



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

**Circuit Court**  
**(New Candidate)**

Full Name: Kate Whetstone Usry

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1. Why do you want to serve as a Circuit Court judge?

Serving our community as a Circuit Court Judge would be an unequivocal honor for me. Throughout my years of education and my professional career, I have sought out ways to serve others and help better my community. In high school, I turned to organizations like Key Club and student government to become involved in volunteer opportunities. In college, I volunteered for and eventually led the Big People for Little People organization, which matched college students with middle school children to provide mentorship and guidance to community youth. Since law school, I have been heavily involved with a nonprofit organization, the Junior League of Columbia. I have also served the South Carolina Bar by attending numerous events at schools to speak with students. As an Assistant Solicitor, I received the John R. Justice Community Leadership Award, given annually to one prosecutor who exemplifies outstanding community leadership and citizenship. Continuing to serve our community as a Circuit Court Judge would be an unequivocal honor.

I simply love working in the courtroom. I was an Assistant Solicitor in the Eleventh Judicial Circuit Solicitor's Office for over ten years, where I was able to help victims and serve the community by prosecuting defendants and working with defense lawyers and Circuit Court judges in an effort to reasonably and meaningfully resolve criminal matters based on the facts and the evidence. I enjoy engaging in the legal conflict resolution process with victims, clients, opposing attorneys, and judges, from the initial stages of the case all the way through trial. I believe my ability to critically assess the facts and legal issues involved in criminal and civil matters is a strength of mine. Serving as a member of the judiciary will enable to me to continue to apply my strengths toward service to the community.

Finally, I have wanted to be a judge from a very early age. My father

served as a Circuit Court Judge for the First Judicial Circuit from 1991 – 1998. When I was growing up, I watched my father preside over jury trials in Orangeburg County and Calhoun County. I knew from that time that I wanted to be in the courtroom. My desire to one day be a judge is the reason I pursued and accepted a judicial clerkship after law school. As my clerkship drew to an end, I applied to work as a solicitor, because I was told by a number of well-respected trial lawyers that prosecutors and criminal defense attorneys get the most courtroom experience. I have experienced the highs and lows of my legal career in the courtroom. I want to be a Circuit Court Judge so that I may put my years of experience as a trial lawyer and love of the courtroom to use and continue to serve my community in a judicial capacity.

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

Yes.

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

I do not have plans to return to private practice at this time. Many judges have enjoyed their time on the bench enough to turn it into a lifelong commitment, and I hope to join their ranks.

4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice?

Yes.

5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

As a judge, I will discourage any *ex parte* communication. I understand there may at times be a need for *ex parte* communication to facilitate scheduling matters or to perform administrative tasks. However, it is my belief that all parties should be included on communications involving pending litigation matters. As innocent as conversations may be, it is important for the judge to maintain an appearance of impartiality at all times in order to preserve the integrity of the judicial process. Thus, all parties need to be included in communications with the judge. If a situation arises where I must speak to one party alone, such as an emergency, I believe the remaining parties should be apprised of the communication as soon as possible thereafter.

6. If you disclosed something that had the appearance of bias, but you

believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

I would give the request absolute deference and grant the motion. The purpose of disclosing bias is to allow the parties the opportunity to ask for a recusal. If I disclosed a potential bias, then I would honor any party's request for recusal, because the public's confidence in our judiciary is of great importance.

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

I would disqualify myself from any matter in which my husband or close relative had an economic interest. If it was a relationship that I know would clearly give the appearance of impropriety, I would recuse myself without giving the parties an opportunity to go forward.

If I believed an appearance of impropriety arose from my social or economic relationship with either a party or counsel before me, I would disclose that information and honor any request for recusal. Any appearance of impropriety goes against the principle of an independent, fair, and competent judiciary and must be resolved by recusal, unless the parties are advised and each party consents to my continued involvement in a case.

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

I will closely follow Canon 4 of the South Carolina Code of Judicial Conduct and all related Cannons. With respect to gifts, I will not accept any gifts from persons who will appear before me in Court, and I will report any gifts that are in excess of \$150.00 that are not from close family and friends or other individuals who I would not allow to appear before me due to the appearance of impropriety arising from our personnel or professional relationship. Further, while gifts arising from ordinary social hospitality are permissible, I would take care to be conscious of any appearance of impropriety. If I believed such a bequest tended to give the appearance of impropriety, I would not accept that gift.

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

With respect to acts of misconduct, it would depend on the severity or type of misconduct. If it was misconduct which I believe was inadvertent and lacked malicious intent, and I was in a position to address the situation, I

would attempt to directly inquire with the lawyer or judge. However, if the conduct raises a substantial question as to the lawyer's honesty, trustworthiness, or fitness as a lawyer, I believe it would have to be reported to the Commission on Lawyer Conduct or an appropriate disciplinary authority. Similarly, I believe an appropriate authority must be informed if I obtain knowledge of a member of the judiciary committing an action which raises a substantial question as to the judge's fitness.

As to the appearance of infirmity, it would again depend on the specifics of the situation. If the infirmity occurred during a hearing or a trial, I would attempt to halt the matter and address the issue with the lawyer directly or reach out to his or her law firm in order to handle the issue with sensitivity. If I was unable to cure the potential negative impacts of the lawyer's apparent infirmity, I would halt or grant a continuance to the proceedings and reach out to an assistance program, such as Lawyers Helping Lawyers or the South Carolina Bar. If I felt the conduct required it, I would also report it to the appropriate disciplinary authority. I would follow this same procedure for any member of the judiciary I believed was suffering the affects of infirmity.

We have many great legal advocates in our state, a small fraction whose love for the profession may lead them to stay past their prime. Handling issues of infirmity should be done with delicacy and tact, but also with a recognition that the clients these attorneys are representing stand to have their lives significantly impacted by insufficient legal representation.

10. Are you a member of any organization or association that, by policy or practice, prohibits or limits its membership on the basis of race, sex, religion, or national origin? If so, please identify the entity and explain if this organization practices invidious discrimination on any basis.

I am not a member of any such organization or association.

11. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations? Please describe.

My law firm hosted a fundraising event for Representative Lucas Atkinson, Representative Jackie Hayes and Senator Kent Williams in February 2020. I did attend this event. Further, I am an active member of Trenholm Road United Methodist Church and the Junior League of Columbia, both of which host various fundraising events. I have not personally been involved in the planning of these fundraisers, but I have within the past five years contributed financially. I have also given or attended events which have raised money for our local community, such as

the Epworth Food Truck event and Epworth's annual Christmas Toy Drive.

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

I do not have any business activities that I would remain involved with if elected to the bench.

13. If elected, how would you handle the drafting of orders?

I possess the legal research and writing skills to draft my own orders. However, I am also aware that nuanced situations may arise in complex litigation, and the lawyers for each side may at times be in a better position to fully brief specific scenarios. I would use a combination of the submitted briefs and my own review and research to draft an order. There may be instances I request parties to draft proposed orders, and I will review these orders and edit them to ensure they accurately represent my ruling on the matter.

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

Organization and communication are critical components to consistently meeting deadlines. To meet deadlines, my staff and I would have a shared calendar on which deadlines would be entered. In addition, at a period prior to the deadline, generally three to five days, a note would be calendared for each deadline as a reminder of the impending event.

My staff and I would be conscious of our time management and make efforts to ensure we are diligent in keeping office hours and court times consistent. It will never be lost on me or my office that our actions, including actions that result in delay, could result in negative and very costly consequences for the parties in both criminal and civil cases.

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

A judge's role is to critically assess the factual and legal issues before the court and apply the law as it exists. I do not believe a Circuit Court Judge should attempt to change the law or set or promote new public policies. Public policy is the province of the legislature and our appellate courts.

16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal

system?

I have engaged in various activities throughout my career to improve the law, legal system, and administration of justice. I volunteered in the 3L mentor program for a number of years, assisted an attorney as a first year mentor, participated in various events in our schools to discuss and promote the legal profession, and presented as a speaker at a number of continuing legal education seminars. As a judge, I will continue my service to better the legal profession by speaking about and promoting the legal system when asked to by the South Carolina Bar and other organizations, if appropriate. I will also engage in an ongoing effort to further the improvement of the legal system through my day-to-day interaction with attorneys, their clients, victims, and court personnel.

17. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you address this?

I do believe there may be instances in which personal relationships could be strained by the stress that arises from the time commitment and decision-making required of members of the judiciary. While the demands of being a judge are different than the demands associated with being a lawyer, pressure in the workplace is not a problem that is unique to judges. My husband and I have learned that open communication and efficient organization help us to minimize any significant disruption in our lives that may arise from the demands of our careers as lawyers. Furthermore, reaching out to colleagues, such as other members of the judiciary, will be an important outlet to discuss pressing decision-making matters and address questions. On a personal level, I also believe that physical exercise aids in easing stress, and I strive to exercise often.

18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.

The criminal justice system has a variety of goals, including rehabilitation, deterrence, restitution, and punishment. I believe each of these goals should be carefully evaluated based on the unique factual circumstances of each case. As a judge, it is important to be aware that each case must rise and fall on its own merits, and that each individual before the court appears with a distinctive personal history, background, and criminal record. As such, my answers below are general in nature, and as a judge, I will consider all factors before me that relate to the unique facts of each case.

a. Repeat offenders:

Depending on the number of offenses and the type of crime, generally, repeat offenders are more likely to face jail time, as their past interactions with the criminal justice system have not deterred their conduct. However, repeat drug users are vastly different from repeat armed robbery offenders. In addition, the length of time between offenses may also have an effect on the sentencing of a repeat offender.

b. Juveniles (that have been waived to the Circuit Court):

Juveniles may be waived to the Circuit Court due to committing offenses which carry a maximum sentence of fifteen years or more, murder, or criminal sexual conduct. See S.C. Code §16-19-1210. Clearly, the seriousness of the offense should be taken into consideration for sentencing purposes. However, there is also a clear public policy reason for the existence of juvenile court and for our state to create separate courts for juvenile offenders. Thus, the age and maturity of the juvenile before the court should be a factor to balance with the seriousness of the committed offense.

c. White collar criminals:

Although white collar criminals do not engage in acts of violence, their crimes can bring financial harm to victims that lasts a lifetime. The extent of the financial harm done to the victim or victims is a significant factor to consider when sentencing the offender. However, restoration of the harm done by white collar criminals can potentially be achieved through restitution. While deterrence and punishment are extremely important considerations in sentencing white collar criminals, I believe that the ability to make a victim whole again is a significant factor to consider when sentencing.

- d. Defendants with a socially and/or economically disadvantaged background:

The criminal justice system processes countless individuals with disadvantaged backgrounds, as evidenced by the necessity of the public defender's office. Understanding the background of the individual before the Court is essential in crafting an appropriate sentence. Offenders with these backgrounds generally will struggle more with restitution payments and may not be able to take advantage of rehabilitative programs due to financial constraints or lack of familial support. Crafting a sentence to balance the punitive effect of a particular punishment to disadvantaged persons versus those from more prominent backgrounds may be necessary in some instances. Of course, the severity of the committed offense or other factors may negate any deference to background, and these cases, like all criminal cases, should be addressed considering the totality of the circumstances.

- e. Elderly defendants or those with some infirmity:

Elderly defendants or those with some infirmity present unique challenges to sentencing. First, competency must be evaluated for individuals who present before the court displaying advanced signs of infirmity. Further, prison time is challenging to all individuals, but exceptionally so for the elderly, and some consideration should be given to the prison system's ability to properly maintain the safety of individuals with health issues. Additionally, the rehabilitation and punishment goals of the criminal justice system may not be served if the individual sentenced is unable to conform to requirements of the sentence, such as community service. All of these factors must again be balanced with the severity of the crime.

- 19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?

No.

- 20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?

Possibly. A *de minimis* financial interest does not automatically require my recusal. For example, I currently bank with a very large institution, Wells Fargo. If a case arose before me that happened to involve Wells Fargo, I would likely hear the matter unless it appeared a ruling on the matter would affect the value of my financial interest. However, I would disclose this interest and allow the parties to privately discuss whether they wished to ask for my recusal. If they believed even a *de minimis* interest



would affect my impartiality, I would honor their request for a recusal.

21. Have you met the mandatory minimum hours requirement for continuing legal education courses for the past reporting period?

Yes.

22. What do you feel is the appropriate demeanor for a judge and when do these rules apply?

A judge should always maintain a patient, dignified, and courteous demeanor while performing judicial duties. A member of the judiciary must perform his or her duties without any bias and be respectful to all lawyers, officials, and members of the public who appear in court. Furthermore, while it is imperative to operate in this manner for official duties, I believe a member of the judiciary should exercise the appropriate demeanor in all aspects of life in order to maintain the appropriate respect required of the office.

23. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or pro se litigants?

No. A judge is required to apply the law to the facts and dispense justice fairly and impartially, without the undue influence of anger or other emotions. While emotion cannot be completely removed from any human being, as a judge I will not rule in the midst of an emotional state that may cloud my judgment. If I were beginning to lose my patience with an attorney or party appearing before me, I would take a recess long enough to allow any negative emotion to pass. Ruling in a state of anger is not fair to any party appearing in court, as legal proceedings always involve matters of great importance to the parties and their attorneys.

**SIGNATURE PAGE TO FOLLOW**

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

Kate W. W.

Sworn to before me this 21<sup>st</sup> day of July, 2020.

Stephanie Brown

(Signature)

Angelic Shaw

(Print Name)

Notary Public for South Carolina

My Commission Expires: 10/22/24