

JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE
2020



Court, Position, and Seat # for which you are applying:
Judge of the Circuit Court, At-Large, Seat #12

1. Name: Mr. David W. Miller

Name that you are known by if different from above
(Example: A Nickname): N/A

Are you currently serving in some capacity as a judge? If part-time, please note.
(Includes Municipal, Magistrate, Etc.) No

Home Address: [REDACTED]

Business Address: Second Circuit Solicitor's Office
Aiken County Courthouse
109 Park Avenue, S.E.
Aiken, SC 29801

E-Mail Address: [REDACTED]

Telephone Number: (cell): [REDACTED]
(office): (803) 642-1557

2. Date of Birth: [REDACTED] 1972
Place of Birth: Aiken, South Carolina
Social Security Number: [REDACTED]

3. Are you a citizen of South Carolina? Yes
Have you been a resident of this state for at least the immediate past five years? Yes

4. SCDL# or SCHD#: SCDL [REDACTED]
Voter Registration Number: [REDACTED]

5. Have you served in the military? If so, give the dates, branch of service, highest rank attained, serial number (if applicable), present status, and the character of your discharge or release. Please provide a copy of your DD214 concerning your discharge.*

1991-95 U.S. Marine Corps Active Duty, Corporal, Honorable Discharge
1995-96 SMC Reserve, Corporal, Honorable Discharge

* A verification of my request to the National Archives for a copy of my DD214 is attached. I will supplement the PDQ with the DD214 upon receipt.

6. Family Status:

- (a) state whether you are single, married, widowed, divorced, or separated;
- (b) if married, state the date of your marriage and your spouse's full name and occupation;
- (c) if widowed, list the name(s) of spouse(s);
- (d) if you have ever been divorced or are in the process of obtaining a divorce, state the date, name of the moving party, court, and grounds; and
- (e) state the names of your children and their ages. If your children are old enough to work, include the occupation of each child.

Family Status: Married on November 21, 2008 to Christian Morton Miller, who is an area manager for Performance Foodservice.

Never divorced, two children.



- 7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
 - (a) University of South Carolina- Aiken (Fall 1990-Spring 1991), joined USMC.
 - (b) University of South Carolina- Aiken (Fall 1995-Spring 1996), transferred to Columbia campus.
 - (c) University of South Carolina- Columbia (Fall 1996-Summer 1998), B.S. Criminal Justice
 - (d) USC School of Law (Fall 1998-Spring 2001), J.D.
- 8. List the significant activities in which you took part during your attendance at law school. Give the years you were involved in these activities and list any leadership positions you held.
 - (a) Dean's List Fall 1996
 - (b) 160 Hour Internship with South Carolina Statewide Grand Jury
 - (c) Vice Magister, Phi Delta Phi, 2000-2001
- 9. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. Please indicate the number of times you took the exam in each state.

South Carolina (2001)(Passed exam on first attempt)
- 10. Describe chronologically, since graduation from law school, your legal experience. Please include a list of all positions held in which you worked in a legal capacity. Describe the general character of your practice and divide it into periods with dates if its character changed over the years. Please also describe the extent to which you were involved with the

administrative and financial management of each of these entities, including management of trust accounts.

- (a) 2001-2002 Law Clerk for The Honorable Rodney A. Peeples
- (b) 2002-2004 Robert J. Harte, P.C. - Associate attorney involved in general litigation matters representing plaintiffs and criminal and civil defendants.
- (c) 2004-2009 Smith, Massey, Brodie, Guynn & Mayes, P.C. - Associate attorney involved in general litigation matters representing plaintiffs and criminal and civil defendants.
- (d) 2009-2013 Office of the Solicitor, 2nd Judicial Circuit - Assistant Solicitor prosecuting felonies and misdemeanors in the General Sessions and Magistrate courts, and handling appeals from magistrate and municipal courts.
- (e) 2013-2015 Office of the Solicitor, 2nd Judicial Circuit - Deputy Solicitor for Aiken County prosecuting felonies and misdemeanors in General Sessions, coordinating prosecution/docket management for Aiken County, and working special Information Technology projects for the Office. In this position my administrative tasks included management of staff and oversight of dockets for individual court terms.
- (f) 2015-Present Office of the Solicitor, 2nd Judicial Circuit - Deputy Solicitor for Barnwell and Bamberg Counties prosecuting felonies and misdemeanors in the General Sessions and Magistrate courts, continuing to work as needed on cases in Aiken County, and continuing implementation of technology initiatives throughout the Second Judicial Circuit. Administrative duties in this position increased to include input with the elected Solicitor on office personnel, budgetary needs, equipment and space issues, preparation of performance appraisals of employees, complete management of criminal dockets in both counties, and coordination of terms of court with incoming judges and other court personnel. Additionally, I coordinate training for law enforcement personnel throughout the circuit and in other jurisdictions while continuing to train other lawyers under my supervision.

Justices/judges applying for re-election to their current position may omit Questions 11-17. If you are a full-time judge seeking a judgeship different than your current position, Questions 11-17 should be answered based on your experience prior to serving on the bench.

11. Please answer the following:

- (a) If you are a candidate for Family Court, please provide a brief written description of your experience within each of the following Family Court practice areas: divorce and equitable division of property, child custody, adoption, abuse and neglect, and juvenile justice. Include information about cases you have handled in each of these practice areas, or if you have not practiced in an area, describe how your background and procedural knowledge has prepared you to preside over such matters as a Family Court Judge. Please also indicate the frequency of your appearances before a Family Court Judge within the past five years.
N/A
- (b) If you are a candidate for Circuit Court, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five

years and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background and procedural knowledge has prepared you to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area. Please also indicate the frequency of your appearances before a Circuit Court Judge within the past five years.

My first job as a member of the South Carolina Bar was working as a law clerk for The Honorable Rodney A. Peeples. I then practiced as a private attorney for seven years before becoming an Assistant Solicitor and, later, a Deputy Solicitor in charge of two counties in our circuit. Through this experience, I have handled many different types of cases, both civil and criminal.

Before joining the Solicitor's Office, I defended numerous criminal cases involving defendants charged with everything from murder and criminal sexual conduct to Driving Under the Influence. Additionally, I represented both plaintiffs and defendants in civil matters while in private practice. As an associate attorney in a medium sized firm, I handled diverse civil litigation matters ranging from personal injury cases to contract disputes in Common Pleas and Magistrate courts. I was personally involved in the litigation involving the Estate of James Brown before leaving private practice. My civil practice was necessarily diverse because of my firm's limited market. Our firm did not advertise for personal injury cases, and most of the civil matters I handled were taken on an hourly fee basis. I handled contract disputes between businesses, land disputes and nuisance claims, will contests, mechanic's lien cases, and condemnation claims. I was also occasionally appointed by the Circuit Court as a Special Referee to hear non-jury civil claims.

I have prosecuted hundreds of cases as an Assistant, and now Deputy Solicitor, in the Second Judicial Circuit. Many of these cases were violent felonies including multi-defendant armed robbery cases, murders and home invasions. In the past five years, I have practiced exclusively in criminal court. During that time I have handled over one thousand cases, including several jury trials. In those cases, and cases that resulted in resolutions prior to trial, I have dealt with motions to suppress evidence, Neil v. Biggers hearings, Jackson v. Denno hearings, motions in limine, as well as other motions. I have been responsible for presenting expert witness testimony and have been called upon to cross examine expert witnesses called by the defense. I have frequently been asked to draft Orders for the Court following rulings on complex factual or legal issues.

My experience as a criminal defense attorney has shaped the way I prosecute cases throughout my career as a prosecutor. Lengthy, sometimes life-long, prison sentences can be necessary to protect society from a particular person, but those situations are, fortunately, extremely rare. I pride myself in my ability to work with the defense bar and judges to come up

with fair and just resolutions to cases. I also take pride in my reputation as a capable trial attorney if a resolution cannot be reached.

- (c) If you are a candidate for Master-In-Equity, please provide a brief written description of your experience in the Master's court, including any cases handled over the past five years and include a brief description of the issues involved. Please include the frequency of your appearances before a Master-In-Equity or a Circuit Court Judge within the past five years.

N/A

- (d) If you are a candidate for Administrative Law Court, please provide a brief written description of your experience before an Administrative Law Judge, including any issues discussed and the frequency of your appearances before the Administrative Law or Circuit Court within the past five years.

N/A

12. What was the frequency of your court appearances during the past five years or in the five years prior to your election to the bench?

- (a) federal: 0%
- (b) state: 100%

13. What percentage of your practice involved civil, criminal, domestic, and other matters during the past five years or in the five years prior to your election to the bench?

- (a) civil: 1% (Post-Conviction Relief Actions)
- (b) criminal: 84%
- (c) domestic: 0%
- (d) other: 15% (Administrative)

14. What percentage of your practice in trial court during the past five years or in the five years prior to your election to the bench involved matters that went to a jury, including those that settled prior to trial?

- (a) jury: 80%
- (b) non-jury: 20%

During the past five years, did you most often serve as sole counsel, chief counsel, or associate counsel?

I most often serve as chief counsel in jury trials in Barnwell and Bamberg Counties, but have also frequently appeared as associate counsel when one of the junior lawyers under my supervision is trying a case.

15. List five of the most significant litigated matters you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.

(a) David Mark Hill v. State of SC, 377 S.C. 462, 661 S.E.2d 92 (2008). This case was a Capital PCR where the Petitioner ultimately waived his rights to appeal and was put to death. This case is significant to me for many reasons. It was the first, and only, time I argued a case before the South Carolina Supreme Court. I was criticized for helping Hill waive his appeals and proceed

with imposition of the death sentence by other lawyers that handled capital litigation. Although I disagreed with Hill's decision to waive his appeals, I had no doubt Hill was competent to make that decision, so I was obligated to assist him seeking the waiver. But the most impactful thing about the case was that my client requested that I be one of his witnesses when the sentence was carried out, so I ultimately watched my client be put to death on June 6, 2008.

(b) State of SC v. Honorio Gurrero, 382 S.C. 620, 677 S.E.2d 603. This was an extremely complex case logistically because it involved four defendants (none of whom spoke English) and four different defense attorneys. All of the defendants were tried together. This case is also significant to me because it was the first criminal case I ever defended in General Sessions Court. It was also the first case that I had overturned on appeal when the South Carolina Supreme Court agreed with me that a directed verdict in favor of my client should have been granted at the close of the State's case.

(c) State of SC v. Michael Paul Buckmon. Michael Paul Buckmon and Matthew Bolen sexually assaulted and killed Donna Dempsey in Barnwell County on November 1, 2013. Her home was set on fire in an attempt to conceal the sexual assault and subsequent burglary of the residence. The SLED investigation of the crime spanned from Allendale County to Pickens County and resulted in a nearly 800 page investigative report. The SLED arson investigator and several SLED analysts were qualified as experts in the case and offered testimony concerning the evidence collected during the investigation. There were very few lay witnesses in the case because many people were fearful of Buckmon. He had previously been convicted of murder and sentenced to life but later had his conviction overturned by the Supreme Court. The case was very difficult to organize and present to the jury in a logical fashion because of the sheer volume of evidence to be presented. Buckmon was convicted of murder, arson in the first degree, and criminal sexual conduct in the first degree at trial and sentenced to life.

(d) State of SC v. Leon Amos Jason James. This was a multi-defendant armed robbery in Bamberg County. I tried the case against two of the most respected lawyers in Bamberg and was able to obtain a conviction on all charges. The Defendant was sentenced to life pursuant to S.C. Code §17-25-45 because he had prior convictions for armed robbery. I also convicted one of the co-defendants in a separate trial. He was given a life sentence because he had several prior armed robbery convictions. The third co-defendant in the case pled guilty but did not testify in either trial for the State.

(e) State of SC v. Demetrius Boyd. This was a home invasion case where I was appointed to represent the Defendant. He was charged with Burglary 1st Degree, Kidnapping, and Assault and Battery with Intent to Kill. The case is significant to me because the Defendant was one of the most difficult criminal defendants I ever represented, but I was convinced he was not guilty of the crimes he was charged with. Less than two weeks before the trial, I received the State's notice of intent to seek life without parole. We tried the case and the jury found the defendant not guilty on all charges.

16. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported.

(a) David Mark Hill v. State of SC, 377 S.C. 462, 661 S.E.2d 92 (2008). South Carolina Supreme Court, April 28, 2008.

- (b)
- (c)
- (d)
- (e)

17. List up to five criminal appeals you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported.

- (a) I have not personally handled any criminal appeals.
- (b)
- (c)
- (d)
- (e)

18. Have you ever held judicial office? If so, list the periods of your service, the courts involved, and whether you were elected or appointed. Describe the jurisdiction of each of the courts and note any limitations on the jurisdiction of each court.

I have never held judicial office.

19. If the answer to question 18 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported. Also list citations to any appellate review of these orders or opinions.

- (a)
- (b)
- (c)
- (d)
- (e)

20. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.

- (a) South Carolina, 2001;
- (b) US District Court for the District of SC, 2002.

21. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs? If so, briefly describe each course or lecture.

(a) I have lectured at the S.C. Prosecution Commission's Prosecution Boot Camp each year since 2012. At the Boot Camps, Senior Assistant and Deputy Solicitors are given specific topics to cover during instructional periods and all instructors participate in discussion and performance workshops. Instructors critique students on their performances with assigned fact patterns and lead group discussions. I taught the following individual classes to the participants over the years listed: Hearsay (2013, 2014, 2015) Sentencing Fundamentals (2013, 2014), Guilty Pleas: Negotiations, Agreements and Procedure (2016, 2017, 2018).

(b) I made two presentations for the S.C. Bar's pro bono project, Legal Lessons: A series for the Public in 2012. The Legal Lessons series was a program to introduce members of

the public to specific areas of the law by providing classes taught by lawyers with experience in that practice area. The courses were scheduled at the local technical college over the course of several consecutive weeks and included a one hour class on each subject along with a question-and-answer period afterward. I presented an “Overview of the South Carolina State Courts” (09/17/2012) and “Criminal Law” (10/29/2012).

(c) I have lectured at the S.C. Solicitor’s Association Annual Conference since 2017. I have conducted classes covering several evidence-related topics. In 2017, I presented a lecture titled “Obtaining Evidence Lawfully” that focused on unusual or technical situations where prosecutors are called upon to obtain evidence in cases using specific types of court orders. This lecture was presented in coordination with Senior Deputy Attorney General Don Zelenka, who presented a companion lecture titled “Getting and Using Evidence- Problems, trends, and the Appellate Courts”.

In 2018, I presented a lecture titled “Investigating and Prosecuting Animal Abuse Cases” that focused on the unique aspects of investigating and prosecution of animal abuse cases including societal attitudes that impact presentation of evidence to juries and the impact of social media and public outcry on courts’ sentencing. I also presented a “follow-up” to the 2017 lecture called “Using Search Warrants, Subpoenas, and Court Orders”. This lecture discussed the appropriate use of search warrants and court orders to obtain evidence in criminal prosecutions, focusing on ethical and procedural concerns and how those concerns impact communication with law enforcement agencies.

(d) Following my lecture at the SCSA Annual Conference, I was invited to be a guest facilitator for a workshop on Investigating and Prosecuting Animal Abuse cases at the Southeast Animal Alliance Annual Conference in Augusta, Georgia. The workshop took law enforcement personnel through the process of investigating and documenting a complaint to testifying at trial, where I served alternately as the prosecutor and the defense attorney for various witnesses.

(e) In 2019, I was a co-presenter in a two hour block of training focused on issues concerning animal cruelty for the South Carolina Summary Court Judges’ annual training.

22. Provide, as a separate attachment, your continuing legal or judicial education report from the past five years.

Attached.

23. List all published books and articles you have written and give citations and the dates of publication for each.

None.

24. Please furnish as a separate attachment, two examples of legal articles, briefs, orders, or other legal writings for which you can claim sole or primary authorship. If you cannot claim sole authorship, please explain the extent to which you are the primary author, to include a description of the other authors and their contributions. The writing samples are for the Commission’s use only and will not be published. (If you are a judge and are not seeking a different type of judgeship, this question is inapplicable.)

Attached.

25. What is your rating or membership status, if any, by any legal rating organization, such as, Best Lawyers, Chambers, Legal 500, Martindale-Hubbell, Who's Who Legal, Super Lawyers, Million Dollar Advocates Forum, etc.? If you are currently a member of the judiciary, list your last available rating, if any.

Martindale-Hubbell A/V Rated

26. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.

- (a) South Carolina Bar 2001 - Present;
- (b) Aiken County Bar, 2001 - Present, President 2004-06;
- (c) South Carolina Trial Lawyer's Association, 2001 - 2008, Member, Board of Governors 2005-08;
- (d) South Carolina Association for Justice, 2014-Present (Public Sector Member)

27. Have you ever held public office other than judicial office? If so, list the periods of your service, the office or offices involved, and whether you were elected or appointed. Also, state whether or not you have timely filed your report with the State Ethics Commission during the period you held public office. If not, were you ever subject to a penalty? If so, give details, including dates.

No.

28. For sitting or former judges, list all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor.

N/A

29. Have you ever been an unsuccessful candidate for elective, judicial, or other public office? If so, give details, including dates.

I was a candidate for Circuit Judge, At-Large Seat 14, in the Fall of 2012. I was found to be qualified but not nominated by the Judicial Merit Selection Commission.

I was a candidate for Circuit Judge, At-Large Seat 1, in the Fall of 2016. I withdrew from the race before the Judicial Merit Selection Commission reported on my candidacy.

I was a candidate for Resident Circuit Court Judge for the Second Judicial Circuit, Seat 1, in the Spring of 2019. I withdrew from the race after being found qualified and nominated by the Judicial Merit Selection Commission.

30. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office? If so, give details, including a description of your occupation, business, or profession, the dates of your employment, and the name of your business or employer.

I served on active duty as an enlisted U.S. Marine from 1991-1995. During my enlistment, I served as a Military Police Officer and Special Response Team (S.R.T.) Marine.

31. Are you now an officer or director or involved in the management of any business enterprise? Explain the nature of the business, your duties, and the term of your service.

No.

32. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? If so, give the dates of your employment or activity in such capacity and specify by whom you were directed or employed.

No.

33. Provide, **as a separate attachment**, a complete, current financial net worth statement that itemizes in detail:

- (a) the identity and value of all financial assets held, directly or indirectly, including, but not limited to, bank accounts, real estate, securities, trusts, investments, and other financial holdings; and
- (b) the identity and amount of each liability owed, directly or indirectly, which is in excess of \$1,000, including, but not limited to, debts, mortgages, loans, and other financial obligations.

(A net worth statement form is provided with this questionnaire and you must use this format for submission of your financial statement.)

NOTE: The Commission may require written confirmation that financial obligations have been satisfied or that the parties have agreed upon a payment schedule.

A complete, current financial net worth statement was provided to the Commission.

34. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? If so, give details. Also, proof of satisfaction of any liens or defaults must be submitted with your application package.

No.

35. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? If so, please specify the item or items you received, the date of receipt, and the lobbyist or lobbyist's principal involved.

No.

36. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek. If you have spent over \$100, have you reported your expenditures to the House and Senate Ethics Committees?

No expenditures have been made in furtherance of my candidacy.

37. List the recipient and amount of all contributions made by you, a member of your immediate family, or by a business with whom you are associated, to members of the General Assembly within the past four years.

No contributions to any member of the General Assembly have been made by me, a member of my immediate family, or by a business with whom I am associated within the past four years.

38. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? If so, please specify the amount, solicitor, donor, and date of the solicitation.

No.

39. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek or currently hold. Explain how you would resolve any potential conflict of interest.

I am not aware of any current or past financial arrangements or business relationships that would constitute or result in a possible conflict of interest as a Circuit Court Judge. However, if a situation arose where I was aware of a possible conflict, I would immediately notify the attorneys in the matter and explain the basis of the potential conflict. Thereafter, I would either recuse myself from the matter or obtain the informed consent of the parties to continue hearing the matter despite the potential conflict. I would ensure that the acknowledgement of the potential conflict and the waiver were put on the record or reduced to writing.

40. Describe any interest you or a member of your immediate family has in real property:
- (a) in which there is a potential conflict of interest with your involvement in a South Carolina state or local public agency;
 - (b) in which there have been public improvements of \$200 or more that adjoins property in which there have been public improvements of \$200 or more; or
 - (c) which was sold, leased, or rented to a state or local public agency in South Carolina.

None.

List the interest you hold and the value and location of the property. Identify as applicable the:

- (a) nature of any potential conflict of interest;
- (b) nature and value of any public improvements; and

(c) South Carolina state or local public agency which purchased or is leasing or renting such property.

Attach a copy of any contract or agreement.

N/A

41. Identify any personal property interest you or a member of your immediate family sold, leased, or rented to a South Carolina state or local public agency. Identify the property, its amount or value, and the name of the agency. Attach a copy of any contract or agreement.

N/A

42. For sitting judges, if you currently hold an interest in stock or other securities or have held such an interest, list each stock you currently own or owned during the prior calendar year. If you prefer, you may attach broker or account records containing the requested information instead of listing it here.

N/A

43. For sitting judges, have you ever accepted anything of value from an attorney or litigant in a matter currently or previously before you or your court? If so, please give the details, including the name of the attorney or litigant and the thing of value you received.

N/A

44. For sitting judges, have you used the services of your staff, for which you did not pay, while campaigning for this office?

N/A

45. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law? If so, give details but do not include traffic violations which are subject to a penalty of \$125 or less. You must include any and all arrests, including, but not limited to, offenses for driving under the influence or similar traffic offenses. Include all arrests that resulted in expungement, which will be redacted. If you have questions regarding whether to include an offense, please contact the Commission.

[All answers have been received and considered by the Commission, and as noted above, any expunged matters are redacted from the record.]

46. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? If yes, explain.

I am not aware of ever having been investigated for a criminal violation.

47. Have you ever been sued by a client? Have you ever been a named party (personally or professionally) in or had a pecuniary interest in any civil or criminal proceedings? If so, give details, including, but not limited to, dates, and resolutions.

(a) I was named as a defendant in a Federal §1983 action filed *pro se* by a criminal defendant I was prosecuting for murder and multiple counts of armed robbery and attempted murder. I was sued in my individual capacity in the case along with the Barnwell County Sheriff, the Barnwell Jail Administrator, and the South Carolina Department of Corrections. The case was captioned as: Dustin Robert Williamson v. Brian Sterling, and/or Jane or John Doe; Ed Carroll, Sheriff, Deloris Charlton, Administrator, Barnwell County Detention Center; Individually and in their official capacities; David Miller, Deputy Solicitor, in individual capacity; and Jack Hammock [*sic*], Solicitor in individual capacity, Civil Action Number: 0:15-4755-MGL-PJG. Summary Judgment was granted in the case on July 20, 2017. Plaintiff appealed the grant of Summary Judgment to the Fourth Circuit Court of Appeals. The appeal focused on the conditions of confinement Plaintiff encountered while being held at the South Carolina Department of Corrections. Oral argument was held before the Fourth Circuit on September 25, 2018. On December 21, 2018, the Fourth Circuit affirmed the grant of summary judgment as to claims against me.

(b) A person named David Miller was named as the defendant in a civil case filed on 08/13/2004 in the Anderson/Greenwood division of the Federal District Court. The case was captioned Ralph C. McCullough, II v. David Miller and was assigned docket number umber 8:04cv-06563-GRA. I am not the David Miller involved in this case. After researching the matter, I learned this case was ancillary litigation involving the estate of an owner of a company that had filed for bankruptcy in 1998. I had no involvement in the litigation naming “David Miller”, the administration of the estate, or the bankruptcy matter.

(c) I am listed in the Aiken County public index as a plaintiff in case number 08-CV-1017. This was a civil Magistrate’s Court case filed 09/24/2008 where I appeared Pro Se to bring a claim against AT&T Mobility, LLC and Apple, Inc. involving a defective iPhone. AT&T Mobility, LLC defaulted in the case and Apple, Inc. filed its answer. The matter was tried without a jury on 11/10/2008 and I was awarded a judgment against both defendants, joint and several, in the amount of \$1,772.00. The judgment amount was subsequently paid by Apple, Inc.

(d) I am listed in the Aiken County public index as a defendant in the filing of a Lis Pendens numbered 620011. I served as the guardian ad litem for Meghan Audrey Daves and Harrison Alexander Daves in this action involving the approval of the sale of real estate from the estate of Mary E. Daves, deceased. Despite the fact this Lis Pendens is still shown as pending on the public index, the underlying probate matter was ultimately uncontested allowing the property to be sold and the estate to be closed.

(e) A person named David Miller is listed in the Aiken County public index as a defendant in case number 2014-CP-02-01756. The David Miller in this case is David E. Miller. I was not involved in any capacity in this case and do not know any of the parties involved. The motion to approve the minor settlement was filed 08/04/2014 and was approved by the court on 09/22/2014.

(f) I am listed in the Aiken County public index as a plaintiff in case number 2012-CP-02-01677. This was a filing solely for the purpose of approving a minor settlement on behalf of a family friend’s daughters. I filed the document as the Petitioner and as guardian ad litem in the

action for Avery Page and Whitney Page, who were minors, without compensation. The case was filed on 07/11/2012 and resolved the same date.

48. If you are in private practice, are you covered by malpractice insurance and, if so, how long have you carried malpractice insurance? If applicable, have you ever been covered by a tail policy? If so, please explain when you were covered by a tail policy. Also, if applicable, indicate your coverage and deductible for your current malpractice policy.

N/A

49. Have you ever, in South Carolina or any other jurisdiction, as a lawyer, judge, or other professional, been cautioned with or without a finding of misconduct, sanctioned, or disciplined for lawyer, judicial, or other professional misconduct or has any jurisdiction found that you committed any misconduct? If so, give the details and describe any final disposition. Include any and all confidential and public sanctions, disciplines, letters of caution, or findings of misconduct of any kind. Private or confidential dispositions will be redacted.

[Yes and no responses are redacted for all candidates unless there is a public discipline.]

50. Have you ever been investigated by the Department of Social Services? If so, give the details and the resolution. Has your name ever been enrolled on the Central Registry of Child Abuse and Neglect? If so, give the details.

No.

Note: The flash drive with your application materials contains (1) Section 2-19-70(c); (2) JMSC Rule 24, (3) Memo of Guidance, and (4) informal opinions and letters concerning pledging prohibitions, with which third parties acting on your behalf, as well as you, must comply.

51. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened or have you been offered a conditional pledge of support by any legislator pending the outcome of your screening? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? If so, give details.

No.

52. Have you requested any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Describe the campaigning you have done for this election and include a list of those individuals you have asked to campaign on your behalf and, to the best of your knowledge, those who have campaigned for you on their own initiative.

No. I have not asked anyone to contact any member of the General Assembly on my behalf and I am not aware of anyone contacting a member of the General Assembly on my behalf on their own initiative.

53. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges until after the draft report becomes final, which occurs on the day and time specified on the Commission's published screening schedule?

Yes.

54. Since submitting your letter of intent to become a candidate, have you or has anyone acting on your behalf contacted any member of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? If so, give details.

No.

55. List the names, addresses, and telephone numbers of five (5) persons from whom you are providing references. Also, provide the Commission with **original letters** of recommendation from each person listed herein, including their signature (preferably in blue ink). **The Commission will not accept a photocopy or electronic submission of a letter of recommendation and failure to include all five (5) original letters of recommendation in your packet when you submit it will render your packet incomplete.** Please **do not** have references mail your reference letters to the Commission directly. *You must return the five (5) original letters of recommendation to the Commission with your application packet.*

(a) Kent T. Cabbage, Ph.D. [REDACTED]

(b) Doyet A. Early, III, [REDACTED]

(c) Bert G. Utsey, III, [REDACTED]

(d) Ashley Jacobs, [REDACTED]

(e) Ronald Maxwell, [REDACTED]

56. Are you active on or a member of a social media or Internet site such as, Facebook, LinkedIn, Twitter, Instagram, etc.? I am a member of LinkedIn, YouTube, and Facebook, but do not post frequently on any platform.

If so, please list the account names for each account and the relevant platform.

Facebook: <https://www.facebook.com/profile.php?id=100047165044034>

LinkedIn: <https://www.linkedin.com/in/david-miller-710919140/>

YouTube: millerdw4021

How would your use of social media or other similar types of Internet sites be affected if you were serving in a judicial capacity?

I have used social media accounts to maintain contacts with friends and family, however if I was serving in a judicial capacity, I would delete all social media accounts.

57. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.

None

58. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek. This information may include how your life experiences have affected or influenced the kind or type of judge you have been or plan to be.

There are several moments in my career that have helped shape who I am. In 2006, I was appointed lead counsel on the Post-Conviction Relief Application for David Mark Hill, who was sentenced to death after he murdered three people in Aiken County in 1996. Ultimately, Hill decided to waive his appeals and asked that his death sentence be imposed. Following our appearance on the case before the South Carolina Supreme Court, Hill asked that I be present as his witness at his execution. I spent the last twelve hours of David Hill's life with him in a small cell at the Capital Punishment Facility of the South Carolina Department of Corrections. I witnessed his execution that evening.

In November of 2008, Strom Thurmond was elected Solicitor of the Second Judicial Circuit. In late December, he asked me to become an Assistant Solicitor for his office. It was a difficult decision for me because I had gotten married just a few weeks after his election. In less than ninety days, I went from a single, relatively successful private attorney living in a rented townhouse, to a married Assistant Solicitor living in my first home with my new wife and two children. In retrospect, there is no question I made the right decision when I joined Solicitor Thurmond's staff. Working as an Assistant Solicitor allowed me to be in the courtroom where I always dreamed I'd be. In addition to my prosecutorial duties, I was allowed to work with new attorneys in the office and formally mentor several of our lawyers through the SC Bar's lawyer mentoring program.

In December of 2011, Aiken Department of Public Safety Master Public Safety Officer Edward Scott Richardson was shot and killed by Stephon Carter. Two months later, Aiken Department of Public Safety Master Corporal Sandra Rodgers was shot and killed by Joshua Jones. These murders devastated our community. Solicitor Thurmond assigned me as the lead counsel in the Stephon Carter case and assigned Deputy Solicitor Beth Ann Young as the lead counsel in the Joshua Jones case. In November of 2012, Solicitor Thurmond determined our office would seek the death penalty against Stephon Carter.

For the next two and a half years, I was the lead attorney dealing with all matters involved in the case. Ultimately, we offered a plea agreement to Carter that would require him to spend life in prison without the possibility of parole. The decision to make the plea offer, and the defense's decision to accept the offer, was only possible because of the countless hours spent working the case and communicating with the officers at ADPS and family members of Officer Richardson.

During my time as an Assistant Solicitor and now as a Deputy Solicitor, I have taken on more administrative functions. Since May of 2015, I have been in charge of our "lowcountry" offices in Barnwell and Bamberg Counties. I have developed strong relationships with the defense bar, court personnel, and law enforcement agencies there. I have also managed the

criminal dockets in both counties. For several months now, Barnwell and Bamberg have been two of only a handful of counties in South Carolina that meet the Supreme Court's mandate that at least 80% of the pending cases are less than a year old.

When I ran for Circuit Court Judge previously, I was asked many questions about my tenure as the law clerk for Judge Rodney Peeples. Judge Peeples was an incredible judge and remains an amazing person. I continue to love and respect him; he is like a father to me, as he is for all of his former clerks. He had a style that was not unique when he came to the bench, but the world changed a lot in the three decades on the bench. Unfortunately, he did not always change the way he did things with the times. As much as I love and respect him, I would have a different demeanor on the bench. Academically, Judge Peeples had few equals. Some of the most influential and ground-breaking cases in South Carolina over the last half century have his name attached to them. In my experience, he dispassionately applied the facts to the law, and when the result wasn't fair, he said so, but he still followed the law. Occasionally, that resulted in the law changing, but his decision was going to be based on the law and the facts of the case as he understood them. This is the influence I hope Judge Peeples would have on me as judge. I know that I will be faced with tough decisions, but I will always do what I believe the law requires, even if I am not happy about the result. Judges should apply the law, not seek to change it.

Many other Judges have influenced the demeanor I would hope to have on the bench and are a model for judges. For example, Judge Thomas W. Cooper of Manning is the ultimate "lawyer's judge" to me. He commands control of the courtroom without anger or intimidation. He is fair to all litigants, and their lawyers. He makes informed, timely decisions without unnecessarily commenting on the matters before him. He is kind and courteous, and that civility extends from him to the opposing parties in the courtroom. As I have worked as a solicitor, and before in private practice, I have had the opportunity to appear before dozens of circuit court judges. The best of them have similarities that I have noticed and hope to emulate. Of particular note is the judicial demeanor of Judge William Keesley, Judge Clifton Newman, Judge Early and Judge Casey Manning. Each of them, in their own way, display the best of judicial demeanor and temperament and watching them has prepared me for the challenge of becoming a circuit court judge.

My desire to ascend to the Circuit Court bench is driven by my desire to improve the judicial system in South Carolina. I have learned and always tried to emulate the best attributes of the lawyers and judges I have known. Being a solicitor has allowed me a great opportunity to observe many judges in the courtroom. In each judge, I looked for the things they did that I would want to do if I was in their position. I feel I am ready to take on that challenge, and to become an example to the lawyers that will follow in my footsteps. My desire to be a Circuit Court Judge is not "the next step", it is the culmination of the career of a trial attorney. That certainly does not mean I don't have room to grow, just that I have never been and do not seek to be an appellate lawyer or judge. I want to be the best circuit court judge in South Carolina.

YOUR SIGNATURE WILL BE HELD TO CONSTITUTE A WAIVER OF THE CONFIDENTIALITY OF ANY PROCEEDING BEFORE A GRIEVANCE COMMITTEE OR ANY INFORMATION CONCERNING YOUR CREDIT.

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

Signature: _____

Sworn to before me this ____ day of _____, 2020.

(Notary Signature)

(Notary Printed Name)
Notary Public for South Carolina
My Commission Expires: _____