. The ballot box survey, for example, contained
24 the following positive comments:

25 "Extremely smart, hardworking, even temperament,

1 **and ethical, effective lawyer."**

2 **Five of the written comments expressed concerns**
3 **regarding your experience, and 12.9 percent of the ballot**
4 **box survey takers marked "unqualified" on experience. How**
5 **would you respond to these concerns?**

6 A. Well, actually, when I met with the Bar
7 Committee, I said that, that would have been my concern if
8 I hadn't seen my qualifications. I actually sat down with
9 the current master in equity, Judge Kimball, and got a
10 little bit more information about what comes before him and
11 what's submitted before him. And I actually said there's a
12 little bit more of a learning curve when you go from civil
13 to criminal.

14 In criminal court, the judges do not receive
15 motions ahead of time. Most time it's right there when the
16 case is being called for trial. They don't know -- they
17 don't hear any testimony. Sometimes they're not even told
18 what's coming before the court when we call a case for till
19 -- until that day. They -- you know, they don't know.

20 Whereas, in speaking with Judge Kimball, it's a
21 lot different with civil court; there's the complaint and
22 there are motions filed and there are affidavits filed,
23 which is the testimony that he get -- he gets weeks ahead
24 of time, which allows him to review what the attorneys are
25 coming to argue that day in court.

1 So certainly, I think it's -- that is very
2 helpful in the switch from criminal to civil in that the
3 motions are received ahead of time, that most of the
4 testimony is received ahead of time. And in fact, I've
5 been to master in equity court several times, now, and on
6 the motions days that Judge Kimbell has there's rarely any
7 additional testimony, at least that I saw. So mostly,
8 everything's handled from the motions and the other
9 complaints and other filings that have been done by that
10 time.

11 So he -- he pretty much knows what -- what's
12 going to be litigated that day in court, versus what
13 criminal law is, which is -- and as a prosecutor, lots of
14 times I have to be prepared for what the defense is going
15 to argue that I don't know, there's no previous motions
16 filed. It's rare that, that's done.

17 **Q. Thank you. And you discussed a little bit about**
18 **the differences, but can you -- in your experience, but can**
19 **you also talk just a little about how you'd prepare**
20 **yourself to serve as master in equity?**

21 A. I'm not quite sure I understand.

22 **Q. What preparation you would undertake to better --**
23 **to be fully prepared to be -- to serve as master in equity.**

24 A. Oh, well, if I was fortunate enough to be
25 appointed for this position, I would hope Judge Kimbell

1 would be there to -- for me to work with him, so that I
2 could see exactly what he does. Because some of the things
3 he does is a lot different than civil court.

4 Most of the circuit court judges that deal with
5 civil court, they have the clerk of court that schedules a
6 lot of the matters. But with Judge Kimbell, I think he has
7 somewhat of his own docket with foreclosures and -- and
8 other matters. So there's a lot that he does, that's a
9 little bit different than even what the circuit court
10 judges do.

11 So I would hope that he would have time if,
12 again, I were fortunate enough to be chosen for the
13 position, that I would get some training time with him
14 before I started. And I believe that he ends in June or
15 July -- the end of June or July.

16 **Q. Thank you, Ms. Weaver. And you talked a little**
17 **bit about how as prosecutor you find out things while**
18 **you're in the trial, and that you don't have the**
19 **preparation time as you believe a master in equity would**
20 **have. But can you talk a little bit about how your**
21 **experience as a prosecutor would help you be prepared to be**
22 **a master in equity?**

23 A. Yes. And even though it might be civil law, I
24 still have to research issues. I still have to spot
25 issues. As a prosecutor I have to be prepared for what the

1 defense is going -- or what issues that they're -- they're
2 going -- going to make and, certainly, motions they're
3 going to make.

4 Because as prosecutors, we have to have the
5 witnesses there to be prepared for whatever issues that
6 might come up pre-trial. And so it would be the same for
7 civil, it's just different -- researching different law and
8 -- and different issues and looking at different rules.

9 But I never go into court without researching and
10 looking up the law, looking up the rules and making sure
11 that I am as well versed as I can be about a case before I
12 -- I go in there. And that would -- that would not be
13 different for me if I were master in equity.

14 I would review the complaints, review the
15 motions, review the law before I went in there, to make
16 sure that I was fully aware of what -- the issues that were
17 being litigated.

18 **Q. Thank you, Ms. Weaver. You indicated earlier**
19 **that you -- in your role as a solicitor, you've had a**
20 **little bit of civil experience. Would you explain that?**

21 A. Yes. A large part of me as a prosecutor -- as
22 being a drug prosecutor, and we do -- we handle civil
23 forfeitures, which is the seizure of money, and so we have
24 to file those. Those are filed in the common pleas. And
25 so that is a -- I had one trial, actually, in front of

1 Judge Kimbell, for a civil forfeiture.

2 So I actually have filed complaints and -- and
3 handled a trial in the court of common pleas when Judge
4 Kimbell was presiding for civil forfeiture.

5 **Q. And, lastly, some housekeeping issues. Can you**
6 **please explain to the court why you -- please explain to**
7 **the Commission why you're interested in being a master in**
8 **equity?**

9 A. Well, I've, you know, been practicing law for 15
10 years, all of those years as a prosecutor. And I've worked
11 my way up in the office, to the point where now I'm in sort
12 of a supervisory/mentor capacity with the other attorneys.
13 And to me, this is just a step up for me.

14 And this is -- you know, I'm ready to take that
15 sort of next step in my career. And this to me is the next
16 -- the next step. And I'm very excited about it. And so
17 that's -- I'm just ready to progress with my career.

18 **Q. Thank you. And just to some housekeeping issues.**
19 **Ms. Weaver, are you aware that as a judicial candidate you**
20 **are bound by the code of judicial conduct as found in Rule**
21 **501 of the South Carolina Appellate Court Rules?**

22 A. Yes.

23 **Q. Ms. Weaver, since submitting your letter of**
24 **intent, have you contacted any members of the Commission**
25 **about your candidacy?**

1 A. No, I have not.

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

5 A. No, I have not.

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 not. And no, I am not.

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

14 A. Yes.

15 MS. DEAN: I note that the Piedmont
16 Citizen's Committee reported Ms. Weaver as well qualified
17 in ethical fitness, professional and academic ability,
18 character, reputation, and judicial temperament. Ms.
19 Weaver was found qualified in four categories of
20 constitutional qualifications, physical health and mental
21 stability and experience.

22 The Committee stated, "Ms. Weaver will bring
23 in strong legal ability and a high level of energy and
24 enthusiasm to her candidacy. As an assistant solicitor who
25 has practiced almost exclusively in the criminal court,

1 however, she lacks experience in types of matters (example:
2 foreclosures) that regularly come before a master in
3 equity. The Committee is confident that she could acquire
4 this experience over time, but there will be a steep
5 learning curve."

6 Mr. Chairman, I would note for the record
7 that any concerns raised during the investigation by staff
8 regarding the candidate, were incorporated into today's
9 questioning. Mr. Chairman, I have no further questions.

10 CHAIRMAN SMITH: Thank you so much. Any
11 questions? Senator Hayes.

12 MR. HAYES: Thank you.

13 EXAMINATION BY MR. HAYES:

14 **Q. I want to thank you for willingness to serve in**
15 **this capacity, and also for your service as -- in the**
16 **solicitor -- in the solicitor's office. I notice you went**
17 **to pharmacy school for a while, but you decided to come**
18 **back into legal practice. Can you talk about that a little**
19 **bit?**

20 A. Oh, I didn't -- so I started with the solicitor's
21 office and I prosecuted for five years, and I got to a
22 point where I think you just get to that age of do I want
23 to stay where I'm at or do something else? And I had
24 always had a science and math background, or a -- just very
25 interested in it.

1 And I have a friend that turned me towards
2 pharmacy school. And it was just -- I believe that I was
3 in my early 30s. And if I were going to, you know, try to
4 make a change in my career, especially to something
5 completely different, that was the time. And so I did.

6 I actually -- I can't remember if it was a year
7 and a half, or almost two years, I had to get some
8 prerequisites. And I got accepted into pharmacy school.
9 And I went to pharmacy school for a year and came back. I
10 was just working for the solicitor's office for the summer,
11 and once I stepped back in, I said this is where I want to
12 be. And I missed it. And that's where I've been for the
13 last ten years.

14 **Q. Sometimes you have to go away to appreciate what**
15 **you have --**

16 A. You sure do.

17 **Q. -- the York County that you came back --**

18 A. Thank you so much.

19 MR. HAYES: I just want to state for the
20 record, she has as wonderful reputation in York County as a
21 prosecutor.

22 **Q. You don't have a lot of civil experience, but I'm**
23 **confident that you could pick that up and, you know,**
24 **certainly educate yourself in that regard.**

25 MR. HAYES: I just want to pass that along

1 to the Commission.

2 CHAIRMAN SMITH: Thank you, Senator Hayes.
3 It's good to have some on the Commission who's from York
4 County. So it makes it easy for us. All right. Any
5 further questions?

6 (Hearing none.)

7 CHAIRMAN SMITH: Ms. Weaver, thank you so
8 much for your presence today. This concludes this portion
9 of our screening process. I want to take this opportunity
10 to remind you that, pursuant to the Commission's evaluative
11 criteria, the Commission expects candidates to follow the
12 spirit as well as the letter of the ethics laws. And we
13 will view violations, or the appearance of impropriety, as
14 serious and potentially deserving of heavy weight and
15 screening deliberations.

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

22 MS. WEAVER: Thank you so much.

23 CHAIRMAN SMITH: All right. Y'all have a
24 safe trip back to York County. Senator Hayes will be
25 following you back, shortly, on the interstate.

1 Mr. Howard moves that we go into executive
2 session. All in favor say "aye."

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

4 CHAIRMAN SMITH: All opposed?

5 (Hearing none.)

6 CHAIRMAN SMITH: The ayes have it. We're in
7 executive session.

8 (Off the record from 6:46: p.m. to 7:12 p.m.)

9 CHAIRMAN SMITH: We're back on the record.
10 We're coming out of executive session. Mr. Safran moves
11 that we lift the veil. All in favor say "aye."

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

13 CHAIRMAN SMITH: All opposed?

14 (Hearing none.)

15 CHAIRMAN SMITH: The ayes have it. Let me
16 state that while we were in executive session, there were
17 no decisions made and no votes were taken. We're going to
18 proceed to the vote -- the vote of family court for the 8th
19 Judicial Circuit, Seat No. 1. And Mr. Safran?

20 MR. SAFRAN: I would move that all
21 candidates be qualified and nominated.

22 CHAIRMAN SMITH: And that's seconded by Mr.
23 Safran -- all right. So Mr. Safran moves that we find all
24 the candidates qualified and nominated. And it's seconded
25 by Representative Murphy.

1 And the candidates are as follows: The
2 Honorable Bryan C. Able, Ashley Phillips Case, and Matthew
3 Price Turner. Any discussion in regards to that motion?

4 (Hearing none.)

5 CHAIRMAN SMITH: No discussion. We're going
6 to move to a vote. All in favor of finding all the
7 candidates qualified and nominated, please raise your hand.

8 (Commission members cast their vote.)

9 CHAIRMAN SMITH: Let the record -- all
10 opposed?

11 (Hearing none.)

12 CHAIRMAN SMITH: Let the record reflect --
13 all right. Sorry. And Senator Young has the proxy of
14 Senator Sabb and Senator Rankin -- and Senator Rankin. And
15 how they vote, Senator Young?

16 SENATOR YOUNG: They vote the same as I do.

17 CHAIRMAN SMITH: Okay. They vote aye on
18 both of -- on finding all the candidates qualified and
19 nominated. And I have the proxy of Representative
20 Rutherford, and he votes aye on having all the candidates
21 qualified and nominated.

22 So the three candidates, Bryan Able, Ashley
23 Phillips Case, and Matthew Price Turner are all qualified -
24 - found qualified and nominated. The next one, please,
25 ma'am.

1 MS. CRAWFORD: Mr. Chairman, the next race -
2 - the final race is master in equity, York County. There
3 are two candidates: David Eugene Simpson, and Teasa Kay
4 Weaver.

5 CHAIRMAN SMITH: Mr. Howard?

6 MR. HOWARD: I make a motion that we find
7 them qualified.

8 CHAIRMAN SMITH: All right. Senator Hayes
9 makes a motion that we find both of the candidates
10 qualified, seconded by Mr. Howard. Any discussion?

11 (Hearing none.)

12 CHAIRMAN SMITH: All right. All in favor of
13 finding the master in equity for York County, David Eugene
14 Simpson and Teasa Kay Weaver, qualified, please raise their
15 hands.

16 (Commission members cast their vote.)

17 CHAIRMAN SMITH: All opposed?

18 (Hearing none.)

19 CHAIRMAN SMITH: Let the record reflect that
20 both of them are -- both of them have been qualified by the
21 -- all right. Let me back up. We have two proxies.
22 Senator Young, do you have the proxies of Senator Sabb and
23 Senator Rankin?

24 SENATOR YOUNG: I do. And they vote the
25 same as I do, which is "qualified."

1 CHAIRMAN SMITH: Okay. And then I have the
2 proxy of Representative Rutherford, and he votes
3 "qualified." Let the record reflect that it's now
4 unanimous, and both David Eugene Simpson and Teasa Kay
5 Weaver are qualified. And with that being said, Senator
6 Hayes moves that this committee finally adjourned after two
7 weeks. So all in favor say "aye."

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

9 CHAIRMAN SMITH: All opposed?

10 (Hearing none.)

11 CHAIRMAN SMITH: The ayes have it. We stand
12 adjourned.

13 (OFF THE RECORD AT 7:20 P.M.)

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