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PUBLIC HEARINGS

November 30, 2020

Judicial Merit Selection Commission

REPORTER: Jennifer Nottle

1 STATE OF SOUTH CAROLINA)

2 COUNTY OF RICHLAND)

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5 JUDICIAL MERIT SELECTION COMMISSION

6 TRANSCRIPT OF PUBLIC HEARINGS

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8 BEFORE: SENATOR LUKE A. RANKIN, CHAIRMAN
9 REPRESENTATIVE G. MURRELL SMITH, JR., V. CHAIRMAN
10 SENATOR RONNIE A. SABB
11 SENATOR SCOTT TALLEY
12 REPRESENTATIVE J. TODD RUTHERFORD
13 MS. HOPE BLACKLEY-LOGAN
14 REPRESENTATIVE CHRIS MURPHY
15 MR. J.P. "PETE" STROM
16 MS. LUCY GREY MCIVER
17 MR. ANDREW N. SAFRAN
18 MS. ERIN CRAWFORD, CHIEF COUNSEL

19 * * * * *

20 DATE: November 30, 2020

21 TIME: 9:30 a.m.

22 LOCATION: Gressette Building

23 1101 Pendleton Street

24 Columbia, South Carolina 29201

25 REPORTED BY: JENNIFER NOTTLE, COURT REPORTER

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1 CHAIRMAN RANKIN: All right. We're going to go into
2 executive session on motion of Andy Safran, seconded
3 by Pete Strom. We're now in executive session.

4 EXECUTIVE SESSION

5 CHAIRMAN RANKIN: All right. Folks, we're back on the
6 record. And during executive session no
7 decisions were made, no votes were cast and we
8 will proceed to the next candidate. All right.
9 Judge Lenski, good morning.

10 THE HONORABLE S. PHILLIP "PHIL" LENSKI, having been
11 duly sworn, testifies as follows:

12 JUDGE LENSKI: Good morning, Mr. Chairman.

13 CHAIRMAN RANKIN: Welcome. You have before you the
14 Personal Data Questionnaire and your Sworn
15 Statement. Are they ready to go in the record?

16 JUDGE LENSKI: Yes, sir.

17 CHAIRMAN RANKIN: All right, sir, thank you. And I
18 apologize for the slight delay in our start time.
19 You are familiar with this process. You have
20 screened before. How many times?

21 JUDGE LENSKI: This is my second screening for the
22 position. I screened once before for an
23 unsuccessful candidacy.

24 CHAIRMAN RANKIN: All right. You are aware of our
25 investigation of your qualifications for

1 continued service on the bench, which focuses on
2 nine evaluative criteria. And we also look at
3 the ballot box survey, a study of your
4 application materials, violation -- or rather,
5 verification of your compliance with state ethics
6 laws, a search of newspaper articles in which
7 your name appears, study of the previous
8 screenings and a check for economic conflicts of
9 interest. No affidavits have been filed in
10 opposition to your reelection and no one has
11 desired to be present to testify. You, sir, have
12 the opportunity to make a brief opening statement
13 before we turn it over to JJ for questions. Good
14 morning, the floor is yours.

15 (Exhibit Number 1 was marked for identification
16 purposes - (14 pages) Personal Data Questionnaire for
17 The Honorable S. Phillip "Phil" Lenski.)

18 (Exhibit Number 2 was marked for identification
19 purposes - (4 pages) Sworn Statement of The Honorable
20 S. Phillip "Phil" Lenski.)

21 JUDGE LENSKI: Good morning. Good morning. Thank
22 you. I have nothing. I don't wish to further
23 delay these proceedings. I just want to say good
24 morning to everyone and tell you it's a great
25 honor to be here today and I look forward to

1 answering any questions that you have. Thank you
2 very much.

3 CHAIRMAN RANKIN: All right. JJ.

4 MR. GENTRY: Thank you, Mr. Chairman.

5 JUDGE LENSKI - EXAMINATION BY MR. GENTRY:

6 **Q. Hi, Judge Lenski.**

7 A. Good morning.

8 **Q. After serving ten years --**

9 CHAIRMAN RANKIN: Is your button on?

10 MR. GENTRY: It's on.

11 CHAIRMAN RANKIN: It's on.

12 **Q. Good morning, Judge Lenski.**

13 A. Good morning.

14 **Q. After serving ten years on the Administrative Law**
15 **Court, why do you want to continue serving?**

16 A. Well, I think most importantly because I truly
17 love the job that I do, and it's been a
18 tremendous honor to have the opportunity to serve
19 as judge on the Administrative Law Court. I love
20 the work, I love the type of work that it is.
21 I've learned a tremendous amount over these ten
22 years, and I've done my very best to apply the
23 law, to be fair, to be courteous to all those who
24 have come before me, but to render decisions that
25 are in compliance with the law. I've truly

1 enjoyed that, enjoy the people that I work with.
2 I enjoy the type of matters that come before me.
3 I think I've benefitted greatly from the years of
4 experience that I have and I would just like the
5 opportunity to continue serving this state as a
6 judge and take that knowledge that I've learned
7 and continue to apply it.

8 **Q. Thank you. Judge Lenski, your SLED reported**
9 **indicated that since your last screening there's**
10 **been one prisoner law suit filed against you in**
11 **your official capacity as an Administrative Law**
12 **Court judge, Bostick v. Eagleton, et al., filed**
13 **in 2015. Are you aware of this lawsuit and are**
14 **you aware of the outcome of the lawsuit?**

15 **A. I am not aware of the lawsuit. I mean, I am**
16 **aware now of the lawsuit because during**
17 **preparation for today I was informed of it, but**
18 **prior to that I was -- I had no knowledge of it.**
19 **I was not served with any pleadings or anything**
20 **of that nature, and -- so no, other than that, I**
21 **don't have any knowledge other than you informing**
22 **me that there was such a lawsuit.**

23 **Q. Judge Lenski, the Commission received 366 ballot**
24 **box surveys regarding you with 30 additional**
25 **comments. The ballot box survey, for example,**

1 contained the following positive comments: "Judge
2 Lenski is an excellent Administrative Law Court
3 judge and has an exceptional demeanor on the
4 bench." Nine of the written comments expressed
5 concerns. The comments expressed concerns about
6 the amount of time that you take to decide cases
7 and issue orders. What response would you offer
8 to this concern?

9 A. Well, first of all, I acknowledge that, and that
10 is a fair criticism with a small number of the
11 cases that came before me. And I accept full
12 responsibility for that. And I regret that I did
13 get behind on a couple of my cases. By in large,
14 95 percent plus of the cases that I handle are
15 done in a very timely manner. But there were a
16 few cases over this term that I did get behind
17 on, the more -- the larger more complex matters
18 that had thousands and pages of documents that
19 were, you know, just significantly large and
20 complex cases. I'm not here to offer an
21 excuse for that. I'm fully responsible for that
22 and I am not happy with that having happened.
23 I've corrected things and we're back on track.
24 But I do think -- if I could offer by way of
25 explanation, I think there were three things that

1 kind of came together, and, again, these are
2 explanations, they're not excuses. I'm
3 responsible for what happened and I accept full
4 responsibility for it. But by way of explanation
5 I had -- in the last five years I've gone through
6 three law clerks and three staff attorneys, which
7 is a fairly high level of turnaround in my
8 office. Many of the judges have had the same law
9 clerk or staff attorney for the entire time that
10 -- for their entire term, but I have had three.
11 And, you know, my law clerks and staff attorneys
12 are wonderful folks. They're young, they're
13 ambitious, they're looking to move forward in
14 their careers. There's a limit to where they can
15 go in our office. And so when opportunities for
16 advance come for them, I fully support that.
17 It's just seemed like these last five years has
18 been kind of a perfect storm where I lose a
19 law clerk, I lose a staff attorney, I lose a
20 law clerk, I lose a staff attorney. And that has
21 a tendency on these larger more complex cases to
22 cause me to get behind because the next person
23 has to come in. I rely heavily on my staff to
24 make sure we're moving along with things. And
25 when somebody leaves like that, you have to bring

1 a new person on, get them up to speed and move
2 forward. So I got behind a little bit because of
3 that. In addition to that, and this is a little
4 bit more difficult. Excuse me. There have been
5 some personal issues that have happened over the
6 last five years, one involving my wife has had
7 some recurring difficulties, health problems, and
8 we've had to deal with that. And that's been
9 kind of a strain on things. And in addition to
10 that, my son has been ill. He had open heart
11 surgery when he was a child and he's going to
12 have to have another procedure. We found that
13 out three years ago. After being told for 17
14 years that he wouldn't have to have another
15 procedure, then we found out that he did. And
16 we've been wrestling with when that procedure was
17 going to be done and how it was going to be done.
18 And then there was an issue about the valve --
19 the artificial valve they were going to have to
20 replace him with, and then COVID came along and
21 all these things have sort of just kind of
22 wreaked havoc on our family. And things like
23 that can distract you a little bit from your
24 work. And so in conjunction with those -- you
25 know, the staff turnover and then some rather

1 unusual things with my family, I felt -- I think
2 I lost -- it was difficult -- it was more
3 difficult for me to focus on, again, some of
4 these more complex matters and I got a little bit
5 behind. And then I think the third thing, and
6 this is all on me, when I recognized that I was
7 getting a little bit behind on some of these more
8 complex matters it probably would have been my --
9 behooved me if I had gone to our chief judge,
10 Judge Anderson, who's a fabulous chief judge.
11 And if I had just explained to him, you know,
12 that I needed maybe not to get so many complex
13 cases and -- for a while until I worked through
14 some of these things. And out of a matter -- you
15 know, maybe a matter of pride and then also a
16 fact I didn't want to disappoint Judge Anderson,
17 I did not do that. And that was an error on my
18 part. And I should have approached him because I
19 now -- I know, and I should have known then, that
20 he would have worked with me and helped me with
21 that. So those three things kind of came
22 together and I got behind on some things. So I
23 accept that's my fault, fully own that. But what
24 I do want you to know is that I've caught up with
25 all my cases. My docket is fully caught up now

1 and, most importantly, I've made some changes to
2 some things. Now my law clerks, when they come
3 to work for me, instead of only asking for a one-
4 year commitment, I've asked for a two-year
5 commitment from the law clerks. And I think that
6 will help me not have turnover. I don't control
7 the staff attorneys, those are hired by the chief
8 judge. But at least as to my law clerks, I can
9 ask for them a little bit longer commitment. So
10 I hope that will happen. And then, you know,
11 family-issue-wise, things are -- hopefully with
12 my wife things are getting better. And certainly
13 with my son. We've got a direction and a course.
14 And once this COVID situation's over, my son has
15 a plan for treatment and we're looking -- we're
16 hopeful that everything will go well with him.
17 So -- and then lastly I do know that in the
18 future when I find myself getting, you know,
19 overwhelmed in a situation because of a
20 combination of things, I can always go to Judge
21 Anderson and I can ask him for assistance or, you
22 know, for him to consider maybe not giving me all
23 the complex cases, and I know he will do that.
24 And so I don't anticipate that this
25 situation/problem will ever happen again.

1 However, I don't want to minimize it all. I
2 accept it, regret that it happened. I regret to
3 the -- that the litigants and the parties had to
4 wait longer than they should have for the orders.

5 **Q. Thank you. A few of the comments also expressed**
6 **concerns about potential bias and behavior in the**
7 **courtroom. What response would you offer to**
8 **these concerns?**

9 A. I don't know how to respond to that because I try
10 -- I -- my whole effort is to try to be fair, to
11 express no bias, show no bias, to never be biased
12 in any way, shape or form. I give everybody a
13 fair shake. You know, if it's a pro se litigant,
14 which we have a lot of those in our
15 Administrative Law Court, I go out of my way to
16 make sure that, you know, that they're getting a
17 fair hearing and an opportunity to present their
18 case. I've -- it is -- I guess I just don't know
19 what to say about that because I -- that
20 criticism, I just don't see as being -- I just
21 don't understand where that's coming from, but,
22 of course, you know, everybody's entitled to
23 their opinion. But I do go out of my way to
24 never be biased or to be unfair in any way, shape
25 or form to anybody who comes before me.

1 **Q. Thank you, Judge.**

2 MR. GENTRY: Mr. Chairman, at this time, I would ask
3 that the Commission go into executive session.

4 CHAIRMAN RANKIN: All right. Motion by Senator Talley,
5 seconded by Representative Smith. We'll go into
6 executive session.

7 EXECUTIVE SESSION

8 CHAIRMAN RANKIN: All right. Folks, we were -- are
9 now back on the record. And for the record,
10 during executive session, no votes were taken and
11 no decisions made. We will now proceed to
12 questions by Mr. Gentry.

13 MR. GENTRY: Thank you, Mr. Chairman.

14 JUDGE LENSKI - EXAMINATION BY MR. GENTRY:

15 **Q. I would note that the Midlands Citizens Committee**
16 **found Judge Lenski qualified in the evaluative**
17 **criteria of constitutional qualifications,**
18 **physical health and mental stability and well**
19 **qualified in the evaluative criteria of ethical**
20 **fitness, professional and academic ability,**
21 **character, reputation, experience and judicial**
22 **temperament. The Committee stated in summary,**
23 **"Judge Lenski experience on the**
24 **Administrative Law Court makes him well**
25 **qualified." I have a few more housekeeping**

1 questions for you, Judge. Judge, since
2 submitting your letter of intent, have you
3 contacted any members of the Commission regarding
4 your candidacy?

5 A. No, I have not.

6 Q. Are you familiar with § 2-19-70, including the
7 limitations on contacting members of the General
8 Assembly regarding your candidacy?

9 A. I am familiar with it, yes.

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, I have not.

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, I have not and, no, I am not aware.

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

23 A. Yes, I am.

24 MR. GENTRY: I would just note for the record that any
25 concerns raised during the investigation

1 regarding this candidate were incorporated into
2 the questioning of the candidate today. Mr.
3 Chairman, I have no further questions.

4 CHAIRMAN RANKIN: All right. Thank you, JJ.

5 Questions of members of the Commission? Senator
6 Talley.

7 SENATOR TALLEY: Thank you, Mr. Chairman.

8 SENATOR TALLEY: Judge Lenski, good to see you.

9 JUDGE LENSKI: Good to see you too, sir.

10 SENATOR TALLEY: I just -- I want to commend you in
11 looking at your ballot box comments, and you
12 referenced earlier some of these complex cases --

13 JUDGE LENSKI: Yes, sir.

14 SENATOR TALLEY: -- have been assigned to you. I
15 think there's good reason for that. I think I've
16 only appeared in front of you one time --

17 JUDGE LENSKI: Yes, sir.

18 SENATOR TALLEY: -- several years ago, but I certainly
19 appreciate the way in which you ran the courtroom
20 and let us try the case and issued an order in a
21 very timely fashion. So thank you for your
22 service. Thank you for your willingness to
23 continue to serve, and I wish you all the best.

24 JUDGE LENSKI: Thank you, Senator.

25 VICE CHAIRMAN SMITH: Judge Lenski, let me just follow

1 along with what Senator Talley was saying is, I
2 appreciate a lot of times we get up here and we
3 see issues and the candidates are asked and they
4 provide excuses, and appreciate the way you
5 handled yourself in saying I own the issues, it
6 was my fault and I'm sorry. That's
7 very commendable. It shows character and it also
8 shows recognition in what I call sometimes
9 it lacks -- you know, people lack self-awareness,
10 but obviously you had self-awareness and you
11 provided ample, you know, reasons why you didn't
12 do that. And let me say this: you know, we all -
13 - most of us practice in the circuit court, and
14 the circuit court, you got the benefit of a jury;
15 they're the fact finders. You just rule on the
16 law; you call the balls and strikes. And as
17 Administrative Law Court judge and/or a family
18 court judge, it's a little bit different. You're
19 the finder of fact. And so you've got to take
20 all that testimony, you've got to assimilate it
21 in there, you've got to follow the law, as it is
22 given to you, and then you've got to make
23 findings of fact. And so, you know, -- and when
24 you get in complex, week-long litigation, you
25 know, I understand how you get bogged down

1 because your schedule doesn't stop. It doesn't
2 give you time to go and take three weeks off and
3 go through the evidence and read the transcripts
4 and figure out things. And I'm not trying to
5 make an excuse for people that -- that for when
6 you fall behind on orders, but by the same token,
7 there needs to be recognition that, you know --
8 I don't know why anyone would want to be a judge
9 when you've got to be both the judge and the
10 jury. I still -- I mean, I think you -- there's
11 not enough money to pay me to do that because I
12 know what would happen is your weekends and your
13 nights are turned into where you're doing your --
14 having to make your ruling, so I appreciate that.
15 I appreciate you being aware of it and you
16 correcting it, and I know it's not easy. I know
17 all of us who are on here, who are practicing
18 attorneys, know the struggles you have, and I can
19 tell you, I know Hope knows it by watching what
20 happens when she was clerk of court over there in
21 Spartanburg. So, you know, you're sympathetic
22 ear, but, you know, the most admirable part of it
23 is, is when somebody comes in here and says, you
24 know, I could do better and I'm going to do
25 better and, you know, I recognize that. And I

1 want you to -- I want you to understand, at least
2 I'm speaking for me -

3 JUDGE LENSKI: Sure.

4 VICE CHAIRMAN SMITH: -- I appreciate the way you
5 handled that. I appreciate the struggles that
6 you have in trying to get orders, but, you know,
7 and also appreciate you making sure you're going
8 to correct those concerns.

9 JUDGE LENSKI: Thank you, Mr. Chairman.

10 JUDGE LENSKI - EXAMINATION BY MS. LOGAN:

11 **Q. Just a quick question in regards to -- I'm**
12 **looking at your ballot box, and it says he's a**
13 **Columbia flood hero. What is that about?**

14 A. It's when I was -- when the flood occurred in
15 2015, it just so happened that our home was on --
16 right down by Gills Creek and just up from Gills
17 Creek and we're on a pretty steep hill, so we
18 were safe. But, of course, we knew there was
19 going to be a disaster down there at the bottom
20 of our neighborhood, and so we went down there
21 and there and homes were being flooded. And one
22 fellow was able to get a canoe out of his own
23 house -- he had a canoe in his garage, and his
24 house was flooding. But he got his canoe out but
25 he didn't have any paddles. But as we were

1 watching, helping these people get up through the
2 water, there was -- we were helping -- we were
3 actually getting folks across in the canoe, but
4 then somebody informed that way down in another
5 block, where we had just assumed those people had
6 vacated because the homes were, by this point,
7 completely flooded. It was up to the -- you
8 could just see the tips of the roofs. Somebody
9 said, I hear screaming coming from down there.
10 So another gentleman, John Weinges' son, the --
11 he and I, we got in this canoe and we found a
12 board and a kayak paddle had -- oh, one of the
13 State newspaper reporters was there. She had a
14 kayak paddle in her car. So we took the board
15 and the kayak paddle and we managed to maneuver
16 this thing through that water around the corner,
17 and we heard the screaming. And sure enough,
18 there was a family four and two dogs. And they
19 were stuck in the -- basically in the attic of
20 this one-story ranch-style home, and they were
21 screaming through the gable. And the husband had
22 managed to beat the gable -- beat a hole in the
23 gable, and we managed to get that canoe over to
24 the side of the house and we got -- they had two
25 children, and one of them was a special-needs

1 child who was just -- I mean, he was so scared.
2 And we managed to get them out and then we got
3 the -- and then we got the wife out with one of
4 the dogs, because the husband refused to leave
5 unless the dogs went. I said let's leave the
6 dogs but he wouldn't come out. So the wife got
7 in and the dog got in, and that was all we could
8 take in the canoe. And then thank God somebody
9 showed up with a john boat and they went down and
10 got him and the last dog. So we got those folks
11 out. We got -- but it was -- they were from
12 Pennsylvania. They had just moved here maybe a
13 few months before, and they were -- they just
14 didn't know that neighborhood very well. And so
15 when they woke up in the morning, the house was
16 already -- they were already knee-deep in water,
17 and they started making phone calls to get
18 rescued. But there were -- I mean, the rescue
19 effort was completely overwhelmed so they
20 couldn't get any help. So then they were stuck.
21 So then she's just screaming -- he's screaming
22 and yelling out of the window and she's on, you
23 know, her cell phone trying to get somebody to
24 come down and help them. That's where the john
25 boat people came from. They had gotten some cell

1 phone message, but we just -- we just heard the
2 screaming and went down there, so, you know. But
3 they're friends of ours now and they come to our
4 Christmas party every year and we love them to
5 death.

6 Q. Thank you for your service on that and also thank
7 you for your honesty. It's big of a person to
8 admit when they have to self-correct, so I
9 applaud you on those efforts --

10 A. Thank you.

11 Q. -- and what you've shared with us today. Thank
12 you.

13 A. Thank you, ma'am.

14 JUDGE LENSKI - EXAMINATION BY CHAIRMAN RANKIN:

15 Q. Judge, in addition to your saving lives and
16 becoming the flood hero -- it's a great story, I
17 appreciate that. You have also served as -- in
18 the Army as a JAG officer.

19 A. Yes, sir, twenty-four years.

20 Q. And your -- one of your ballot box comments
21 refers to your time as a public servant. You
22 were asked at the outset of this why do you want
23 to continue doing this. Is it public service --

24 A. Yes, sir.

25 Q. -- is it --

1 A. It is. I mean, if I -- maybe I didn't articulate
2 that as clearly as I -- it's just, I mean, I love
3 what I do. And because what I do is helping
4 folks and being, you know, a servant of the
5 public, but -- in this capacity as a judge, and I
6 just -- I love that. I love what I do. I love,
7 you know, being able to have things come into my
8 courtroom and resolve them. I know not
9 everybody's always happy with my decisions but I
10 try to make them as fair as I can. So I -- and
11 that was also, you know, the military service was
12 one of the greatest things that I ever did in my
13 life. And I met some of the greatest people that
14 I'll ever know in my service and in my time over
15 in Iraq and some of the other places that they
16 sent me.

17 CHAIRMAN RANKIN: "Intelligent, articulate,
18 hardworking and tremendous judicial temperament.
19 An asset to the ALC and should be reelected."
20 That is one of a number in that vein of your
21 style of service to the state of South Carolina
22 in your role as an administrative law judge. So
23 I want to commend you for that. You're not just
24 telling it; you're demonstrating that to those in
25 the courtroom as well as those at Gills Creek.

1 So with that, unless there are any other
2 questions or comments by the judicial commission
3 members, we will at this time conclude this
4 portion of your screening. And you are reminded
5 of our strict adherence to both the letter and
6 the spirit of the South Carolina ethics laws.
7 Any violation of those or the appearance of
8 impropriety will be deemed very serious and
9 deserving of heavy weight in our screening
10 deliberations. This record will remain open
11 until the formal release of the Report of
12 Qualifications. In the unlikely event that a
13 violation or the appearance of impropriety were
14 to occur, you understand we can call you back,
15 correct?

16 JUDGE LENSKI: Yes, Mr. Chairman, I do understand.

17 CHAIRMAN RANKIN: All right, sir. Thank you --

18 JUDGE LENSKI: Thank you.

19 CHAIRMAN RANKIN: -- for your continued willingness to
20 serve in this role.

21 JUDGE LENSKI: Thank you, sir.

22 CHAIRMAN RANKIN: Merry Christmas to you.

23 JUDGE LENSKI: Same to you, sir, and everyone.
24 (Off the Record)

25 CHAIRMAN RANKIN: Raise your right hand.

1 THE HONORABLE J. CORDELL MADDUX, JR. having been duly
2 sworn, testifies as follows:

3 CHAIRMAN RANKIN: All right, sir. You have handed
4 previously to our staff your PDQ and your Sworn
5 Statement. You're not here physically, but those
6 are ready to go in the record, I trust, correct?

7 JUDGE MADDUX: Yes, sir.

8 CHAIRMAN RANKIN: All right, sir. And you, Judge, are
9 well familiar with our screening process, the
10 nine evaluative criteria we look at and the
11 ballot box survey, study of your application
12 materials, verification of your compliance with
13 state ethics laws, a search of newspaper articles
14 in which your name appears, study of previous
15 screenings and a check for economic conflicts and
16 interest. No one has asked to testify for you or
17 agin you. No affidavits have been submitted to,
18 again, for you or agin you. We're going to turn
19 it over to Andy Fiffick here in a second. You
20 have the opportunity to make a very quiet
21 whispered statement on the record, if you like.
22 And for the record, you're appearing via Zoom,
23 and you're physically located where?

24 (Exhibit Number 3 was marked for identification
25 purposes - (15 pages) Personal Data Questionnaire for

1 The Honorable J. Cordell Maddox, Jr.)

2 (Exhibit Number 4 was marked for identification

3 purposes - (1 page) Amendment to Personal Data

4 Questionnaire for The Honorable J. Cordell Maddox,

5 Jr.)

6 (Exhibit Number 5 was marked for identification

7 purposes - (5 pages) Sworn Statement of The Honorable

8 J. Cordell Maddox, Jr.)

9 JUDGE MADDOX: I'm in Anderson.

10 CHAIRMAN RANKIN: All right, sir. Any -- you can have

11 a couple of remarks if you like. The floor is

12 yours, or we'll turn it right over for

13 questioning.

14 JUDGE MADDOX: Is that to me or Andy?

15 CHAIRMAN RANKIN: No, that's to you. And I take that

16 as Andy take it away, whichever way you want to

17 go.

18 JUDGE MADDOX: Well, I appreciate y'all letting me do

19 this. We've kind of had a disaster with Judge

20 McIntosh and my office totally being exposed to

21 the virus, and they're under quarantine until

22 December 10th. So I was out there trying to work

23 the copier, unsuccessfully, and I appreciate you

24 letting me do it like this.

25 CHAIRMAN RANKIN: Glad to accommodate. All right,

1 sir, thank you.

2 MR. FIFFICK: Thank you, Mr. Chairman.

3 JUDGE MADDOX - EXAMINATION BY MR. FIFFICK:

4 **Q. Judge Maddox, why do you want to continue serving**
5 **as a circuit court judge?**

6 A. You know, I enjoy it. I actually think I have
7 something to bring to the table. I really
8 thought about it this time. This will be my last
9 six years, and I'm 62. I really, quite frankly,
10 just think that I'm getting good at it now. I
11 hate to say that, but I'm getting better at it
12 every time, every day. And I enjoy the work, to
13 be honest with you. I don't really need to work,
14 which is kind of a nice way to be, for the first
15 time in my life. But I enjoy it.

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

19 A. You know, I try to be good to lawyers. I really
20 took this job and I -- when I spoke at my
21 swearing in I promised that I wouldn't forget
22 what it was like to be a lawyer. I think that I
23 fulfilled that, but I also have figured out after
24 18 years that more than half the people in every
25 hearing are going to think that you're an idiot.

1 The ones that you rule against aren't going to
2 like you. The ones that you rule for, there's
3 some high percentage of those people that think
4 you're just doing what's obvious, but I guess
5 it's okay. I'm sure there are people that don't
6 like me. There are lawyers I don't like, so I
7 try to be as good as I can to lawyers.

8 Q. Thank you, sir. Judge Maddox, the Commission
9 received 884 ballot box surveys regarding you,
10 with 63 additional comments. The ballot box
11 surveys, for example, contained numerous positive
12 comments including the following two. "First, I
13 have appeared in front of Judge Maddox on both
14 criminal and civil cases. His knowledge of
15 substantive and procedural law is impressive. He
16 runs an efficient courtroom in a fair manner."
17 The second would be: "Fantastic judge, tremendous
18 asset to the bench." "I enjoy every appearance
19 before him due to his knowledge, affability and
20 wonderful temperament." However, nine of the
21 written comments express concerns. To start
22 with, several comments allege that you're prone
23 to tardiness or starting court late. What
24 response would you offer to this concern?

25 A. You know, I think that I start court -- I always

1 have, and this has always been an issue, but I
2 always start court at 10:00. I've done that for
3 18 years, unless someone needs to start earlier,
4 mainly because Judge Macaulay pulled me aside
5 when I started, reminding me that the people in
6 the courtroom have to be there an hour before I
7 have to be there, the deputies and the clerk's
8 office, and that I should start at 10:00. I do
9 that. I actually think that's out of fashion
10 now. It seems to be most people are more worried
11 about their billable hours, and I get that. I
12 don't think that I'm tardy. I think that this
13 job is sort of like an iceberg. Most of the work
14 you do is back here in the back. And I usually
15 tell lawyers that if I leave for five minutes I'm
16 going to get caught up in something in the back
17 that's going to take me ten, but I do the best I
18 can to get back to people quickly.

19 **Q. Thank you, sir. Another comment indicated that**
20 **you may be careless in your rulings and another**
21 **alleges that you take an inordinate amount of**
22 **time to issue rulings. What response would you**
23 **offer to these concerns?**

24 **A.** I don't think I am careless. I mean, I'd be --
25 my problem, quite frankly, and it is self-

1 diagnosed and real, and I understand it, is that
2 I get lost in the weeds sometimes. If -- and
3 those two things go together. Sometimes there
4 are certain cases that just enthrall me to the
5 extent that I will take a case under advisement
6 and then spend way too much time looking at it
7 from every angle. That has been a problem that
8 I've had since I started. I get it. I try to do
9 better every time. The way they are doing under
10 advisements now that if you keep anything under
11 advisement for an inordinate period of time you
12 get either an email from court administration or
13 a call. And what I've been working on this
14 morning is I have one case under advisement for
15 the last three months. I've just cleared my
16 whole under advisement docket this morning. So -
17 - but I don't think I'm careless. I guess that
18 was somebody who didn't like what I did. But I
19 do think that sometimes I take too long with
20 cases under advisement.

21 **Q. Thank you, sir. Another comment alleged that**
22 **you're prone to political comments from the**
23 **bench. What response would you offer to this**
24 **concern?**

25 **A. I can almost promise that nobody would ever have**

1 a transcript of me saying political, but I will
2 admit to sometimes, in conversation, being
3 frustrated with politics. I enjoyed my time in
4 politics, but I was as frustrated the entire four
5 years I was in it. So I really am careful not to
6 express anything political on the record. And
7 maybe I should be more careful. I guess we all
8 could be. I've just -- I've been very frustrated
9 the last couple years, so I try to be good but I
10 don't think I've ever said anything overtly
11 political. I probably made comments on local
12 politics more than anything else, but I'm from
13 Anderson so that's what we do up here, if we're
14 not shooting each other.

15 **Q. Thank you, sir. Finally, several comments take**
16 **issues with your work habits. One alleges you**
17 **don't work an entire week. What response would**
18 **you offer to this concern?**

19 A. You know, when you and I talked about that, I
20 have no idea what people are talking about. As I
21 think I told you, we have a little fob that any
22 time I come to the office it's, you know, pinging
23 downstairs to let people know that I'm here. And
24 I work almost every Saturday or Sunday afternoon.
25 I come back at night a lot, especially this last

1 two years with E-filing. I have spent a lot of
2 time here when no one else is here. I would just
3 take issue with anybody that thinks that I don't
4 work a full week. You just need to talk to my
5 wife. She would tell you that I'm not able to do
6 some of the things she wants to do because of
7 work. I don't know where that comes from, to be
8 honest with you. I think I take too much time,
9 sometimes, on particular cases. I think that's
10 the biggest problem I have right now, and have
11 had for years.

12 Q. Thank you, sir. Judge Maddox, you've amended
13 your PDQ question 47 to reflect that two cases
14 revealed in your SLED check, Cordell Maddox et
15 al. versus Alex Nichols and Concord Genera et al.
16 versus Don Nichols from 1997 were keyed
17 improperly in the Anderson Index reflecting you
18 as a defendant and that the clerk's office has
19 corrected them. You've also amended your answer
20 to reflect that you were never served with a
21 prisoner lawsuit caption Mauricio E. Webber
22 versus the Tenth Circuit Solicitor's
23 Office Court of General Sessions and J. Cordell
24 Maddox. Is there any additional information you
25 need to revise with the Commission on these

1 **matters at this time?**

2 A. No, sir. And actually, those names popping up
3 the way they did helped us because they were
4 keying in -- I was just -- I had signed orders
5 either dissolving liens or restoring liens, and
6 they were just getting keyed in wrong and nobody
7 even knew it. So appreciate the help on that
8 one.

9 **Q. Thank you, Judge Maddox.**

10 MR. FIFFICK: I would note that the Upstate Citizens
11 Committee reported Judge Maddox to be well
12 qualified as to the evaluative criteria of
13 ethical fitness, professional and academic
14 ability, character, reputation, experience and
15 judicial temperament and qualified in the
16 evaluative criteria of constitutional
17 qualifications, physical health and mental
18 stability.

19 **Q. At this point, I've got some housekeeping issues**
20 **for you, Judge Maddox. Since submitting your**
21 **letter of intent, have you contacted any members**
22 **of the General Assembly about your candidacy?**

23 A. No, sir.

24 **Q. Are you familiar with § 2-19-70 including the**
25 **limitations on contacting members of the General**

1 **Assembly regarding your screening?**

2 A. I am.

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

7 A. No, sir.

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

12 A. Not on my behalf. I'm sure there are people that
13 are telling how awful I am, but yeah, not on my
14 behalf.

15 Q. Have you reviewed and do you understand the
16 Commission's guidelines on pledging in SC Code §
17 2-19-70(E)?

18 A. I am.

19 MR. FIFFICK: I would just note for the record that
20 any concerns raised during the investigation
21 regarding the candidate were incorporated into
22 the questioning of the candidate today. Mr.
23 Chairman, I have no further questions.

24 CHAIRMAN RANKIN: All right, Judge. Motion of Mr.
25 Strom, seconded by Representative Rutherford. We

1 need to make a matter up in executive session.

2 Ask everyone to leave the room.

3 JUDGE MADDOX: I can't hear anything if y'all are
4 talking. I can see you talking, but I can't hear
5 anything.

6 CHAIRMAN RANKIN: We're going to go into executive
7 session. We got a matter need to take up outside
8 the presence of the press and -- so everyone of
9 you will mute your mics and secure the door.

10 EXECUTIVE SESSION

11 CHAIRMAN RANKIN: We are back on the record. And
12 while in executive session no votes were taken
13 and no decisions were made. We will now proceed
14 to questions by members of the Commission for
15 Judge Maddox.

16 MR. STROM: Mr. Chairman?

17 CHAIRMAN RANKIN: Mr. Strom.

18 MR. STROM: Judge Maddox, I wanted to follow up on the
19 negative comments regarding your alleged poor
20 work ethic and just say that, you know, in my
21 experience we had that AWP litigation that the
22 Supreme Court assigned to you, which that was
23 probably the most complicated thing I've been
24 involved in because there were rulings all over
25 the country that were different. There'd be 30

1 to 50 lawyers appearing before you, and, frankly,
2 to my amazement, you were always prepared and
3 timely. And in all seriousness, that was a
4 tough, tough case. And, you know, you'd hear two
5 days of motions, three days of motions and
6 volumes of documents. And you moved the case and
7 you helped us ultimately get it resolved. And so
8 I don't accept service on any kind of poor work
9 ethic as far as your reputation is concerned.

10 Thank you for your service.

11 JUDGE MADDOX: I appreciate it. That's the only time
12 I've ever sat in a deposition, too. I think I
13 had to sit in a deposition in Columbia and make a
14 rulings during the deposition. That was
15 interesting.

16 MR. STROM: That's right.

17 JUDGE MADDOX: But thank you.

18 CHAIRMAN RANKIN: All right. Thank you, Judge Maddox.

19 At this time, unless there's any other questions,
20 we will conclude this portion of our screening.
21 Thank you again for accommodating us and by
22 working now from Anderson and appearing in Zoom
23 here. You are reminded that pursuant to our
24 evaluative criteria we take seriously both the
25 spirit and the letter of the South Carolina

1 ethics laws. Any violation or the appearance of
2 impropriety will be deemed very serious and
3 deserving of heavy weight in our deliberations.
4 For that reason, you know that this record is not
5 closed until the final report and Record of
6 Qualifications, and in the unlikely event that
7 there were to be a violation of appearance of an
8 impropriety, you understand, do you not, sir,
9 that you could be called back to testify?

10 JUDGE MADDOX: I do.

11 CHAIRMAN RANKIN: All right, sir. With that, Judge,
12 again, thank you for your willingness to continue
13 serving and best wishes to you and your family
14 and Merry Christmas to y'all.

15 JUDGE MADDOX: Same to y'all. Thank you so much. Be
16 safe.

17 CHAIRMAN RANKIN: And you might -- and tell -- I
18 forgot to mention this on the record. There is a
19 certain William Buice, Buice, B-U-I-C-E, wrote a
20 splendid letter of recommendation for you, really
21 top notch.

22 JUDGE MADDOX: Don't ever let him operate on you,
23 that's all I'm saying.

24 CHAIRMAN RANKIN: Peace.

25 JUDGE MADDOX: Thank y'all. Appreciate it.

1 OFF THE RECORD

2 CHAIRMAN RANKIN: Judge, you ready?

3 JUDGE McCOY: Yes, sir.

4 CHAIRMAN RANKIN: Raise your right hand.

5 THE HONORABLE JENNIFER BLANCHARD McCOY having been
6 duly sworn, testifies as follows:

7 CHAIRMAN RANKIN: You have before you, Caroline's
8 handed it to you, your PDQ and your Sworn
9 Statement. Are those ready to be put in the
10 record?

11 JUDGE McCOY: Yes.

12 CHAIRMAN RANKIN: Any objections to that?

13 JUDGE McCOY: No.

14 CHAIRMAN RANKIN: All right. We are, as you know,
15 tasked to investigate your qualifications for
16 continued service on the bench. Those include
17 nine evaluative criteria. We also look at your
18 ballot box survey, study of your application
19 materials, verification of your compliance with
20 state ethics laws, a check of newspaper articles
21 in which your name appears, study of previous
22 screenings, which there was one --

23 (Exhibit Number 6 was marked for identification
24 purposes - (14 pages) Personal Data Questionnaire for
25 The Honorable Jennifer Blanchard McCoy.)

1 (Exhibit Number 7 was marked for identification
2 purposes - (1 page) Amendment to Personal Data
3 Questionnaire for The Honorable Jennifer Blanchard
4 McCoy.)

5 (Exhibit Number 8 was marked for identification
6 purposes - (5 pages) Sworn Statement of The Honorable
7 Jennifer Blanchard McCoy.)

8 JUDGE McCOY: One.

9 CHAIRMAN RANKIN: -- and successful screening, that
10 was. And a check for economic conflicts of
11 interest. No affidavits have been filed in
12 opposition and no witnesses are here to testify,
13 unlike the last time you appeared. I trust they
14 would be here, your family members, if COVID were
15 not --

16 JUDGE McCOY: They would be. I appreciate you
17 bringing that up. That's right. My mom was here
18 with me last time. She's gotten a diagnosis
19 recently. It makes it difficult for her to come.
20 And my sweet grandmother -- my grandmother-in-
21 law, I should say, from Winnsboro who resides at
22 Laurel Crest, across the river, of course, is
23 confined there and unable to make it, but I know
24 they would -- they're here in spirit.

25 CHAIRMAN RANKIN: Tell them we miss them.

1 JUDGE McCOY: I will. I sure will. I appreciate you
2 saying that.

3 CHAIRMAN RANKIN: What a grand show they presented.
4 So with that, you have the floor to make a brief
5 opening statement, if you like. Otherwise, Erin
6 will be asking questions and we'll get the ball
7 rolling.

8 JUDGE McCOY: Sure. Okay. Yeah, I certainly don't
9 want to take up any more of your time that's
10 necessary. I'm really here to answer questions
11 and address any concerns that anybody might have.
12 So I'll yield my time and -- to the floor.

13 JUDGE McCOY - EXAMINATION MS. CRAWFORD:

14 Q. Thank you, Judge. Good afternoon. Sorry we're
15 running a bit behind. Judge McCoy, you have
16 served as a circuit court judge since the spring
17 of 2018.

18 A. Correct.

19 Q. How have you enjoyed it and why do you want to
20 continue doing it?

21 A. It's the best job in the world. It's different
22 every day. You never know what you're going to
23 walk into when you walk into a courtroom. I have
24 enjoyed the public service aspect immensely.
25 It's the best part of what I do is serving the

1 public, and I take it very seriously. It's a
2 difficult job many days, obviously, but it's one
3 that I take very seriously and I have a lot of
4 enthusiasm for what I do every day. And I try to
5 let that show every day that I take the bench,
6 and take the bench with a smile and do that so
7 that everybody understands we're all there for a
8 common purpose and to get business started. And
9 I've really enjoyed it. I've enjoyed getting to
10 know the other circuit court judges as well.
11 That's been special having them to work with and
12 to call up if I have a question. And so I've
13 really -- I've enjoyed the last two-and-a-half
14 years.

15 **Q. Thank you, Judge. What do you think your**
16 **reputation is among attorneys that practice**
17 **before you?**

18 A. Well, hopefully it's one of patience. I tell my
19 -- my children ask what I do at work. And I tell
20 them I listen a lot more than I talk, and I think
21 that's true. And so I think -- I hope that the
22 attorneys feel that I really listen to them, that
23 I pay attention to what they're telling me, that
24 I don't shut them down, that I let them get their
25 arguments out and that I'm, you know, even-handed

1 to both sides.

2 **Q. Thank you, Judge.**

3 MS. CRAWFORD: Mr. Chairman, the Commission received
4 403 ballot box surveys regarding Judge McCoy, 65
5 additional comments. The ballot box survey, for
6 example, contained numerous positive comments
7 including the following: "Smart, judicious,
8 energetic, kind and an asset to the judiciary."
9 And this is a long one, but it's, I believe that
10 Judge McCoy has exceeded everyone's expectations
11 with her handling of cases and temperament on the
12 bench. It is especially true in Charleston
13 County that the attorneys have much to say about
14 judicial temperament when it is overly harsh or
15 incompetent. With Judge McCoy there was none of
16 that. She was respected from day one and has
17 continued to act in a manner that the local Bar
18 feels is respectful to attorneys and litigants.
19 She's an asset to the bench and it will be
20 interesting to see how her judicial career
21 expands, as it is clear that she would be more
22 qualified to take a seat at the appellate level.
23 Only four comments expressed concern. One was
24 raised that you're unable to be impartial and
25 perhaps you favor insurance defense attorneys.

1 What would you -- how would you respond to that?

2 A. Well, as I said a minute ago, I make it a point
3 to listen equally to both sides. And I
4 certainly wouldn't want anybody to ever think
5 anything like that. I absolutely go into every
6 case I hear with an open mind to both sides of
7 the argument. So I want to make sure everybody
8 gets all their arguments out, and I'll continue
9 to do that.

10 Q. Judge McCoy, another concern -- and you knew this
11 was coming and it was raised at your first
12 screening, questions your actual experience and
13 deals with your husband as his previous role as a
14 member of the South Carolina House of
15 Representatives. Do you have any comments about
16 this?

17 A. I don't. You know, I meet the
18 constitutional requirements under South Carolina,
19 obviously. He and I both enjoy public service.
20 That's probably part of what drew us together.
21 And you know, that's really where I'll leave
22 that.

23 Q. Thanks, Judge.

24 MS. CRAWFORD: I would note that the Lowcountry
25 Citizens Committee found Judge McCoy to be

1 qualified in the evaluative criteria of
2 constitutional qualifications, physical health
3 and mental stability. Well qualified in the
4 remaining criteria of ethical fitness, character,
5 professional and academic ability, reputation,
6 experience and judicial temperament. The
7 Committee noted great judge, works well with the
8 attorneys, good empathy, good legal mind, very
9 capable, has become a well-respected, well-liked
10 judge very quickly.

11 **Q. I just have a few housekeeping issues. Since**
12 **submitting your letter of intent, have you**
13 **contacted any members of the Commission about**
14 **your candidacy?**

15 **A. No, I have not.**

16 **Q. Are you familiar with § 2-19-70 including**
17 **limitations on contacting regarding members of**
18 **the General Assembly regarding your screening?**

19 **A. Yes, I am familiar.**

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

24 **A. No, I have not.**

25 **Q. Have you asked any third parties to contact**

1 **members of the General Assembly on your behalf?**

2 A. No.

3 **Q. Are you aware of anyone attempting to intervene**
4 **in this process on your behalf?**

5 A. No, I'm not.

6 **Q. And have you reviewed and do you understand the**
7 **Commission's guidelines on pledging?**

8 A. I sure do.

9 **Q. Okay.**

10 MS. CRAWFORD: I'd note for the record that any
11 concerns raised during the investigation
12 regarding the candidate were incorporated into
13 the questioning today. Mr. Chairman, I have no
14 further questions.

15 REPRESENTATIVE RUTHERFORD: Does any other member of
16 the panel have any questions? Wow, okay.
17 Senator.

18 SENATOR SABB: Mr. Chairman, there's no way that I
19 would allow you to be chairman and nobody have a
20 question. I think that would be disrespectful to
21 you.

22 JUDGE McCOY: Thank you, Senator Sabb.

23 SENATOR SABB: Well, and actually, I really have more
24 of a comment than a question, and it relates to
25 one of the ballot box surveys. And of course, I

1 heard the negative that was mentioned earlier
2 about you only being elected because your husband
3 served in the Assembly. And I'm happy to say
4 that he came in in the best class to ever enter
5 the South Carolina House of Representatives,
6 without exception, Mr. Chairman. But I think --

7 REPRESENTATIVE RUTHERFORD: He's so confused, but
8 that's okay. Go on.

9 SENATOR SABB: I think there is another ballot box
10 comment that really in my mind sort of sums it
11 all up. And it says, "Judge McCoy came with
12 baggage, and I didn't expect her to be the
13 outstanding judge that she is. With a few more
14 years under her belt, I think she'll be a
15 keeper." And I think the essence of that comment
16 was that, I mean, the newspaper articles were
17 horrible, and I shared Peter's anxiety as it
18 relates to it all. But I think those of us who
19 witnessed -- I hate to call it a performance, but
20 witnessed the opportunity to interview you had no
21 doubt in our mind that the body would strongly
22 consider you as a candidate on your merits. And
23 I think you've, in my mind, risen to the level
24 that we knew that you would. And I think
25 obviously in the minds of some, you've exceeded

1 their expectations. But all the words that I
2 hear, you're getting great reviews and you're
3 doing an outstanding job. I just wanted to
4 encourage you to keep up the good work.

5 JUDGE McCOY: Well, thank you. I appreciate the
6 opportunity. Thank you very much.

7 SENATOR SABB: Absolutely.

8 REPRESENTATIVE RUTHERFORD: And I too wanted to echo
9 what the Senator said, except the part about the
10 freshman class thing. He's obviously confused,
11 but, you know, wonder where the critics are now
12 and if they could see your ballot box comments
13 and if they could hear the things that people say
14 about you in this circuit. It is a true stain in
15 their eye about how wrong they were about you.
16 And these comments seem to suggest that this was
17 -- that they didn't expect this. Well,
18 this Committee did and that's why we put you
19 there. And you have exceeded all expectations,
20 even those of ours that had great expectations
21 for you. So thank you so much for doing that --

22 JUDGE McCOY: Thank you.

23 REPRESENTATIVE RUTHERFORD: -- and tell Peter we said
24 hello. I noticed he's not here, but for good
25 reason you probably didn't bring him.

1 JUDGE McCOY: He's outside the room. He did come with
2 me.

3 REPRESENTATIVE RUTHERFORD: I got you. Well, keep him
4 out there. But thank you again. And everything
5 I hear, beyond the ballot box, beyond just
6 lawyers down there, everybody enjoys dealing with
7 you and being around you. And that is what we
8 are looking for in judges, and I'm happy that we
9 found it in you.

10 JUDGE McCOY: Well, thank you. I'll certainly do my
11 best to keep it up.

12 REPRESENTATIVE RUTHERFORD: Any other questions or
13 comments?

14 SENATOR SABB: I think there's one more comment about
15 the best class to ever come in the House of
16 Representatives.

17 CHAIRMAN RANKIN: Yeah, but he's late. Oh, that one?
18 Oh, I'm sorry, I thought you were talking about -
19 - it's the green button.

20 REPRESENTATIVE MURPHY: I understand, thank you. It
21 was the best class and Ronnie really stuck it
22 out, you know, and decided that he had to go to
23 the Senate. But, you know, Judge McCoy, I've
24 practiced in front of you and we had a difficult
25 case.

1 JUDGE McCOY: That's right. I remember it.

2 REPRESENTATIVE MURPHY: More difficult for my client.

3 But I just want to echo what Representative
4 Rutherford said. And in the short time you have
5 made such an impression not only on the attorneys
6 and courtroom staff, but I had the occasion --
7 this weekend I had to attend a funeral, and one
8 of the people at the funeral was a member of the
9 Citizens Committee.

10 JUDGE McCOY: Okay.

11 REPRESENTATIVE MURPHY: Young lady. And she told me
12 she was -- she made it a point to reference how
13 much she enjoyed the meeting and the interview
14 that y'all conducted. I believe it was over
15 Zoom, if I'm not --

16 JUDGE McCOY: It was.

17 REPRESENTATIVE MURPHY: Yeah. She was just -- and
18 she's a lay person, not an attorney. And -- but
19 she was just so impressed with your demeanor and
20 your education and your experience. So I just
21 wanted to pass that on to you, that you're doing
22 a wonderful, wonderful job on the bench

23 JUDGE McCOY: Well, thank you. I appreciate that.

24 CHAIRMAN RANKIN: Other comments?

25 JUDGE McCOY - EXAMINATION BY CHAIRMAN RANKIN:

1 Q. Judge, I want to complement you as well, and
2 stating the obvious, you're young. I know what
3 your age is; I haven't looked. You're a --

4 A. Forty.

5 Q. -- fresh face to the bench. You've been on the
6 bench now for?

7 A. Two-and-a-half years.

8 Q. Two-and-a-half years. Your comments -- or the
9 comments made about you exemplify what I think
10 this Commission is looking for, in terms of an
11 attitude of respect, an attitude of
12 accommodation, an attitude of willingness to hear
13 and to treat all parties fairly. And
14 particularly with the attorneys and their
15 litigants, in terms of either if you have a
16 problem with one of the litigants before you, you
17 certainly don't reveal it, in terms of, again,
18 comments that these folks have made about you.
19 Speak to the importance or what marks your desire
20 to be friendly and, as you mentioned --

21 A. Sure.

22 Q. -- appear with a smile again when a smile is
23 welcomed. What -- why are you so friendly?

24 A. So -- I'm not real sure why I'm so friendly. But
25 I will say that, you know, I was a magistrate

1 before this. And in magistrate's court, lawyers
2 are a luxury, so dealing mostly with self
3 represented litigants there. And I think that
4 was such good preparation for me to learn to
5 listen to people and to learn how important it is
6 for these people to have felt like they were
7 really heard. And so I think that's helped me
8 kind of carry over that task to the circuit bench
9 and just try to make people feel, you know,
10 comfortable. And you know, obviously, people
11 want to be heard. But in being heard, they don't
12 want somebody kind of staring them down. You
13 know, it's much easier to talk to somebody's who
14 smiling than it is to talk to somebody who looks
15 angry. So I think that's all kind of part of
16 that -- trying to set that attitude in the
17 courtroom. I mean, it's already a contentious
18 place, obviously that's what we're there for.
19 But to try to take away some of those layers of
20 intimidation I think is important to get to the
21 root of what's going on.

22 **Q. This question may have been asked two-and-a-half**
23 **years ago, and I remember you and your family**
24 **well coming before us. But the judge that you**
25 **now two-and-a-half years into this who -- two-**

1 and-a-half years ago, you were asked who do you
2 were asked who do you want to be associated with
3 in a favorable light, who is your mentor or
4 mentors that have served on the bench or still
5 do?

6 A. Right. So Sol Blatt was really my mentor, the
7 late Sol Blatt. He -- I worked for him for a
8 year, a little over a year in law school. And he
9 was really my first experience and won't say it's
10 all downhill from Judge Blatt, by any means. We
11 have so many excellent judges in South Carolina.
12 But he's, you know, the first impression on me,
13 and I think probably the most important, so he is
14 who I try to live up to.

15 Q. One comment that I think encapsulates that,
16 "Judge McCoy has exceeded everyone's expectations
17 with her handling of her cases and temperament on
18 the bench, especially true in Charleston that
19 attorneys have much to say about judicial
20 temperament when it is overly harsh or
21 incompetent. With Judge McCoy there was none of
22 that. She was respected from day one and has
23 continued to act in the manner the local Bar
24 feels is respectful to attorneys and litigants."
25 Should we focus on that, in terms of temperament

1 **and demeanor in the courtroom?**

2 A. You know, I think so. I think it's important to
3 remember that when we pass the Bar we all take
4 that oath of professionalism right afterwards. I
5 think that's important to remember all the time
6 and in dealing with each other, obviously, I hold
7 attorneys to a higher standard than self-
8 represented litigants. But just one thing Judge
9 Blatt certainly instilled in me was the
10 importance of just making sure that everybody's
11 respecting each other, you know, when they can't
12 resolve a conflict, you know. Have they picked
13 up the phone and really had a conversation about
14 it, just encouraging that type of behavior, you
15 know, both before they come to court and
16 obviously in the courtroom as well.

17 CHAIRMAN RANKIN: All right. Any other questions or
18 comments?

19 (No replies are heard.)

20 CHAIRMAN RANKIN: Judge McCoy, with that, this will
21 conclude this portion of our screening process,
22 and you were reminded very recently, two-and-a-
23 half years ago, of our focus here on the
24 Commission of both the letter and spirit of the
25 South Carolina ethics laws. Any violation or the

1 appearance of impropriety in that regard will be
2 deserving of very serious and heavy consideration
3 on our part. With that in mind, you do know that
4 this record does not close until the final record
5 or release of the Report of Qualifications,
6 correct?

7 JUDGE McCOY: That's correct. Yes.

8 CHAIRMAN RANKIN: All right. And you know that you
9 can be called back should we need to, correct?

10 JUDGE McCOY: Yes, sir.

11 CHAIRMAN RANKIN: We don't expect that, but with that,
12 again, thank you for being here. Thank you for
13 being early, and our -- your answers to these
14 questions today. God bless you in your continued
15 service and Merry Christmas to your family.

16 JUDGE McCOY: Thank you. Thank you for all your
17 service as well. I certainly appreciate it. All
18 right. Thank y'all very much. Good to see you.

19 (Off the Record)

20 CHAIRMAN RANKIN: All right, sir. Welcome and thank
21 you for being early. We're taking you a little
22 ahead of time. You've got an appointment, I
23 believe; is that correct?

24 JUDGE BANKS: I greatly appreciate it, Your Honor.

25 I've got -- I mean, Senator Rankin. I've got a

1 ruptured Achilles.

2 CHAIRMAN RANKIN: Judge Banks, welcome.

3 JUDGE BANKS: Thanks.

4 CHAIRMAN RANKIN: Raise your right hand.

5 THE HONORABLE MARTIN R. BANKS having been duly sworn,
6 testifies as follows:

7 CHAIRMAN RANKIN: Caroline is giving you or you
8 have before you the statements, Personal Data
9 Questionnaire and the Sworn Statement. Are they
10 ready to be put in the record?

11 JUDGE BANKS: Yes, sir.

12 CHAIRMAN RANKIN: No additions? All right. If you'll
13 hand those to Caroline to your right there.
14 Judge, you were familiar with our investigation
15 of your candidacy, and so you know of our
16 evaluative criteria, nine of those in our -- we
17 look at the ballot box survey, your application
18 materials, compliance with the state ethics laws
19 and a search of newspaper articles in which your
20 name appears, past screenings and a check
21 for economic conflicts of interests. No
22 affidavits have been submitted in opposition to
23 you. No witnesses are here to testify for you or
24 agin you. You have an opportunity to make a
25 brief opening remark, if you like.

1 JUDGE BANKS: Your Honor -- I mean, Senator Rankin, I
2 appreciate the time and really appreciate y'all
3 taking me early. This --

4 CHAIRMAN RANKIN: Very well.

5 JUDGE BANKS: -- ankle thing has been a bug-a-boo, but
6 yes, that's all I have to say.

7 (Exhibit Number 9 was marked for identification
8 purposes - (10 pages) Personal Data Questionnaire for
9 The Honorable Martin R. Banks.)

10 (Exhibit Number 10 was marked for identification
11 purposes - (1 page) Amendment to Personal Data
12 Questionnaire for The Honorable Martin R. Banks.)

13 (Exhibit Number 11 was marked for identification
14 purposes - (4 pages) Sworn Statement of The Honorable
15 Martin R. Banks.)

16 JUDGE BANKS - EXAMINATION BY MS. FOSTER:

17 **Q. Judge Banks, after serving 15 years as a Master,**
18 **why do you want to continue serving as a Master-**
19 **in-Equity?**

20 A. You know, I really enjoy the job. I'm sort of a
21 historian by application, and the history behind
22 the position back to old England and the way that
23 job was developed to combat legal maneuvering by
24 rich folks in old England and whatnot. I've
25 always thought it was a good -- equity was a good

1 place to be and it -- I find it very satisfying.

2 Q. Judge Banks, you have indicated in your Amended
3 PDQ that since your last screening a lawsuit was
4 filed against you in 2020 in the South Carolina
5 Court of Common Pleas in the First Judicial
6 Circuit by Pauline Jones and Rubell Jones.
7 Please explain the nature or disposition of the
8 lawsuit.

9 A. Okay. It's still ongoing because it was just
10 filed last month. The -- it originated from my
11 representation of -- I'm a part time Master, so
12 my representation of these two ladies and an
13 extended family, by the way. It was a partition
14 and quiet title action. I think there were
15 probably 15 family members of various degrees
16 that we brought to court. We ended up having a
17 non-jury trial, and then we put the property
18 under contract with a buyer -- prospective buyer.
19 And even though Mrs. Jones had, under oath, said
20 she'd paid the property taxes all these years and
21 had never told me otherwise and was seeking
22 reimbursement for the property taxes, the title
23 search from the new buyer indicated that she had
24 failed to pay them the last two years and the
25 property went to a sale, a tax sale, and it was

1 purchased. And so Mrs. Jones and her sister
2 hired an attorney to sue me for malpractice. And
3 I find it strange. It's not like I was doing a
4 closing where you do a title search before a
5 closing and you -- anyway. So they've decided to
6 sue me. And quite frankly, I expect the outcome
7 to be maybe not swift, but definitively in my
8 favor, based on those facts and the fact that
9 there was a sister property to this that the tax
10 folks did not sell at the tax sale and it's
11 because of the same reason that they didn't sell
12 that one, they brought it from the sale because I
13 called it to their attention. It should be the
14 same result for this property. They should have
15 never put it up for sale because you have to
16 notify -- I know this is kind of technical. You
17 have to notify every family member. Well, they
18 didn't know who the family members were. I was
19 the only who knew all the family members because
20 I did the family tree to find them. It's a
21 classic heirs property situation with a 80-some-
22 odd-year-old, 88-year-old, I think, who just
23 failed to pay her taxes.

24 **Q. Judge Banks, your SLED report indicated there was**
25 **a lawsuit filed against you since your last**

1 screening. It was filed in 2016 in US District
2 Court and the District of South Carolina by Ron
3 Christopher Footman. This was a prisoner civil
4 rights lawsuit, and it was terminated in 2017.
5 It's my understanding you were never served with
6 it?

7 A. Never served. Didn't know anything about it
8 until you told me.

9 Q. Judge Banks, what do you think your reputation is
10 among attorneys that practice before you?

11 A. My reputation?

12 Q. Yes, sir.

13 A. I mean, they don't discuss that in front of me,
14 but I suppose it's quite good. I know I have a
15 friendly relationship with the Bar and -- not too
16 friendly, but, you know, I've been in that
17 community for my entire life. And I guess I
18 wouldn't have the position if it wasn't above
19 average, at least.

20 MS. FOSTER: I would note that the Commission received
21 336 ballot box surveys regarding Judge Banks with
22 two additional comments. The ballot box survey,
23 for example, contained the following positive
24 comments: well suited for the judgeship, a good
25 lawyer and a good guy, always friendly and

1 understanding. None of the written comments
2 expressed concerns. I would note that the
3 Midlands Citizens Committee found Judge Banks
4 qualified in the evaluative criteria of
5 constitutional qualifications, physical health
6 and mental stability. The Committee found him
7 well qualified in the evaluative criteria of
8 ethical fitness, professional and academic
9 ability, character, reputation, experience and
10 judicial temperament. The Committee stated in
11 summary: "Long time service as Master makes him
12 well qualified."

13 **Q. Some housekeeping issues. Judge Banks, since**
14 **submitting your letter of intent, have you**
15 **contacted any members of the Commission about**
16 **your candidacy?**

17 A. No.

18 **Q. Are you familiar with § 2-19-70, including the**
19 **limitations on contacting members of the General**
20 **Assembly regarding your screening?**

21 A. Yes.

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

1 A. No.

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

6 A. No.

7 Q. Have you reviewed and do you understand the
8 Commission's guidelines on pledging in SC Code §
9 2-19-70(E)?

10 A. Yes.

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

16 CHAIRMAN RANKIN: Any questions by members of the
17 Commission?

18 VICE CHAIRMAN SMITH: I've just got one quick thing.

19 CHAIRMAN RANKIN: Representative Smith.

20 VICE CHAIRMAN SMITH: Judge Banks, I just want to
21 commend you. I was reviewing your PDQ, and I see
22 you attended Clemson your freshman year and then
23 wised up and decided to transfer to the
24 University of South Carolina to be a Gamecock.

25 JUDGE BANKS: Two degrees from Carolina.

1 VICE CHAIRMAN SMITH: Okay. And then you -- hopefully
2 you're not a Gamecock football fan at this time.
3 Have you gotten frustrated with the program?

4 JUDGE BANKS: My daughter is making me a Clemson fan.
5 She's there now, so it's happening.

6 VICE CHAIRMAN SMITH: Okay. Well, yeah. Just do that
7 temporarily.

8 JUDGE BANKS: Right.

9 CHAIRMAN RANKIN: All right. Judge Banks, I want to
10 commend you as well for your willingness to
11 serve. You've got wonderful letters of reference
12 and, obviously, as Ms. Foster commented, the
13 Citizens Committee can't sing a higher praise of
14 you and your service. So I appreciate your
15 willingness to continue serving in this vain.

16 JUDGE BANKS: Thank you, Senator.

17 CHAIRMAN RANKIN: This will conclude this portion of
18 the screening process. We are very focused on
19 both the letter and the spirit of the South
20 Carolina ethics laws. Any violation or the
21 appearance of impropriety of that would be very
22 serious and deserving of heavy weight and
23 consideration by us as for your qualifications.
24 I just need a verbal response on the record that
25 you understand this record is not closed and we

1 could call you back should the need arise.

2 JUDGE BANKS: I do, Your Honor. Senator.

3 CHAIRMAN RANKIN: All right. And God bless you. I
4 hope your foot goes well. And if you hurry, not
5 on your foot, but the other good one, you'll make
6 it to your doctor's appointment on time.

7 JUDGE BANKS: Thank you very much.

8 CHAIRMAN RANKIN: Merry Christmas to you.

9 (Off the Record)

10 CHAIRMAN RANKIN: Good -- I'm going to say morning, but
11 we know it's not.

12 JUDGE CULBERTSON: That's all right. Good morning.

13 CHAIRMAN RANKIN: My apologies for the late arrival to
14 your appointed time, Judge. Let's first get you
15 to raise your right hand.

16 THE HONORABLE BENJAMIN H. CULBERTSON having been duly
17 sworn, testifies as follows:

18 CHAIRMAN RANKIN: Very well. You have before you the
19 PDQ and the Sworn Statement. Are those ready to
20 be put into the record? Do we need to change
21 them?

22 JUDGE CULBERTSON: No. If this is the original, I
23 have not changed anything. So yes, they are
24 ready to be put in.

25 CHAIRMAN RANKIN: All right. If you'll hand those to

1 the young lady to your right, we'll put them in.

2 JUDGE CULBERTSON: Thank you.

3 (Exhibit Number 12 was marked for identification
4 purposes - (16 pages) Personal Data Questionnaire for
5 The Honorable Benjamin H. Culbertson.)

6 (Exhibit Number 13 was marked for identification
7 purposes - (8 pages) Sworn Statement of The Honorable
8 Benjamin H. Culbertson.)

9 CHAIRMAN RANKIN: Judge, you are familiar with our
10 thorough investigation of your
11 qualifications that focuses on the nine
12 evaluative criteria, but also a number of things
13 that include ballot box survey, a study of your
14 application materials, verification of your
15 compliance with state ethics laws, a search of
16 newspaper articles in which your name appears,
17 study of previous screenings. And you last
18 screened when?

19 JUDGE CULBERTSON: Six years ago, so 2014. The
20 election was in 2015.

21 CHAIRMAN RANKIN: And then you served as a Master-in-
22 Equity?

23 JUDGE CULBERTSON: Yeah. I was a Master-in-Equity for
24 eleven years. And then I was -- my first
25 election was to fulfill Judge Thomas' unexpired

1 term, so it was a two-year term. So I first was
2 screened in 2006, elected in 2007. Took the
3 bench in July 2007. Then was screened and ran
4 again 2013 -- or '14 and then now.

5 CHAIRMAN RANKIN: Been here, done this. You are
6 familiar with this process, right?

7 JUDGE CULBERTSON: Not my first rodeo. That's
8 correct.

9 CHAIRMAN RANKIN: Very good. We've also looked for
10 economic conflicts of interest. No affidavits
11 have been filed in opposition of your election
12 and no witnesses are present to testify. You
13 have the opportunity to make a brief opening
14 statement at this time. If not, again, we'll
15 turn it over to Jimmy for questions.

16 JUDGE CULBERTSON: All right. I don't, really. Just
17 want to thank everybody for your service. I know
18 it's time consuming for y'all as well, and I want
19 to thank you for that.

20 CHAIRMAN RANKIN: Very well. All right.

21 JUDGE CULBERTSON - EXAMINATION BY MR. HINSON:

22 **Q. Good afternoon, Judge.**

23 **A. Afternoon.**

24 **Q. After serving twelve -- over twelve years on the**
25 **circuit court, why do you want to continue**

1 **serving as a circuit court judge?**

2 A. Well, it's just what I do. Most satisfying job
3 I've had. I really enjoy sitting on the bench,
4 number one. And number two, it's important to
5 the people of Georgetown County to have a judge
6 in that county. And it's just what I enjoy
7 doing. I mean, I enjoyed practicing law, I
8 enjoyed Master-in-Equity, and this was kind of
9 the next step up, and I've really enjoyed it.

10 **Q. Thank you. Judge, since your last screening, a**
11 **lawsuit appears on your SLED report that was**
12 **filed in August of 2016 by a Cornelius Beck, Jr.**
13 **It looks like it was dismissed two months later.**
14 **Are you familiar or do you recall that case?**

15 A. I remember the filing of the lawsuit. I don't
16 remember anything about it. I turned it over to
17 the attorney I was told to turn it over with. I
18 want to say that it grew out of some type of a
19 collection action against Dr. Beck. And because
20 I had participated in that, in some judicial
21 capacity, I was named in the lawsuit. But I
22 don't -- to be quite honest with you, as I
23 understand when the lawsuit was filed, I turned
24 it over to the attorney. They filed a motion for
25 summary judgment and it was summarily dismissed.

1 Q. Thank you. Judge, what do you think your
2 reputation is among the attorneys that practice
3 before you as well as court personnel that work
4 under you?

5 A. Well, I certainly hope it's a good reputation. I
6 have not received, personally, any complaints to
7 me. To my knowledge, I don't know that I've ever
8 been notified of any grievances, certainly
9 nothing recently. Maybe years ago, but I
10 couldn't remember whether that was when I was
11 Master-in-Equity or when I was a circuit judge.
12 So I think I've got a fairly good reputation.

13 Q. Judge, the Commission received 727 ballot box
14 surveys regarding you, with 63 additional
15 comments. The ballot box survey, for example,
16 contained the following positive comments: "An
17 excellent judge." Another stated you were a very
18 hard worker. One stated that you showed
19 great impartiality. Seventeen of the written
20 comments expressed concerns. Several of those
21 indicated that you showed bias and poor
22 temperament on the bench. What would response
23 would you offer to that?

24 A. I will admit that one of the hardest things is
25 maintaining proper decorum, particularly when

1 you're in motion hearings and you make a
2 decision, or even in the course of a trial on an
3 evidentiary objection. You make a decision and
4 attorneys want to keep arguing the point, you
5 have to sometimes sternly let them know, look,
6 I've made my ruling, let's move on. And so I
7 would think that would be where the temperament
8 would come from. I've tried to maintain it. And
9 the longer I serve I think I'm getting better at
10 it. I know when I first got on it was extremely
11 hard to maintain temperament, but I think I've
12 done all right with it.

13 **Q. Thank you. Some of the comments indicated that**
14 **you do not work as hard as you once did and you**
15 **tend to rule more on your instincts rather than**
16 **the law. What response would you offer to that?**

17 **A.** I will admit that the longer I have sat on the
18 bench, the more I have, I guess, developed the
19 rationale that whatever is on the roster takes
20 priority for that given week. I'm probably not
21 as accommodating as I used to be, as far as
22 working motion hearings in or working in
23 settlement hearings. Now I tell them, look, I've
24 got a roster I've got to deal with, if you check
25 with me on Monday morning after the roster

1 meeting then I'll be in a better position to give
2 you a date and time when I can hear it; I'm sure
3 I can work it in, but if they contact me a month
4 ahead of time I'll be honest with you and say,
5 look, I don't know what I've got going on that
6 week. I've got the roster, but I don't know
7 what's going to settle or how much time I'm going
8 to have and things of that nature. I'm sure I
9 can work you in, but check with me after the
10 roster meeting Monday morning of the term and I
11 can tell you we can do it on this date at this
12 time. Whereas, when I first got on the bench, I
13 would go ahead and I would schedule, say, yes,
14 we'll do it that Thursday at 1:00 or we'll do it
15 Friday morning at 9:15 and I'd go ahead and it
16 ran into a bunch of conflicts a lot of times.
17 The attorney that had asked to be inserted into
18 the roster wound up sitting there for an
19 extremely long period of time unintended or I
20 would have to interrupt what I was doing and
21 already had going on, for whatever reason. And
22 so that's probably where a lot of the criticism
23 comes from.

24 **Q. One comment expressed concern over dialogue you'd**
25 **have with child victims and sexual assault cases.**

1 **Are you aware of this and what response would you**
2 **offer?**

3 A. I really don't know where that would come from
4 because I'm trying to think of -- I don't even
5 know if I've had a child sexual assault trial
6 where I would have dialogue with a child victim
7 or even a guilty plea where a child victim came
8 forward. I don't know where that would have come
9 from.

10 **Q. Thank you.**

11 MR. HINSON: I would note that the Pee Dee Citizens
12 Committee found Judge Culbertson to be qualified
13 in the evaluative criteria of constitutional
14 qualifications, physical health and mental
15 stability and found him well qualified in the
16 evaluative criteria of ethical fitness,
17 professional and academic ability, character,
18 reputation, experience and judicial temperament.

19 **Q. Judge Culbertson, since submitting your letter of**
20 **intent, have you contacted any members of the**
21 **Commission about your candidacy?**

22 A. No, sir.

23 **Q. Are you familiar with § 2-19-70 including the**
24 **limitations on contacting members of the General**
25 **Assembly about your candidacy?**

1 A. Yes, sir.

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

6 A. No, sir.

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

11 A. No, sir.

12 Q. And have you reviewed and do you understand the
13 Commission's guidelines on pledging in SC Code §
14 2-19-70(E)?

15 A. Yes, sir.

16 MR. HINSON: I would just note for the record that any
17 concerns raised during the investigation
18 regarding the candidate today were incorporated
19 in the questioning. And with that, I have no
20 further questions.

21 JUDGE CULBERTSON: Thank you.

22 CHAIRMAN RANKIN: Thank you. Questions by members of
23 the Commission? I will start it, Judge.

24 JUDGE CULBERTSON - EXAMINATION BY CHAIRMAN RANKIN

25 Q. And obviously I know you?

1 A. Right.

2 Q. I remember the contested race that you -- I
3 wasn't on screening at that time, but you and
4 Judge Hyman, when y'all ran against each other.
5 That was in, again, what year?

6 A. The election -- well, the screening was in 2006.
7 The election was in May 2007. I won by one vote.

8 Q. You're living proof that every vote counts,
9 correct?

10 A. It certainly does.

11 Q. You did not request a recount or an audit?

12 A. No. Not at all.

13 Q. Very good. So how do you -- how do you bring, on
14 a daily basis, a desire to serve and a desire to
15 put up with, perhaps, the humdrum that you might
16 have experienced when you first became a judge?
17 How do you bring that on a daily basis?

18 A. Well, the job itself kind of creates the
19 incentive. I can't imagine what it would be like
20 to be in -- a judge in some of these states where
21 you're just strictly a common pleas judge or
22 you're just strictly a criminal judge and you're
23 assigned to an area. The good thing about South
24 Carolina, and our state judges, is that we do
25 travel statewide. We do fluctuate between common

1 pleas matters and general sessions matters, and
2 so that in and of itself creates a variety of
3 what you hear, as well as the Bar members that
4 you see. Now, the longer you serve on the bench,
5 the more you become acquainted with members of
6 the Bars, but there's always younger Bar members
7 that come along that are exciting to deal with.
8 And I really haven't had trouble, you know,
9 getting -- I don't get burn out or anything
10 because of the variety that you do, that it
11 changes from week to week or every other week to
12 every other week. I will admit the common pleas
13 non-jury, the motion hearings, those take some
14 fortitude to muster up to go to those, but I
15 haven't had too much trouble getting excited to
16 go to work.

17 **Q. Well, and you speak to what is a recognition by**
18 **everybody in the court system. Effectively,**
19 **you're tasked more with a motions roster than you**
20 **are, at least in a common pleas world --**

21 **A. Right.**

22 **Q. -- more activity. So are you a little bit**
23 **extra mustered -- not mustard, mustering**
24 **intestinal fortitude to bring it to that, which**
25 **again --**

1 A. It's not as -- I won't say it takes more of a
2 challenge because sometimes you look forward to
3 those weeks because it's just you and the
4 attorney. And you don't really have to deal with
5 the juries or their concerns as much. So it's
6 not every week, but I have had a couple of terms
7 where I've had common pleas non-juries two or
8 three weeks in a row, and then that gets kind of
9 drudgery. But you know, with the constant change
10 from common pleas to general sessions to common
11 pleas to non-jury to general sessions, back and
12 forth, it kind of keeps you enough of variety. I
13 guess every week you're kind of looking forward
14 to the next week. Usually about Thursday or
15 Friday you're about ready to get to the next week
16 so it will be a different area.

17 Q. We heard from one judge, seems like a month ago,
18 but in her screening the accusation or comment
19 was made that might seem to be a little shorter
20 with some. And the comment was, I'm
21 paraphrasing, was don't tell me what the standard
22 is for -- and the law on making a summary
23 judgment decision, just get to the point, which I
24 think I got it. I understood, don't belabor
25 this. Patience with you when you are struggling

1 with the -- again, that Thursday afternoon, yet
2 another motion, how do you, again -- within the
3 realm of judicial temperament, how do you try to
4 exhibit fairness and/or enthusiasm when with the
5 litigants before you?

6 A. A lot of times I just -- and what I constantly
7 try to do is remind myself what it's like to
8 practice law. And I recognize a lot of times on
9 these motion hearings I don't want to cut them
10 short because I know they're trying to make a
11 record. And a lot of times, even in a trial,
12 they're trying to create a record because they
13 don't know how things are going to go. And I
14 guess it's just through experience I have just
15 kind of taught of myself when they're talking
16 they're creating the record they want to create,
17 if it goes beyond me. And so I kind of let them
18 go ahead and just say their peace. Now, once I
19 make a ruling and they want to continue making a
20 record, that's when I have to kind of say, okay,
21 I've heard enough, I've already made my decision,
22 let's move on. But I really haven't had too much
23 trouble just letting people go ahead and state
24 their argument and get on the record. That's why
25 I've long ago got in the practice, anything else

1 you want to put on the record. And then, that
2 said, I just hadn't had too much trouble doing
3 that. Or I -- nobody has told me that I've had a
4 problem doing that, put it that way.

5 **Q. I have not appeared before you as a JMSC member,**
6 **so this is new to me. I have -- staff has**
7 **looked, and I didn't get this particular**
8 **question. But typically it's asked in all**
9 **screenings, if you haven't heard it before I'll**
10 **ask you now, who do you look up to? What judge**
11 **either serving or past serving that you hold up**
12 **as an example of what a circuit court judge ought**
13 **to be?**

14 **A.** When I first got on the circuit bench there were
15 a couple of judges that really took me under
16 their wing. Judge Baxley, Howard King, even
17 though he's closer to my age, Buck James, Ned
18 Miller in Greenville, those that had been on the
19 bench a while, Mike Nettles, certainly Steve John
20 in Conway. I guess they just kind of reached out
21 to the newer, younger people on the bench and
22 really -- and I had no qualms calling any of them
23 if I had a question, procedurally, what do I do.
24 And they would let me know. I know Mike Baxley
25 really helped me a bunch. Buck James helped me a

1 bunch. Ned Miller helped me a bunch, and Howard
2 King. I would say those four, really, I could
3 call them at any time and they would have stepped
4 in.

5 Q. Well, and that -- not to limit that dial-a-friend
6 or a dial-a-judge type assistance, but in terms
7 of the overall role of and the public exhibition
8 of being a judge, not just the technical legal or
9 procedural, which, again, you may not be limiting
10 that to, but from a personality --

11 A. Right.

12 Q. -- from a temperament, a demeanor in a courtroom,
13 and all those would suffice in that regard --

14 A. Yeah.

15 Q. -- but ...

16 A. I'm trying to think. And I know that there have
17 been some in the past, but just trying to recall
18 it off the top of my head I really can't think of
19 anybody that stands head and shoulders above
20 anyone else. I know -- I guess not so much as a
21 judge, but I do know that early on people, local
22 attorneys, like Meyer Rosen, Bill Door, people
23 that practiced law and the way they approached
24 the legal profession really had a profound impact
25 on me when I first started practicing law, and

1 tried to carry that over as a judge.

2 **Q. Ballot box surveys, you -- do you participate in**
3 **these yourself? Do you -- gotten one on**
4 **yourself, perhaps?**

5 A. Yeah.

6 **Q. Did you comment on yourself?**

7 A. No. Did not comment on myself. Yeah, if it's
8 someone that I know, I do. I do not respond to
9 any of them if I just know the candidate
10 casually, but people that I really know and I
11 think I can answer the questions honestly because
12 I've known them for a while, I've been around
13 them a while, then yes, I do respond to those.

14 **Q. And you agree that that is something that we**
15 **should give credence to, again recognizing that**
16 **these are anonymous commenters.**

17 A. Yeah. I think you should. Because I know
18 there's -- it's educated me, judicial
19 temperament, things like that, alerted me to a
20 lot of criticisms that I would not otherwise know
21 about because nobody's going to come up and tell
22 me that. And this is the only way you find out
23 about it is through the anonymous screening, so
24 yeah, I agree with it wholeheartedly.
25 Particularly when you get a large response

1 because a large response will give you a better
2 idea. I recognize that there might be some
3 lawyers out there that just don't like me and
4 they're not going to give me a good rating.
5 There may be some lawyers out there that just
6 love me to death, not because of my judicial
7 temperament but because of whatever else they
8 might like about me. But when you get a large
9 cross -- a large response then I think that's
10 more indicative of how well the survey is.

11 Q. And in my -- and again, I'm just one of a number
12 of these folks, but I look at the good and try to
13 figure out whether that's a predominant view and
14 not focus on the few and the bad alone. And you
15 get great remarks from a number of people,
16 overwhelmingly positive. But I would say that
17 there is a theme of those who may not love you as
18 much, and just -- you were asked by staff about
19 the negative. And I just ask you to reply to
20 this one: reputation for being lazy, uncaring
21 about the time of lawyers and litigants and
22 unpleasant -- can be unpleasant and temperamental
23 from the bench at times, pushes cases through
24 without much consideration to parties, their
25 counsel and the status of the case.

1 A. The last comment is probably due in large part --
2 I hesitate to grant continuances on cases where
3 they say we're still conducting discovery and
4 you've got a two-and-a-half year old case or they
5 -- you've got a case that's 18 months, two years
6 old, and they say, well, we haven't taken
7 depositions yet. I hesitate to grant
8 continuance. I will routinely, without doubt,
9 grant continuances if you've got vacation plans
10 or you've got another -- you've got a murder
11 trial coming up in two weeks and you just can't
12 get ready for this one this week. Things like
13 that, I understand that. But predominately in
14 the discovery phase when you've got a case that
15 is nearing two years old and you're still saying
16 we're trying to conduct discovery, unless it's --
17 you can recognize the cases that just take an
18 exorbitant amount of discovery. By the same
19 token, the typical car wreck case and then 18
20 months later and they say we haven't even taken
21 discovery yet -- I mean haven't even taken
22 depositions yet, we need a continuance, then I'll
23 say I'm sorry, it's -- this is on the roster, I'm
24 not going to continue it for that reason. So
25 that's probably where that has come from, is I do

1 hesitate to grant continuances in those
2 situations.

3 **Q. And again, not to seize on the negative only**
4 **because there's --**

5 A. Right.

6 **Q. -- a lot of positive, but in that vein, another,**
7 **disappointed in how he treats lawyers and his**
8 **complete inability to adjust to situations that**
9 **require more than a robotic response. Maybe --**

10 A. I don't -- I don't know what that would be.

11 **Q. Unless it's a Thursday on a motions day and**
12 **you're -- I'm making light of your comment in**
13 **jest, only in jest.**

14 A. Yeah. You know, I don't know what it would be.
15 Yeah, that one's kind of got me for a loss
16 because I generally try to make sure you get
17 everything on the record.

18 **Q. Is it fun to be a judge?**

19 A. It can be. Sometimes it can get monotonous and
20 things of that nature, but other than that, I --
21 put it this way: as my son says, if I've got to
22 work, it's the job I want. I can put it that
23 way. I enjoy being a judge, and to me it is fun
24 being a judge. To be quite honest, simply,
25 because I don't have to play the advocate. I can

1 sit there and I have seen some really good
2 lawyers present some really good cases. And I've
3 enjoyed that. It's -- so I enjoy it, yes. To
4 me, if you say is it fun, yes it is fun.

5 **Q. COVID brought a change in your work life. Tell**
6 **us about that and did you adapt? Did you --**

7 A. Yeah. I --

8 **Q. -- tell us about that.**

9 A. Adapted certainly with the Webex. That enabled
10 us to kind of get the motions. My biggest
11 concern or I guess problem with the COVID is it
12 created a tremendous backlog in our motions
13 roster. I know the Fifteenth Circuit,
14 particularly Horry County, we had motion hearings
15 down where you could get a motion hearing within
16 about 30 days. Now, when I first got on the
17 bench it would take like six months to get a
18 motion hearing. And I guess my first term as
19 chief administrative judge is when I basically
20 said, look, let's devote non-jury terms to
21 hearing motions, and we can get on top of this.
22 And we got on top of it and you get a hearing
23 within 30 days. Well, now we are back, because
24 of COVID, to about a 90-day backlog. And I know
25 we'll get caught up. I know we will. But just

1 dealing with that right now is the problem.
2 We try to do as much as we can on Webex. To be
3 honest with you, we're back with the general
4 sessions trials. We're back with the common
5 pleas trials and a little bit behind in those,
6 but I think we'll get caught up in the not-too-
7 distant future on those.

8 **Q. And then last, on my part, and then I'll hush,**
9 **but what good changes have come about this and**
10 **how do you see not the practice of law but your**
11 **role as a judge with hopefully soon coming post-**
12 **COVID?**

13 **A.** The good thing about it is two things. Number
14 one, the technology with the Webex and stuff.
15 That's been a big assistance to the court. The
16 other good thing, I don't know if it's a good
17 thing from the legal -- from the lawyer
18 standpoint, but we've had a bunch of cases,
19 common pleas cases, that have settled just
20 because they know it was going to take them this
21 long to get to trial. Well, that's been pushed
22 back at least another six months to a year. And
23 so we've gotten some settlements that have come
24 through. The down side is the backlog on the
25 rosters now, coupled with when we do hold trials,

1 because of the protocol we've got and the having
2 to wash down the witness seat after every
3 witness, having to social distance with the
4 jurors, it just takes longer to try a case than
5 it used to. You're adding at least a day-and-a-
6 half to every trial just because -- for example,
7 now a jury -- motions are devoted -- I mean, jury
8 qualifications take up all of Monday. We qualify
9 half the jury panel on a Monday morning, half the
10 jury panel on a Monday afternoon, just simply
11 because you've got to social distance the jury
12 panel. And so it takes longer to do things,
13 that's the downside.

14 **Q. Okay.**

15 CHAIRMAN RANKIN: Other Commission have questions?

16 JUDGE CULBERTSON - EXAMINATION BY MS. LOGAN

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

18 A. Good afternoon.

19 **Q. I see that you work with a good friend of mine,**
20 **Alma White.**

21 A. Yes.

22 **Q. The Clerk of Court down there, yeah. I was**
23 **former Clerk of Court in Spartanburg, and I**
24 **learned a lot of what I know from Alma White.**

25 A. As did I. She does a good job. I don't have to

1 really worry about a whole lot of the
2 administrative stuff in a court docket or jury
3 summonsing or anything like that because she runs
4 a good show.

5 **Q. Yeah. No nonsense as well.**

6 A. That's right. That's exactly right.

7 **Q. That's what I did learn from her first and**
8 **foremost. I did want to ask you about a comment**
9 **in your ballot box in regards to -- and it's**
10 **going back to the child sexual assault case.**

11 A. Right.

12 **Q. Where it looks as if this particular individual**
13 **is stating you invoke religion a lot in some --**
14 **apparently sometimes in your court demeanor, and**
15 **specifically you asked a child victim if they**
16 **consented to the assault --**

17 A. I have --

18 **Q. -- does that ring --**

19 A. No. And I am so caught off-guard by that because
20 I have no idea where that has come from. I can
21 only recall one sexual assault trial where I've
22 presided over where the minor actually came and
23 testified and we did the distancing where the
24 victim was not in proximity to the defendant.
25 And then other than guilty pleas with the victim,

1 I don't really know where that even comes from.
2 I apologize, I just don't know whether they've
3 got me confused with another judge or where that
4 came from.

5 Q. Well, thank you for responding, and also thank
6 you for commenting on how you are bettering your
7 temperament.

8 A. Right.

9 Q. Again, that's to be commended that you recognize
10 that and trying to make change on that.

11 A. Thank you.

12 CHAIRMAN RANKIN: Mr. Strom.

13 MR. STROM: Thank you, Mr. Chairman.

14 JUDGE CULBERTSON - EXAMINATION BY MR. STROM:

15 Q. Judge, the chairman asked most of the questions I
16 wanted to cover, but I did want to go back to
17 this judicial temperament issue just a minute. I
18 think that it is the view of this Commission that
19 accommodating lawyers, particularly during this
20 COVID time, is a big part of judicial
21 temperament. And you know, we've -- all have
22 clients who -- you know, you've been a lawyer.
23 You said earlier you try to remember what it's
24 like when you're a lawyer. And I may have
25 misinterpreted what you said, but it bothered me,

1 if I took it correctly, that you've said that
2 you've gotten less flexible. I would have hoped
3 that you would have said you had gotten more
4 flexible in the way you dealt with lawyers, dealt
5 with one-off cases. Because, I mean, we know we
6 get something settled and we -- everybody wants
7 to take things off the roster. But if you knock
8 some stuff out in the middle, that helps those
9 people move on with their life, that gets that
10 file out of our office. So I'd just like for you
11 to comment maybe and help me better understand
12 why that isn't a better way to do it as opposed
13 to just going down the roster.

14 A. Well, I guess when I said I'm less accommodating
15 I don't mean that I'm less accommodating in
16 allowing them to put the settlement on the record
17 or work a motion in that needs to be worked in.
18 I am less accommodating when they call me or call
19 my office four/five weeks in advance and say,
20 look, judge, we've got a settlement, can I work
21 this into your February 3rd term. And I always
22 say, yeah, I'm sure you can, but I can't tell you
23 that I can hear that Tuesday at 1:00 or Wednesday
24 at 3:00 or Thursday at 2:30, you'll need to check
25 back with me when I find out what my -- I mean, I

1 don't know if I -- if I've got a trial scheduled,
2 it might be a five-day trial. So I might not be
3 able to get to you until Friday afternoon. By
4 the same token, the roster might fall apart and I
5 might can hear you Tuesday morning at 9:00
6 o'clock. That's -- and I guess the reason I have
7 developed or started doing that practice is
8 because I would tell attorneys, all right, we'll
9 do this Tuesday at lunch. Well, they'll show up
10 and I might be in a trial in the middle of a
11 witness that's going to last two hours and
12 they're sitting there waiting for that witness to
13 finish their two-hour testimony before I can
14 actually get to their hearing. That's what I
15 meant by that.

16 MR. STROM: That's all I have. Thank you, Mr.
17 Chairman.

18 CHAIRMAN RANKIN: Senator Sabb.

19 SENATOR SABB: Thanks, Mr. Chairman.

20 JUDGE CULBERTSON - EXAMINATION BY SENATOR SABB:

21 **Q. Judge, good to see you.**

22 **A. You too.**

23 **Q. I, of course, have appeared in front of you a**
24 **number of times, and I appreciate the manner in**
25 **which you run your courtroom and, you know, I**

1 have lawyers like my good friend Billy Jenkinson
2 and who just thinks the world of you and how
3 you've conducted yourself over the years. I do
4 want to zero in on what I believe you indicated
5 is sort of like your practice, and I'd like to
6 explore it with you a little bit. You know, I'm
7 -- I consider myself as a hard-working lawyer --

8 A. Right.

9 Q. -- but I've -- and this is before I was elected
10 to General Assembly. For whatever reason, every
11 once in a while, I wouldn't work on a file until
12 it popped on the roster sometimes.

13 A. Right.

14 Q. And I just -- that's probably not how Murrell
15 Smith does it all the time and everything, but a
16 country lawyer like Ronnie Sabb, I found myself
17 guilty of it. And I guess I've had situations
18 where defense lawyers have been in the same shoe.
19 And we both sort of dusted the file off and said,
20 oh, man, we need to get ready on this case but
21 there's now way we're going to be ready, and the
22 case is already on the roster. And so I guess
23 I'm curious about those situations where both of
24 the lawyers have fallen just a wee bit short in
25 terms of the diligence that we should both be

1 exhibiting on this file. And all of a sudden,
2 you know, we find ourselves number eight on the
3 roster because there aren't many cases on the
4 roster and we're just not ready to go and -- but
5 we could get the case ready, we just got to focus
6 on it. And so I'm curious as to how you view
7 that in light of your -- and if I'm categorizing
8 this wrongly, please tell me, but your normal
9 stance of, no, it's on the roster, y'all got to
10 do something with it.

11 A. Well, a lot of it has to do with the age of the
12 case. Like I say, I am pretty much -- and I
13 guess you're dealing primarily with requests for
14 continuances --

15 Q. Yes, sir. That's exactly -

16 A. -- it's on the roster, I want it continued.

17 Q. That's exactly -- not only do I want it --

18 A. Yeah.

19 Q. -- the defense lawyer doesn't oppose it and we
20 can tell you, Judge, next time we're going to be
21 ready. We just -- sort of with our pants down
22 right now.

23 A. And I routinely -- quite honestly, I routinely do
24 grant the continuances in those situations if
25 it's less than a two-year-old case. The problem

1 I have is with cases that are nearing 24 months
2 old. Because by the same token, where you're
3 saying we can be ready by the next term, the
4 Clerk of Court, Alma White --

5 **Q. Who I know very well.**

6 A. -- her common pleas coordinator is contacting me
7 saying, Judge, I'm getting this call from this
8 attorney, when is their case going to be on the
9 roster. And so even though I can push your case
10 back, that means I've got another lawyer out
11 there that's ready to get their case on the
12 roster that's going to be pushed back another
13 term. And so I -- the primary thing I look at is
14 how old is that case. I mean, it's 2020. If
15 you're dealing with a 2017 case, you're probably
16 -- depending on the reason for the continuance.
17 Like I said, you got vacation plans, you got a
18 wedding, you got a murder trial coming up -- a
19 lot of times with this COVID, I just continued
20 one not too long ago because the -- and it was a
21 discovery issue. They said we have not been able
22 to depose the insurance adjuster or the insurance
23 -- somebody within the insurance industry because
24 the company wasn't allowing their employees to
25 travel outside the state. And so I recognize

1 then that, yeah, that was a legitimate reason. I
2 -- you know, another consideration I got is what
3 else is on that roster. If case number one is a
4 date-certain case that I know is going to go
5 three to four days then, yeah, you're probably
6 going to get your continuance. By the same
7 token, if you're number eight on the roster and
8 numbers one through five have already settled,
9 you know, I don't want -- I enjoy my week off as
10 much as anything, but after several terms of
11 everything just falling through and nothing --
12 you know, I don't mind if they fall through
13 because they settle. I don't mind if they're
14 continued for a legitimate reason, but when you
15 continue eight cases on a roster because
16 discovery hasn't been completed in any of them
17 then it kind of -- that's another reason for the
18 backlog.

19 **Q. Sure, sure, and I get it. I guess the part of me**
20 **just looks at the lawyers who one has, in most**
21 **instances, maybe an inured person who, you know,**
22 **is entitled in their day in court with their**
23 **lawyer being prepared; the other side, you know,**
24 **defending and being responsive to either the**
25 **client or the insurance company. And so, you**

1 know, it's just good when judges are able to help
2 those lawyers not be in malpractice situations.
3 And offer -- and I've not, quite frankly, heard
4 about you being inflexible. I just, when I'm in
5 here, sort of just listen.

6 A. Right.

7 Q. And so when you said that, I wanted to explore it
8 with you a little bit because that is the real-
9 life situation when the judges were lawyers --

10 A. It is.

11 Q. -- and found themselves in those situations. And
12 so I appreciate your engaging and exchanging.

13 A. And another -- I'm going to be honest with you,
14 if I could just add to that.

15 Q. Please.

16 A. Another consideration that I look back is have
17 they gotten a scheduling order. If there is a
18 scheduling order that has been signed by a judge,
19 whether it be me or another judge and it's in
20 part of the case and they just have not complied
21 with it, then I'm probably less flexible in those
22 situations.

23 Q. And we totally get that one. I think Co-
24 chairman Smith and I had that conversation --
25 well, Vice Chair Smith and I had that

1 conversation earlier with another candidate, but

2 --

3 A. Right.

4 Q. -- we understand. I get that.

5 A. Thank you.

6 JUDGE CULBERTSON - EXAMINATION BY VICE CHAIRMAN SMITH:

7 Q. Judge, how you doing this afternoon?

8 A. Fine. Doing well, thank you.

9 Q. Let me follow up. I just want to piggyback on --
10 one of your comments caught my attention also.
11 And let me preface this all by saying is, you
12 know, I too have not heard about you being
13 inflexible or I don't really see that in the
14 comments and, you know, I have a case too before
15 you, and you're forthright with us, and I
16 appreciate that. If you get your scheduling
17 order, we don't care when you get it --

18 A. Right.

19 Q. -- but I'm -- you know, y'all work it out and
20 when it's time to go to court, y'all be ready to
21 go to court. And I think that's -- I think
22 that's a fair assessment. Don't have any
23 criticism of that, nor any concerns. I
24 appreciate you doing that because some judges say
25 no, we're going to have a very tight frame on you

1 and -- time frame and it's unrealistic most of
2 the times, and then we are before you, begging
3 for forgiveness at some point. So, you know, I
4 appreciate how you handle that. But the one
5 thing that caught my attention when you said
6 that, when you testified earlier, is that, you
7 know, if it's a car wreck it's two years on the
8 roster, it means two years and it pops on the
9 roster. You know, I just say I can't continue
10 it. And following along with what Mr. Sabb says
11 -- Senator Sabb says, what would cause me some
12 concern if this is the first time on the roster
13 and people are caught with their pants down then
14 what happens? I mean, are they to 40(j) the case
15 or to settle it at a discounted price if it's a
16 plaintiff and the plaintiff's not ready or
17 defense attorney, you know?

18 A. Well, I am -- I guess I probably should have
19 said this. If it is the first time on a roster
20 then yes, I do take that into account. If it has
21 been on the roster a couple of times, a lot of
22 times it is a 40(j). I'll say, you know, let's
23 just 40(j) it and when you get ready and you're
24 ready to go we'll get it back on there. And so I
25 do recognize where it appears on a roster and

1 whether or not it is the first time. And quite
2 frankly, a lot of times the input -- I'll get
3 input from a clerk of court or somebody in the
4 clerk's office that says, Judge, this has already
5 been continued X number of times, or no, Judge,
6 this is the first time it's on the roster, it's
7 just because these cases are moving so fast and
8 it's moved to the top pretty quick. So that's
9 where you do rely on a lot of your administrative
10 staff because I don't know how many times a case
11 has been on the roster and I don't know whether
12 this judge in this county continued it when they
13 were visiting or whether it's the first time on
14 the roster, too. So I do -- am more inclined to
15 continue it if it's a first time on the roster.
16 I guess my problem is, is unless there's a
17 scheduling order it's hard for me to see how a
18 two-year-old case is just popping up on the
19 roster for the first time because you look at
20 your --

21 **Q. Come to Sumter County.**

22 A. Huh?

23 **Q. Come to Sumter County and you'll find that out.**

24 A. I got you.

25 **Q. So -- but, you know, let me say this: again,**

1 A. I think you're clarifying what I'm concerned
2 with, and, you know, let's just be honest. It's
3 the elephant in the room that we all know and we
4 -- that go to roster meetings are on trial
5 dockets. There are attorneys that you know who
6 every case they have is about ready, I just need
7 one more continuance.

8 A. Right.

9 Q. And we all know who those attorneys are, and then
10 we find out the attorneys who are -- who really
11 are, you know, I'm going to say this and I'm,
12 again, a lot of our time gets sucked up over here
13 as trying to balance everything. So I can't say,
14 you know, I'm the perfect example of it, but, you
15 know, there are attorneys who know you don't make
16 a living off of quality of cases, you make a
17 living off of quantity of cases.

18 A. Right.

19 Q. So that change in dynamics of the law practice,
20 and, you know, we sat over here with a judicial
21 candidate and moaned about the good old days of
22 practicing law when we all started off in the --
23 you know, I started in the early '90s and we all
24 started off then, and there was just a completely
25 different manner of how we practiced. We were

1 all in our same circuits and we didn't travel
2 statewide, we didn't get cases assigned all over
3 the state by insurance companies, if we do
4 insurance work or, you know. We didn't get
5 plaintiffs cases or whatever you have going on at
6 that time. And, you know, it's a different way
7 of practicing law. Now it's a little bit
8 different. You know, every judge comes to us --
9 or comes not to us, but I've never been at an
10 investiture -- I told someone that the other day
11 is when they're starting off never been to an
12 investiture of a judge where they always said I'm
13 never going to forget what it's like to practice
14 law. And I can count on one hand the number of
15 judges who truly have never forgotten that. And
16 you know, and it was a broken record that I guess
17 through our circuit we'd always laugh about that.
18 And the only one that truly held true to that was
19 Tommy Cooper from Manning.

20 A. Right.

21 Q. And I'll say that, including my good friend
22 Justice James. So you know, I did have a little
23 pause where -- your qualifications when
24 you referenced him as a resource, but I know
25 y'all were at The Citadel together.

1 A. Right.

2 Q. But what I want to emphasize is, you know, I just
3 want to make sure -- and again, you run your
4 docket as you run your docket, and there's no
5 complaints, but I -- we all talk about the
6 balance of the practice of law with the personal
7 life, and I appreciate your consideration of
8 family, vacations and, you know, children and
9 family activities and things to that effect or
10 excuses where, if I'm hearing you, basically it
11 is an automatic --

12 A. That's automatic, yes, it is.

13 Q. And you know, I actually watched a judge one time
14 tell an attorney they need to reschedule their
15 vacation. And I'm sure it was an attorney who
16 was about five years in practice and rented a
17 beach house, and there's no rescheduling a beach
18 house. And fortunately, that judge is no longer
19 on the bench. So you know, I see -- I've seen
20 all those sides, and I just want to make sure
21 that we're not jamming up lawyers when they, you
22 know, creating situations where they have
23 malpractice and think what if I'm hearing you say
24 is in essence, you know, look, if you're here and
25 y'all truly need a continuance to the next term

1 of court, I'm giving you that continuance. And
2 if you're there and you're back on -- this is
3 your third or fourth request and you still
4 haven't moved the case and you haven't gotten
5 your discovery done then you've had your
6 opportunity; is that basically what you're
7 saying?

8 A. That's correct. That's it. I can tell you that
9 the one request for continuance that I routinely
10 get is, Judge, we're going to settle the case,
11 we're near settlement. And I have to call them
12 in and say, look, are you really close to a
13 settlement on this case, because I'd much rather
14 you settle the case than go to trial. Or you
15 know, are we going to wind up next term of court
16 you're still trying to get it settled. And by in
17 large, the attorneys are pretty honest with you
18 most of the time. But like you say, you can kind
19 of find out which ones that's the regular
20 routine.

21 Q. That's the recurring theme throughout their --

22 A. Right.

23 Q. -- throughout their interaction, and certainly I
24 do that, you know, and I'm a big advocate of a
25 judicial assisted settlement. Sometimes those

1 need to happen, and so I think some of the worst
2 things you can do is continue a case when they're
3 saying we're close to settlement, the jury's
4 here, people are ready to roll, we can help you
5 settle the case; it's now or never. So
6 understand that. I appreciate your answering
7 those questions and, you know, I still say -- I
8 have to tell the story is I don't think -- and
9 unfortunately you had two great candidates when
10 you ran against Judge Hyman.

11 A. That's right.

12 Q. And the tie breaker with me was you had Buck
13 James come and say I need to have a vote right
14 beforehand, and I'll never forget that. And he
15 told me like the morning I was driving over
16 there, hadn't committed and low and behold it was
17 one vote. So that was one of the times I don't
18 take credit for your election, nor do I take the
19 blame, to your detractors. But it is interesting
20 how every vote sometimes does count over here.

21 A. Well, after that they called me landslide, so.

22 Q. Well, I guess The Citadel does do some good
23 things for you around.

24 A. Appreciate it.

25 Q. Yeah. If y'all just would take Representative

1 Murphy's degree back and kick him out of the club
2 it would be a whole lot better. Thank you,
3 Judge.

4 A. Thank you.

5 CHAIRMAN RANKIN: Mr. Safran.

6 MR. SAFRAN: Thank you, Mr. Chairman.

7 JUDGE CULBERTSON - EXAMINATION BY MR. SAFRAN:

8 Q. Judge, I've never had the opportunity to appear
9 in front of you, but basically understand that it
10 isn't always easy to balance what the lawyer's
11 desires are with what you think the needs are in
12 terms of managing the court.

13 A. Right.

14 Q. I mean, that's age-old. I guess I echo the
15 comments that you've heard before, at least, that
16 from a standpoint of philosophy over the last
17 several years, we as a group have basically kind
18 of tried to establish a -- I guess, a position
19 that the demands of practicing law need to be
20 given some consideration. And you've been a
21 practicing lawyer.

22 A. Exactly.

23 Q. And I think what you run into is, is that a lot
24 of folks, myself included at times, you get
25 overwhelmed in terms of all the demands you got

1 from different cases. Now, I'm not going to
2 profess to be like Representative Smith where,
3 you know, he's running all over the state, at
4 least in his particular situation. Although, I
5 have to go to a lot of different places doing
6 what I do primarily. I guess what I'm just
7 wanting to make sure is that sometimes just the
8 whole notion of saying I got to, you know, hold
9 the line with the roster doesn't get to a point
10 where it's unnecessarily outweighing what the
11 demands are that the lawyers are running into.

12 A. I agree with you on that, and I do have a couple
13 of standing rules. Number one, I will not make
14 any lawyer try more than one case in a week. I
15 mean, if you're number one or number two and
16 you're also number six or number seven, you know,
17 six or seven's going to get continued. I
18 remember what it was like. It's hard enough
19 getting witnesses lined up and everything ready
20 to go forward on a trial, so my standing --
21 general sessions or common pleas, I will not make
22 you try more than one case in a week.

23 Q. Well, and I think that's a good policy to have.
24 And looking at some of the other things, I'm sure
25 in the past I've said that while we look at the

1 ballot boxes, you take them, you know, as they
2 are.

3 A. That's right.

4 Q. They're anonymous complaints or praise, whichever
5 way you want to look at it. And what we look for
6 are common themes. And certainly if there, as
7 Chairman Rankin calls, an outlier who's making
8 these claims that nobody else has even thought
9 about doing, then, again, you take it for what
10 it's worth. The only things that I try to pay
11 the any attention to are, again, things that come
12 up repeatedly. And just a couple of things, and
13 I just want to ask about.

14 A. All right.

15 Q. You're certainly not going to please everybody
16 every time you rule; it happens.

17 A. Right.

18 Q. And I can probably recognize clearly that if
19 somebody's continuing to argue with you after you
20 rule, it can get a little bit galling.

21 A. Right.

22 Q. And you want to say, hey, you know, look, I gave
23 you my best shot, if you don't like it you've got
24 somewhere to go with it. And that could very
25 well explain some of the comments about maybe

1 being testy or things of that type. Because if
2 you've been ruled against then you don't feel
3 like necessarily your position has been favored.
4 You're always going to look for reasons why.
5 Sometimes you're looking elsewhere as opposed to
6 introspection. Also, the other thing is, as a
7 practical matter, there aren't that many civil
8 jury trials being held anymore, are there?

9 A. Not --

10 Q. And I'm not --

11 A. I would say you're right, there's not as many as
12 there used to be. However, in the Fifteenth
13 Circuit, particularly in Horry County, when we
14 get a roster, there is going to be two or three
15 cases on there that are going to go to trial
16 every term. I mean, you don't reach them every
17 term, but there's going to be -- very rarely, I
18 can't remember the last time I had a term of
19 common pleas of court where there was nothing to
20 try. They just go -- now, when you get to some
21 of these smaller counties, Georgetown, a lot of
22 times the roster will fall apart and they'll be
23 settled. Some of these smaller counties, it just
24 -- it will fall apart. But typically when you're
25 in Horry or Charleston or Columbia or Greenville

1 or Beaufort, there's going to be something on
2 that roster -- even Florence, there's going to be
3 something on that roster that is going to be
4 tried. So you're right, I think there are a lot
5 more settlements. Cases don't go to trial like
6 they used to, simply for financial reasons. I
7 mean, it's expensive to go trial and expensive to
8 try a case. By the same token, in these big
9 counties there are a lot more lawsuits filed.
10 And so generally every term of court, you're
11 going to have a trial that you've got to --

12 **Q. And I guess let me ask you about one other thing**
13 **to kind of echo Senator Sabb is that while I**
14 **certainly recognize that a big part of the job on**
15 **the civil side is really kind of riding herd over**
16 **the docket --**

17 **A. Right.**

18 **Q. -- to kind of keeps things moving. What I just**
19 **want to make sure is, is that, as he suggested,**
20 **sometimes there are just cases that because of**
21 **the luck of the draw, and an office may not be**
22 **one that you have been able to put your attention**
23 **simply because you're doing other things.**

24 **A. Right.**

25 **Q. And I think, Judge, you basically over a course**

1 of time probably have been able to
2 identify people who are going to come in here and
3 really feed you a line that says I'm not ready.
4 Well, they're never ready.

5 A. That's right.

6 Q. But the same token, there are other people who
7 are actively working and keeping cases moving.
8 They may not be that case. I just want to make
9 sure that, again, for the sake of the numbers,
10 that people aren't more or less kind of hung out
11 to dry in those situations.

12 A. And I try -- I will admit that that is one of the
13 difficult parts is being able to funnel out the
14 legitimate need for continuance and the one who
15 is just kicking the -- for example, I know a case
16 and the attorney was just the kicking the can --
17 kicking the case down the road. He didn't want
18 to go to trial because he knew once he went to
19 trial he wasn't going to get a verdict, and sure
20 enough, the jury was out probably about 15
21 minutes and came back in against the attorney.
22 And so you have those cases. And I remember it,
23 I recognize it. You take a case, you get a
24 client and get into the case and you find out the
25 case isn't what you thought it was. And a lot of

1 times the attorney is just trying to kick that
2 case down the road hoping to get something that
3 the client will take. And trying to weed out
4 those cases is the difficult part.

5 Q. Oh, and I get it. And frankly, I look at those
6 kind of cases as ones as basically being you get
7 -- only get so many swings before you have to
8 kind of come up and face the music. I guess,
9 what I'm, I guess, finally asking just is if it's
10 a situation say, as Senator Sabb alluded to,
11 where both sides are recognizing there's still
12 stuff we got to do. In situations like that
13 where it's a consent, is that something that's
14 going to weigh heavier on you in terms of giving
15 them more time as opposed to if one person just
16 keeps coming up, again --

17 A. Right.

18 Q. -- saying, hey, I'm not ready?

19 A. Yeah. I -- the hardest part is where you have
20 one attorney saying, Judge, we need a
21 continuance, we're not ready and you've got the
22 other attorney saying, Judge, I don't know why
23 they're not ready, we're ready to go. The ones
24 where both consent, then, yeah, I'm probably a
25 little bit more accommodating on those, depending

1 on the age of the case. I mean, it might be a
2 case where neither attorney wants to go to trial
3 on it. One's made a good offer, the other one
4 knows it's a good offer and they just don't want
5 to go to trial for whatever reason. Those are
6 the -- but where both attorneys want the
7 continuance, I'm more inclined to do it,
8 depending on the age of the case.

9 Q. Thank you very --

10 A. Thank you.

11 Q. -- much for your time.

12 CHAIRMAN RANKIN: All right. Other questions?

13 (No replies are heard.)

14 JUDGE CULBERTSON - EXAMINATION BY CHAIRMAN RANKIN:

15 Q. Judge, I want to kind of end this on a -- lest
16 the record be nothing but the negative, in terms
17 of ballot box surveys. As I said at outset,
18 predominately more are favorable. And my view of
19 you in terms of watching you, it -- you literally
20 -- and I say struggle. You appear to weigh the
21 decision not lightly. And whether that's feigned
22 or real, in terms of your approach, and so you
23 know, these comments, again, various strikes, but
24 always prepared, ready to rule on matters to move
25 the case forward. So again, what is your altar

1 that you're worshiping at? And I say that
2 figuratively here. This exchange might suggest
3 that you are worshiping at the alter of moving
4 that roster along, and that may be an unfair
5 characterization. But you are effectively the
6 traffic cop or the hall monitor that you go to
7 move that train, move the people, move those
8 cases along. My question to you is maintaining
9 that personal touch, recognizing, as Senator Sabb
10 said, the person behind that CP number.

11 A. Right.

12 Q. And your discretion, effectively, to help those
13 not just injured but the litigants who may not
14 want to be a part of that process, fact whoever
15 does, but so your ability to recognize that going
16 forward.

17 A. Well, and the -- the -- it's hard for me to
18 recognize the parties' sentiments, other than
19 recalling when I practiced law my clients were
20 constantly coming in saying how long is this
21 going to take. It's been a year, when are we
22 going to get a trial. And so I've kind of
23 carried that over thinking the litigants want the
24 trial. The attorneys, on the other hand, know
25 how long it takes to prepare to conduct

1 discovery, to -- you just heard the one side.
2 It's like we've got to get prepared, and I know
3 that -- how it is. I've got to keep the docket
4 moving. I look to the Rules of Civil Procedure
5 that deal a lot with when does a case appear on a
6 roster, when does a case transferred, you know,
7 you file it, it goes on a docket. After 18
8 months it goes on a roster, jury roster, non-jury
9 roster, things of that nature. So I guess I look
10 at that 18-month cut off as if it's less than 18
11 months old, yeah, you're going to get your
12 continuance. I can see that you still have to
13 get discovery. When it gets over two years it's
14 like it should have been done. The hard ones are
15 those 18 months to two years where you've got to
16 figure out does the attorney legitimately need
17 more time. And I have no qualms with giving
18 attorneys more time to prepare. By the same
19 token, you're getting a client out there -- and I
20 know there's some attorneys, they go back and
21 they say, look, we're ready to go but the judge
22 continued it. And they want their day in court,
23 and that's the balancing act is to make sure that
24 the cases get tried in a timely fashion and that
25 the attorneys and the parties are actually

1 working towards that same goal of getting a case
2 ready to go to trial and are not just trying to
3 kick a can down the road. It is a different
4 strategy when you're a judge. We don't represent
5 clients. We do look at rosters and a multitude
6 of cases and, like I say, Horry County, you've
7 got 8,000/9,000 cases filed a year and that's
8 18,000 parties, at a minimum, that all want their
9 day in court. And when you push back this case,
10 that pushes the next case back. And it's a
11 balancing act, it really is.

12 **Q. Very well.**

13 CHAIRMAN RANKIN: Other questions, comments? If not,
14 Judge this will conclude this portion of our
15 screening process. You are reminded of our
16 evaluative criteria and, as well, our very strict
17 adherence to both the letter and the spirit of
18 the South Carolina ethics laws. Any violation or
19 the appearance of impropriety in that vein will
20 be deemed very serious, and for that reason, I
21 need a verbal acknowledgment that you know that
22 rule --

23 JUDGE CULBERTSON: Yes.

24 CHAIRMAN RANKIN: -- and also that we can call you back
25 for further testimony because this record is not

1 closed until the final release of the Report of
2 Qualifications.

3 JUDGE CULBERTSON: All right. I do know the rule, and
4 you can call me back whenever you want.

5 CHAIRMAN RANKIN: We pray we won't have to --

6 JUDGE CULBERTSON: Thank you.

7 CHAIRMAN RANKIN: -- but we have to get that on the
8 record. And thank you very much for your
9 appearance, your time and your patience with not
10 just the litigants, but the JMSC.

11 JUDGE CULBERTSON: Thank you. Thank you very much.
12 Thank you.

13 CHAIRMAN RANKIN: Yes, sir. Merry Christmas to you
14 and your family.

15 JUDGE CULBERTSON: Same to y'all. Thank you.

16 (Off the Record)

17 CHAIRMAN RANKIN: My apologies on behalf of the entire
18 lot of us for your delay in being reached. And
19 so my apologies for the late start. We've had
20 lots of things before you, so first let's get you
21 to raise your right hand.

22 THE HONORABLE DAVID CRAIG BROWN, having been duly
23 sworn, testifies as follows:

24 CHAIRMAN RANKIN: You have before you your PDQ and
25 your Sworn Statement. Are those ready to be put

1 in the record?

2 JUDGE BROWN: Yes, sir.

3 CHAIRMAN RANKIN: No objections to those?

4 JUDGE BROWN: No, sir.

5 CHAIRMAN RANKIN: Okay. If you'll hand those to
6 Caroline. Judge Brown, you're familiar with our
7 process here as we investigate -- an attempt to
8 thoroughly investigate your qualifications for
9 service on the bench. They include the nine
10 evaluative criteria. We'll talk about those
11 later, perhaps. But also the ballot box survey,
12 a survey of your previous screenings, a thorough
13 study of your application materials, a search of
14 newspaper articles in which your name appears, a
15 verification of your compliance with the state
16 ethics laws and, finally, a check for economic
17 conflicts of interest. No affidavits have been
18 filed in opposition to your election and no
19 witnesses are here to testify for you or agin
20 you. You, sir, are welcome to make a brief
21 opening statement. Otherwise, we'll turn it over
22 to Emma Dean for questions of you. The floor is
23 yours.

24 (Exhibit Number 14 was marked for identification
25 purposes - (14 pages) Personal Data Questionnaire for

1 The Honorable David Craig Brown.)

2 (Exhibit Number 15 was marked for identification
3 purposes - (7 pages) Sworn Statement of The Honorable
4 David Craig Brown.)

5 JUDGE BROWN: I just want to thank you all for
6 allowing me to be here, and thank you all for
7 allowing me to serve in this capacity as a
8 circuit court judge in this great state.

9 CHAIRMAN RANKIN: Very good. And you may get a touch
10 closer to that mic or make sure that green button
11 is illuminated there.

12 JUDGE BROWN: It is now.

13 CHAIRMAN RANKIN: Very good. All right. Thank you.

14 JUDGE BROWN - EXAMINATION BY MS. DEAN:

15 **Q. Thank you, Judge.**

16 CHAIRMAN RANKIN: Can you hear her? You're going to
17 have to take your mask down for her.

18 MS. DEAN: I'm a projector. All right. Depending on
19 --

20 CHAIRMAN RANKIN: Turn your mic on because it's -- or
21 get a little closer.

22 MS. DEAN: It is.

23 **Q. Judge Brown, after serving on the circuit court,**
24 **why do you want to continue serving as circuit**
25 **judge?**

1 A. Serving as a circuit judge allows me, I think, to
2 make a positive impact on people's lives. And
3 everybody that comes in front of me has a story,
4 and I look at each person that comes in front of
5 me individually and hope to make a positive
6 impact on people's lives. And I tell defendants,
7 for instance, quite often that come in front of
8 me that I hope to see them out in the community
9 and I hope to see them doing well. And in fact,
10 I've had a defendant or two come back and tell me
11 -- or see me out on the street and make those
12 types of comments.

13 Q. Judge Brown, you indicated in your PDQ that since
14 your last screening, a lawsuit was filed against
15 you and many others called Anthony Cook versus
16 The Attorney General's Office. You were sued in
17 your official capacity as a judge in this case,
18 and the case was dismissed November 5th, 2019.
19 Do you have anything additional to add?

20 A. No. When I first found out that the case was
21 pending, it was -- I got a letter from a law
22 firm, I believe here in Columbia, that they were
23 handling the matter. And I never heard anything
24 else about the case after that.

25 Q. Thank you, Judge. Judge Brown, what do you think

1 your reputation is among attorneys and court
2 personnel?

3 A. I would hope that it would be fair and hard-
4 working. I take great pride in being a very hard
5 worker, carried over from my upbringing, through
6 my practice of law and as a circuit court judge.

7 Q. Judge Brown, the Commission received 633 ballot
8 box surveys regarding you with 60 additional
9 comments. The ballot box survey, for example,
10 contained the following positive comments:
11 "Hardest working judge in the state, great to
12 practice in front of and knowledgeable on the
13 law, good temperament and manner from the bench."
14 Twenty-six of the written comments expressed
15 concerns. Twenty-one of these were concerned
16 with your temperament, specifically stating, rude
17 to attorneys and litigants and condescending to
18 attorneys. Could you please respond to these
19 concerns?

20 A. Well, I think when I talked to you before, one of
21 the things also mentioned that temperament is
22 something that's gotten better. It was certainly
23 when I went through screening in 2015 the Bar, or
24 their report that they issued to the
25 screening committee, I was found qualified on my

1 temperament. It's certainly -- and I strive to
2 be the best judge that I can be. And it's
3 something that I've worked on since that period
4 of time and the Bar, this time around, found me
5 well qualified in my temperament since 2015. And
6 it's certainly something that I worked on and
7 have seen results from that.

8 **Q. And could you please describe some of those**
9 **changes that you've made?**

10 A. Probably more patient. I'm going to say that. I
11 don't think that I'm -- and I think the lawyers
12 that practice in front of me on a regular basis
13 would not say that I'm rude to litigants or
14 anything like that. I've gotten letters from
15 jurors, I've gotten letters from individuals over
16 the years whose children have appeared in front
17 of me and that sort of thing.

18 **Q. Another concern raised was a belief that you show**
19 **favoritism. How would you respond to that**
20 **concern?**

21 A. Well, I think most of you would remember in here
22 that I practiced on the plaintiff side as well
23 civil defense side before I was elected to the
24 bench. So I know what it's like to practice on
25 both sides. My job as a judge is to be fair and

1 impartial to all the parties that appear in front
2 of me. And if I've ruled in favor of one party
3 or against another party, it's been done because
4 I think that was -- I thought that that was the
5 right thing to do under the law.

6 **Q. Thank you, Judge.**

7 MS. DEAN: I would note that the Pee Dee Citizens
8 Committee found Judge Brown qualified in the
9 evaluative criteria of constitutional
10 qualifications, physical health and mental
11 stability. The Committee found him well
12 qualified in the criteria of ethical fitness,
13 professional and academic ability, character,
14 reputation, experience and judicial temperament.

15 **Q. Judge Brown, since submitting your letter of**
16 **intent, have you contacted any members of the**
17 **Commission about your candidacy?**

18 A. I have not.

19 **Q. Are you familiar with § 2-19-70 including the**
20 **limitations on contacting members of the General**
21 **Assembly regarding your candidacy?**

22 A. I am, yes.

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

1 of your screening?

2 A. I have not.

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

7 A. I have not, and I am not aware of anyone doing
8 such.

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

12 A. Yes.

13 MS. DEAN: I would just note for the record that any
14 concerns raised during the investigation
15 regarding the candidate were incorporated in
16 today's questions. Mr. Chairman, I have no
17 further questions.

18 CHAIRMAN RANKIN: Okay. Thank you, ma'am. Questions
19 by members of the Commission?

20 JUDGE BROWN - EXAMINATION BY REPRESENTATIVE RUTHERFORD:

21 Q. Hey, Judge.

22 A. How are you, sir?

23 Q. In your -- when you were talking earlier you said
24 that you were never rude to any of the litigants,
25 but the ballot box questionnaires -- and I just

1 bring this up because it's here, almost to a
2 letter say that you are rude to lawyers. How do
3 respond to that and how do we -- and I heard the
4 question about what have you done different, but,
5 I mean, a lot of the ballot boxes just went
6 lecturing of lawyers, rude to lawyers,
7 embarrassing of lawyers and even into the
8 treatment of female lawyers. How do you ...

9 A. Well, I think those that appear in front of me on
10 a regular basis would say otherwise. I am not
11 rude to lawyers, rude to litigants. I may talk
12 to lawyers if I think that they've done something
13 that -- I may call them back in my office and
14 talk to them. You mentioned about female
15 lawyers, for instance. I think my life, my
16 career -- personal life as well as my career,
17 would indicate otherwise. Since I've been on the
18 bench, three of my law clerks have been females,
19 two of which stayed with me for a couple of
20 years, one of which was a Vietnamese young lady.
21 I've also had two African-American young men that
22 have clerked for me, one of which went on to
23 clerk with Chief Justice Beatty as well, and one
24 of which most recently within the last year-and-
25 a-half or two years opened his own private office

1 in Florence and just got elected to city
2 councilman there. And so I would say that those
3 lawyers that appear in front of me that know me
4 know that that's not my personality and not who I
5 am.

6 Q. So the conduct that you were speaking to Emma
7 Dean about as to how you've changed, what was it
8 that was going on back then that you think you've
9 addressed? And again, I've been in front of you.
10 I didn't see it but the ballot box is almost one
11 out of each -- I mean, literally about half of
12 them relate to exactly that conduct and about not
13 calling lawyers back, but lecturing them in the
14 courtroom in front of everybody.

15 A. I think it's been a maturation process on my part
16 as a judge. You know, I try to live by the rule
17 of treat others how you want to be treated. And
18 it was quite often that as a practicing lawyer
19 myself that I would ask judges if I appeared in
20 front of them is there anything I can do
21 different, anything that would make me a better
22 lawyer. You know, and I want to be the best
23 judge that I certainly can be. But I think it's
24 certainly a maturation process on my part. And I
25 strive to be the best. And that's something that

1 I try to instill within my kids, whether it's my
2 own kids or kids that I coach in city -- that
3 I've coached in city football or in baseball.

4 JUDGE BROWN - EXAMINATION BY MS. McIVER:

5 Q. Thank you, Mr. Chairman. Sorry, I was having an
6 issue getting my mic on over here. Just to
7 follow up with what Representative Rutherford was
8 talking about, I've reviewed your ballot box
9 comments, as well as your letters of reference.
10 And honestly I keep going back to make sure I'm
11 looking at the same person, to make sure
12 everything is lined up so I'm asking the right
13 person the right questions, and I'm having a bit
14 of difficulty reconciling them. Some people will
15 submit letters of reference and they're several
16 lines long and they say this person would make a
17 great judge, he's awesome, please elect him. And
18 then other letters go into great detail, and
19 yours did. Everyone of them talked about what a
20 great person you were, what a great father, what
21 a great community leader. Your involvement with
22 the youth sports programs, your involvements with
23 the stars program. And I read all that and I was
24 impressed, and my question is how do we reconcile
25 that with the ballot box comments? Because,

1 honestly, just like not everybody's letters of
2 reference are that detailed and specific, not
3 everybody's ballot box comments have any
4 negatives. And greater than one-third of the
5 people that took time to write these comments had
6 negative things to say, and it wasn't just
7 impatient. It was rude, lacks compassion,
8 dictatorial, condescending, hot headed,
9 patronizing. And so my question is how do you
10 think the folks that are coming up with those
11 negative comments got to that point?

12 A. You know, I don't think those people that appear
13 in front of me on a regular basis. They don't
14 really know me as a person, know me as a lawyer,
15 know me as a father, know me as a judge. That's
16 how I would -- you know, when I am on the bench,
17 I'm serious. It's a serious situation, and
18 that's my personality. And I take every person,
19 every defendant that appears in front of me --
20 and I tend to do more criminal work because of my
21 background than I do civil work. But every
22 defendant that appears in front of me, I look at
23 them as an individual, I don't look at them as a
24 number. And I try to do the right thing that I
25 think's the best for that individual, what's

1 going to help that person succeed when they walk
2 out of that courtroom. So I don't know if my
3 personality, sometimes being very serious,
4 because it's a serious situation and I take it
5 very serious. Because I know that every decision
6 that I make could have a profound -- is going to
7 have a profound impact on a lot of people's
8 lives.

9 **Q. Thank you. So other than being serious, and I'm**
10 **sure that you've heard some of these comments**
11 **before today. And I'm not a trial lawyer, so I'm**
12 **not in your courtroom or anyone else's, but have**
13 **you had an opportunity to think about what, other**
14 **than being serious, some of these lawyers who**
15 **took the time to write these comments?**

16 **A.** I'd like to know the situation and the
17 circumstances under which those lawyers felt that
18 way and have an opportunity to respond to that
19 because I don't know, you know, that situation.
20 I don't see myself as patronizing, dictatorial.
21 When I have individuals in front of me, I mean, I
22 do carry on a conversation with them at times
23 because I care about them and I care about their
24 plight and I want to see them succeed. So I
25 don't dictate, you know, to anyone. I may make

1 some suggestions, that may be the case.

2 **Q. One of the comments said that the lawyer felt**
3 **like you were trying to teach folks a lesson in**
4 **sentencing. Do you have any response to that?**

5 A. I've never come from the standpoint of trying to
6 teach anyone a lesson in --

7 CHAIRMAN RANKIN: Judge, closer to that mic.

8 JUDGE BROWN: I'm sorry.

9 CHAIRMAN RANKIN: You were having a conversation, but
10 the rest of us can't hear you.

11 A. You know, when I practiced law, my court
12 reporters used to always have to tell me to speak
13 up, so I apologize. I can't -- I wouldn't say
14 that I've ever tried to teach anyone a lesson in
15 what my sentence was. I will say that -- or me
16 handling a case. I will say that sentencing as a
17 judge is the hardest part of our job and you try
18 to balance, you know, mercy and consequences.
19 But I've never tried to teach anyone a lesson,
20 from my point of view, as a judge. I have an 18-
21 year-old son, and -- who gives me a run for the
22 money quite often, and he's always been one of
23 those kids that he has to learn on his own. So
24 even though I try to teach him lessons, you know,
25 and teach him how he should conduct himself and

1 do things, but he's one that has to learn on his
2 own sometimes.

3 Q. Understood. I appreciate your responses to these
4 questions.

5 A. Thank you.

6 Q. And like I said, I really was trying to give you
7 an opportunity to address some of the negative
8 things, in light of the very, very positive
9 things --

10 A. Thank you.

11 Q. -- I see in your reference letters.

12 A. Thank you.

13 Q. Thank you very much.

14 JUDGE BROWN - EXAMINATION BY CHAIRMAN RANKIN:

15 Q. Judge, I'm sitting here and similarly it's a tale
16 of two judges, perhaps. A tale of two people.
17 Maybe of these letters of references are glowing
18 and many of the ballot box surveys are glowing,
19 but you have a very high number of people
20 separately commenting negatively on your judicial
21 temperament. And so I'm in my own little role
22 here, one vote judging the judges, I have to
23 consider the very things has been asked by two
24 others and try to jug -- or juggle, again, which
25 is it. I've never appeared before you. I've

1 observed you in court at a motions roster, and so
2 I couldn't comment as these folks have taken the
3 time to do. First off, do you ever participate
4 in and answer these ballot box survey?

5 A. I have occasion, yes, sir.

6 Q. And from your view in our judging the judges and,
7 in your case, unopposed passing your name out as
8 we debate and/or investigate, do you believe that
9 we should give credence to, again, the good and
10 the bad, in terms of the ballot box surveys?

11 A. It concerns me about the ballot box surveys that
12 comments can be made without context of
13 situations under which they're given. I think
14 the good certainly outweighs the bad. You hope
15 so.

16 Q. Well, and your comment or answer, I'm not sure
17 which question poses, but you said, effectively,
18 these are from folks that don't appear before you
19 regularly; did I hear that correctly?

20 A. It could be. I don't know and I'm not sure,
21 Senator -- Chairman.

22 Q. But, I mean, whether it's regularly or one time,
23 wouldn't the same demeanor be expected to, again,
24 the litigant or the lawyer, whether, again -- and
25 I have bad days every day, perhaps. But at my

1 worst day I would hope that they would say at
2 least, again, overwhelmingly positive. Now, they
3 may scratch their head, as these folks do all the
4 time, what am I talking about, but again, one
5 time in court or frequently in court, should that
6 be the dividing line that they don't know me,
7 therefore, that doesn't count?

8 A. I think you're exactly right. I mean, it
9 should be more so on a level at all times, and
10 that's what I strive to do.

11 Q. And as we do all of these, again, we give voice
12 to these ballot box surveys in the good and then
13 the not so good. And you have very good.
14 Your intellect is not questioned. And it makes
15 me wonder, because I'm not there with you. I
16 don't have that intellect, but whether you might
17 be so elevated in where you're going and that
18 seriousness that you drape yourself with, as you
19 should, when you put that judge's robe on, that
20 you may not have that personal touch that is
21 greatly needed in that courtroom. And so I
22 wonder whether perhaps -- and again, I didn't
23 screen you before, so I don't know what went down
24 before in 2015. Was that ever offered as perhaps
25 the disconnect?

1 A. The personal touch?

2 Q. Well, the mental acumen, the intellect that you
3 have?

4 A. No, sir.

5 Q. And that being perhaps or as the reason you're
6 not connecting, at least before, uniformly
7 connecting with all the litigants?

8 A. That has never been approached with me, Chairman,
9 no, sir.

10 Q. One of the best of the current recent judicial
11 appointees, perhaps one of the smartest attorneys
12 I've ever encountered. You could use more
13 lessons in courtesy to members of the criminal
14 defense Bar. And then again, temperament,
15 difficult, arrogant, terrible. Again, these are
16 difficult to quantify -- or not quantify, but to
17 qualify, as you say. How do we -- what context
18 is this person writing. So when the theme of
19 lacking judicial temperament that lawyers have
20 come to respect in judges is written and he lacks
21 compassion and humility, you've heard the term
22 dictatorial before. So lawyers, rather than
23 understanding when it comes to administrative
24 matters, help me square that with a person who,
25 perhaps you, aspire to be. How are they not

1 **seeing the judge that you say you are and that,**
2 **again, many others say you are?**

3 A. Well, I will say that after I was elected to the
4 bench for several years, I want to say three or
5 four years, probably three, I was a chief
6 administrative judge in general sessions for
7 about three years. And during that period of
8 time, I'll give you an example, I guess my first
9 -- I came from the private Bar. One of the first
10 matters that I felt like we needed to do in
11 criminal court was start at 9:00 o'clock in the
12 morning, as opposed to 9:30. And the lawyers
13 didn't like the fact that I wanted to start at
14 9:00 o'clock. And so it was -- as
15 chief administrative judge, trying to move that
16 docket for several years and in the Twelfth
17 Circuit, and they did move a lot of cases during
18 those several years that I was chief
19 administrative judge. I think Twelfth Circuit
20 was number three in the state at that period of
21 time when I was chief administrative judge and
22 moving cases. I was given a break from that some
23 time as chief administrative judge and have since
24 been reappointed in that position as chief
25 administrative judge. And it's something -- it's

1 an ongoing process of making sure cases are being
2 moved from that standpoint as a judge. I hope
3 I've answered your question there to some extent.

4 **Q. What judge that is currently serving or retired,**
5 **maybe special circuit or active retirement or**
6 **fully retired, do you hold up as the model**
7 **circuit court judge who you would most want to be**
8 **associated with?**

9 A. I would say Judge Dwayne Shuler from Kingstree.
10 I clerked for Judge Shuler right out of law
11 school, and had the privilege of being with him
12 for a year. And he would be -- I think most of
13 you probably know Judge Shuler, but he would be
14 the one that I would strive to be like.

15 **Q. What attributes particularly are you holding up?**
16 **I know him and I agree, but what specifically are**
17 **you endorsing?**

18 A. I mean, I think he's the consummate perfect
19 circuit court judge, at least when I was
20 practicing law or when I got out of law school
21 and for a period of time that I practiced before
22 I was elected that I would strive to be. I think
23 he fits all of those categories: temperament,
24 experience, education, et cetera.

25 CHAIRMAN RANKIN: All right. Other questions?

1 JUDGE BROWN - EXAMINATION BY VICE CHAIRMAN SMITH:

2 Q. Judge Brown, you doing well today?

3 A. Yes, sir.

4 Q. Let me just say this. I've known you for a long
5 time and so I certainly -- you know, I hear what
6 some of these comments are saying and also see,
7 you know, what the positive ones. And you know,
8 I just make the comment and when we ask these
9 questions, you know, and I'm a believer in ballot
10 box surveys because it's -- you know, sometimes
11 say the true character of a person is not what
12 they're doing while you're watching them, but
13 what they do when you're not watching them. And
14 so certainly, you know, I don't take them as
15 truth. The people have vendettas against you.
16 If you, you know, as a lawyer or as a judge if
17 you haven't made somebody angry then you're not -
18 - probably not doing your job. So I take that
19 for what it's worth, but also then when we look
20 at them we've got to go through them. And you
21 said a couple of things that I just want to
22 follow up with because, you know, part of it is
23 we all make mistakes. We all have bad times and
24 we all -- you know, it's a maturation process.
25 And you know, I call it self-awareness, is at

1 times, you know, we do things and you look back
2 on it, you know, maybe I should have done better,
3 maybe I need to change my ways. You know, we do
4 that in the way we practice law and the way --
5 we're legislators over here and the way we do
6 everything in life. And that's what I'm hearing.
7 Help us understand as you move forward. You've
8 talked about maturation process and, you know,
9 and the self-awareness. Have you taken to heart
10 this process in the past? You mentioned
11 something about 2015. I don't really know what
12 you were talking about other than you said that
13 the Citizens Committee or the Bar Committee found
14 you qualified. But, you know, help us -- you
15 know, one thing we're looking for is if there's a
16 maturation, if there's some self-awareness. I'm
17 not saying you made mistakes in the past, but if
18 the perception is that you have had issues in the
19 past, how have you -- what have you done to
20 overcome those?

21 A. I think I've certainly gotten older in that
22 period of time.

23 Q. I see your hair's getting a lot grayer.

24 A. Yes, sir.

25 Q. At least you're not losing your hair like me, so

1 **I guess ...**

2 A. Yeah, most of mine's still hanging on. But I've
3 gotten older, you know, and matured in this
4 position. I remember Judge Floyd several years
5 ago said it takes several years to get
6 comfortable in the position, so to speak. But
7 it's certainly been a maturation process on my
8 part. You know, some of the comments -- positive
9 comments, for instance, about hard work, I do
10 work very hard. I worked very hard when I
11 practiced law and I work very hard as a judge.
12 And there's some of the, I guess, my expectation
13 of others to work that hard may be misplaced at
14 times. And so realizing some differences there
15 and that, so to speak. And recognizing taking a
16 step back and continuing to do my job and do my
17 part as a judge and working hard and being fair
18 and impartial to all the parties in front of me.

19 Q. Well, and, you know, for those of you who
20 probably don't know you as well as I do, I mean,
21 and you self-admittedly said this, you're a
22 serious person. And so sometimes serious people
23 come off as dictatorial or problematic in their
24 dealings and, you know, I don't find it a
25 criticism that you're serious; that means you're

1 committed. And I know you as an attorney and you
2 work like the devil. You're a hard worker. You
3 did insurance defense work, you did plaintiffs
4 work. And you know, you tried cases and you were
5 ready and, you know, maybe your expectations were
6 a little bit high for other attorneys who when
7 you were one who was on the bench. And I presume
8 you had those problems. But, you know, I also
9 find it interesting that when you talk about, you
10 know, who your judges are, and Senator Sabb will
11 know this, or who respected was Judge Shuler.
12 You know, I was a public defender when you
13 clerked with him and I think you were a year or
14 two behind me in law school. And you know, Judge
15 Shuler was probably the best judge to have for a
16 term of court because he was fun. I mean, you
17 know, you'd go back in his office, you would cut
18 up with him. He was personable. He took young
19 lawyers and put them at ease because, you know,
20 he just wanted to know about you and who you were
21 and let me tell you about my dove field, let me
22 tell you where I'm hunting. And when he'd get
23 frustrated he wouldn't blow up the lawyers. He'd
24 say, I just want to go to get in my field and
25 plow up so I can hunt doves. I don't want to

1 hear all this bickering all the time. And you
2 know, so everybody has it different. But I guess
3 you've been able to observe how he related, he
4 was a people person?

5 A. Yeah.

6 Q. And so you probably know how that is when you --
7 when you deal with people. So what do you do
8 when you have young lawyers there who, you know,
9 all of us were at that point. The first time I
10 went to court I had Ralph King Anderson. Talk
11 about somebody that was intimidating to you as
12 somebody -- as someone in there. So how do you
13 put them at ease? How do you interact with the
14 lawyers to show the human side of Craig Brown
15 that we all know?

16 A. Well, I tell lawyers, quite often that appear in
17 front of me, especially and try cases in front of
18 me, that I don't want them to worry about me up
19 on the bench while they're trying their case; I
20 want them to try their case. So I kind of try to
21 step back and let lawyers try their case and only
22 get involved, so to speak, when there's an
23 objection that's made that I need to address. So
24 I try to put young lawyers at ease, from that
25 standpoint of them not having to worry about me

1 during the course of a trial, you know, saying
2 something to them or talking to them. And I hope
3 -- because I tell them, I say, listen, I know
4 that trying cases are very strenuous. And the
5 last thing I want you to worry about is anything
6 other than what you need to be doing for your
7 client. And so I try to take that approach with
8 young lawyers especially recognizing that those
9 young lawyers that are trying cases for the first
10 time are worried about whether or not they are
11 doing something properly, I don't want them to
12 worry about me. I want them to worry about
13 trying their case and doing the best job for
14 their clients.

15 Q. Well, I'm going to say this in closing is, again,
16 you've said, you know, maybe I -- you know,
17 people read me the wrong way and I've worked
18 towards it, and I just want you to know your
19 ballot boxes do comment on that. You've got a
20 number of people who say, look, he's -- you know,
21 he's gotten better or he's done better. And, you
22 know, again, what -- something that's big for me,
23 whether it's right or wrong, and, you know,
24 you've got people up here who sometimes, as I
25 call it, don't own the issues. You know, like if

1 I had an issue it's not my fault, not my fault.
2 Those are the ones that concern me more than the
3 ones who say, look, I may have had issues, I'll
4 differ whether it was mis-perceived or whether it
5 was like that, but I'm going to strive to be
6 better. And what I'm hearing you tell us is that
7 you're -- you're committed to always improving in
8 everything you do, but especially as a judge too.

9 A. Yes, sir. Well, I'll say this -- I'm sorry.

10 Q. Oh, no, go ahead.

11 A. Well, you know, I am committed to continuing to
12 strive to be the best and do better. And you
13 know, I have three kids. My youngest son is 15
14 years old now. And I've coached him, as well as
15 my older son, for years in baseball. And as a
16 parent, it's a learning process in being a
17 parent. And we as parents, your parent -- you
18 make mistakes as a parent. And I can remember my
19 youngest son who's 15 now who, like I said, I've
20 coached for years in baseball. And we were at a
21 baseball game one night. It was a pretty hotly
22 contested baseball game. And he was struggling
23 out on the mound. And I went out there and I
24 pulled him out of the game and put another kid
25 in. The next kid comes up, hits a ball out in

1 the outfield and we lose the game. My kid was
2 real upset about it. I was upset we lost the
3 game. And we got home that night, my son had
4 gone upstairs and had gotten in his bed. And I
5 went upstairs and sat on the side of the bed and
6 I said, son, let me tell you something. I said,
7 your dad was wrong tonight. I said I should have
8 gone out on that field tonight and built you up
9 when you were struggling. I said, I made a
10 mistake, I won't ever do that again. You know,
11 part of being a judge is a growing up process,
12 too. We do make mistakes. I do, I've made
13 mistakes. But I try to treat every person that
14 comes into my court -- comes into the courtroom
15 in front of me as an individual -- because I care
16 about those individuals and I want to see them
17 succeed. And you know, there are times that I've
18 gotten -- I tell you, there's been times that
19 I've gotten frustrated at lawyers, and it's --
20 one of my -- any judge that I appeared in front
21 of as a lawyer would tell you that I was always
22 prepared when I walked in that courtroom. And
23 sometimes, unfortunately, some lawyers aren't
24 prepared. And you know, there are times that
25 I've gotten frustrated sometimes with lawyers

1 that may not be prepared on a case wherein their
2 client's life is hanging in the balance of how
3 well they represent their clients. And that, at
4 times, has bothered me because I took pride, when
5 I practiced law, of always being prepared when I
6 stepped in the courtroom to represent, you know,
7 a client of mine.

8 **Q. Well, in your defense, you went to The Citadel?**

9 A. Yes, sir.

10 REPRESENTATIVE RUTHERFORD: Same place Murphy went?

11 **Q. Same place Murphy went. I'm sure you progressed**
12 **well through the ranks where Murphy was**
13 **graduating as senior private or --**

14 REPRESENTATIVE MURPHY: I'm proud of that. I'm proud
15 of that. Thank you for mentioning that.

16 **Q. Thank you. And Judge, let me say this: when you**
17 **look at this and, you know, you look -- you got**
18 **an overwhelming positive and we all sometimes**
19 **focus on the negative. But also I think it's**
20 **important to focus on the positive and recognize**
21 **as Chairman Rankin did that you've got**
22 **overwhelming things and, you know, and the**
23 **Commission over here, since I've been on it and**
24 **over the last few years, we look at temperament,**
25 **and we look at that as an issue. So you know,**

1 don't -- don't -- you know, always strive to be
2 your best, always do well, keep being prepared.
3 You know, you're a serious person and there's
4 nothing wrong with being serious and you need to
5 -- it's a serious matter when you walk into a
6 courtroom and someone's asking for compensation
7 or not asking or asking to be -- it's not -- it
8 shouldn't be awarded something or, you know, more
9 importantly, I mean, in criminal cases people are
10 -- you know, there's victims out there who
11 deserve justice. And there's defendants who
12 deserve justice and sometimes mercy. And you've
13 got a weighty job and, you know, you need to do
14 that in a serious fashion and you need to do that
15 and uphold what's best in our judiciary. And we
16 got a great judiciary in this state, so thank you
17 for your service. I appreciate you being here.

18 A. Thank you, sir.

19 CHAIRMAN RANKIN: Others? Mr. Safran.

20 MR. SAFRAN: Thank you, Mr. Chairman.

21 JUDGE BROWN - EXAMINATION BY MR. SAFRAN:

22 Q. Judge, let me kind of echo the comments that -- I
23 don't look at these ballot boxes as being any
24 kind of necessarily indictment on your integrity,
25 on your work ethic. Because I come away looking

1 at everything and believe that both of those are
2 exemplary. What I think, I guess, is something
3 that we certainly try to pay attention to is that
4 you got a number of people that come in front of
5 you. That these folks, they have perceptions and
6 certainly we recognize that they can be colored
7 by what happens in the courtroom. And I don't
8 mean necessarily because of you doing anything
9 untoward because you rule against them. People
10 are going to have hard feelings. I'd be the
11 first person to tell you I don't take it very
12 easily when I don't get the ruling that I want.
13 I'm not going to lie about it. The other thing
14 is is that I think that what I certainly don't
15 want you to think is that there is an expectation
16 that every day you're going to be anything short
17 of human. There are bad days, there are bad
18 moments. I'm sure, from what I've gleaned out of
19 this record, that you were a perfectionist as a
20 lawyer, that you basically showed up ready, that
21 you took it seriously and you had a great deal of
22 respect for the system. And I think coming from
23 everything I'm seeing is, is that there's no
24 doubt in my mind that you really have embraced
25 the significance and the honor of the position.

1 I don't have any doubt about that. I think
2 really what we try to recognize, though, is that
3 while many of us have gone through the gauntlet
4 in our early days and look at it as just part of
5 a rite of passage that the sentiment over the
6 years has changed. That people don't come in the
7 courtroom looking to take a licking and
8 necessarily kind of come back and show the scars
9 and laugh about it 20 years later. That's
10 changed. I think it's changed from the way you
11 started. And so that's kind of what we're trying
12 to be sensitive to. And the one thing I want to
13 make sure is this, I don't like people to come in
14 here and have -- to be kind of bombarded in a
15 sense where they feel like this is an
16 inquisition, because it's not. I think we do,
17 though, have an obligation, as gatekeepers, that
18 if we're hearing a certain theme that comes back
19 we at least got to pay attention to it.

20 A. Yes, sir.

21 Q. And what I'm kind of gleaning is this, and again,
22 not a criticism, just a comment. When you make,
23 I guess, the statement that, hey, the ones who
24 would be saying these things are not ones who see
25 me a lot. Well, my only question about that is

1 this: even if they're not there often
2 shouldn't the novice that comes in there that's
3 only going to see you once every blue moon kind
4 of get the same positive treatment that the ones
5 that know you? I mean, I think it should kind of
6 cut across all, shouldn't it?

7 A. I would think so, yes, sir. However, those that
8 don't know my personality and the seriousness of
9 my personality, that don't appear in front me on
10 a regular basis, may take it in a different than
11 those that certainly do know me.

12 Q. And I think that's well taken point because that
13 could be it. A lot of us, myself included, are
14 an acquired taste, okay. And it doesn't
15 necessarily mean that everybody's going to have
16 an experience with you is going to recognize
17 that, hey, this is how he is, he's very serious
18 about this. But we have to obviously look when
19 we get these results where, on temperament for
20 instance, 50 percent you would think would be
21 kind of a benchmark. Well, less than 50 percent
22 of the respondents kind of gave you a favorable
23 or qualified in terms of temperament. And so,
24 again, it's something that we've got to at least
25 pay attention to. And you know, what concerns

1 us, I know speaking personally, is that I think I
2 got a very bright person, a person who is
3 certainly one who has taken this position to
4 heart, in terms of what the expectations should
5 be from a work standpoint, from a knowledge
6 standpoint. And again, recognizing there's an
7 integrity that has to be pursued. I don't
8 question you've got all that. And I guess the
9 thing is is that self reflection's hard. I tell
10 you what, when I look in the mirror my head's
11 shaking all the time because I'm positive that,
12 you know, there are more than a handful of people
13 that would probably expect or say that
14 experiences with me over the years as a litigator
15 aren't ones they're real happy about. But again,
16 that's an advocate, that's not as a judge. So, I
17 guess, what I'm asking is that do you, I guess,
18 sense maybe the concern that would rise from
19 people saying I dread going in there, that it's a
20 bad experience, I'm afraid. You know, I send
21 other people to go as opposed to going myself. I
22 mean, I guess, would you agree with me that there
23 should never be a courtroom type of setting where
24 anybody would literally feel just shaking, don't
25 want to go in?

1 A. You're absolutely right. And my personality,
2 when I'm taking the bench, I'm all business, you
3 know, and that's not just my personality. And I
4 would be -- I would hope that no one would feel
5 that way coming in a courtroom where I'm
6 presiding over the court. You know, the Bar
7 report that came out in 2015 that found me
8 qualified on temperament and not well qualified,
9 that was a self reflection to me. And that was
10 something that I've strived, over the last five
11 years, to where I wanted to be well qualified at.

12 **Q. Sure.**

13 A. And so, you know, I'm not -- never have shied
14 away from constructive criticism because I think
15 we can all be better in the things that we do.
16 And it's my, you know, goal to be the best judge
17 I can be. But I certainly don't want any parties
18 that come into the courtroom to come in afraid.
19 When I practiced law, I didn't feel like that and
20 certainly wouldn't want others to feel like that.
21 As I said earlier, you know, I try to operate by
22 the rule of treating others how you want to be
23 treated. But a lot of times, I guess, possibly
24 my serious personality comes across as to the
25 point and then maybe not as talkative as maybe I

1 should be sometimes.

2 Q. Well, and I'm not going to suggest to you that
3 becoming a judge means that effectively you've
4 got reinvent yourself. You and I are never going
5 to be Dwayne Shuler, we're just not.

6 A. No, sir.

7 Q. Okay. You know, I clerked for Judge Ness, I'm
8 never going to be him either, okay.

9 A. Yes, sir.

10 Q. And you know, I think the point is, is that --
11 but you know I learned something from the
12 process. And I think that basically we all take
13 away what we think are the good things that came
14 out of those experiences. And again, what -- I
15 just think we're simply asking is, is exactly
16 what you said, that there is a purpose to being
17 sensitive. You're never going to be hitting it a
18 hundred percent every day, nobody does. You're
19 never ever going to make everybody happy, it's
20 impossible, particularly in the position you're
21 in. But I guess what we want to know is, is that
22 at least you're sensitive to what we're hearing.
23 Because, again, thank God I can say this, I think
24 I went in front of one judge my whole career so
25 far that literally scared the crap out of me.

1 And you know, it was a terrible experience.

2 A. Yeah.

3 Q. And I think you've learned because of your own
4 capabilities that being prepared maybe makes that
5 fear lesser. A lot of people may not have what
6 you've got, in terms of that confidence that
7 comes from, you know, what you've gleaned and
8 what you've learned. So all I want to make sure
9 is, is that for the unfortunates that come in
10 there and may not be up to your standards that at
11 least you can say it to them in a courteous way
12 that, hey, it's not this way or this is how it
13 ought to be, as opposed to them walking away kind
14 of feeling like they've been somehow dehumanized,
15 that's really it. I mean, is that fair?

16 A. Yes, sir. Absolutely.

17 Q. Thank you very much.

18 A. You're welcome.

19 CHAIRMAN RANKIN: Senator Sabb.

20 SENATOR SABB: Thank you, Mr. Chairman. Judge Brown,
21 good to see you. So you know, we go back to 1997
22 when you clerked with Judge Shuler. And, of
23 course, I was prosecuting cases in those days so
24 I spent, you know, a substantial amount of time
25 with you and with the judge. And I just want to

1 tell our vice chairman that he actually got it
2 wrong. Judge Shuler said he wanted to be on his
3 tractor and go home. He wanted to get on the
4 tractor, you didn't mention the tractor in your
5 comments.

6 VICE CHAIRMAN SMITH: I thought I did. I want to get
7 on my tractor and disc up the field.

8 SENATOR SABB: Okay. He might have said something
9 about the field. Okay. I'll give you that. So
10 it was all about the tractor, though. I think we
11 all remember those moments in chambers with Judge
12 Shuler. But I just want to say to the Commission
13 that, of course, I've know, you know, Judge Brown
14 that long. And of course, when I came to the
15 Assembly in 2010, I was absolutely satisfied,
16 when we voted for him, that we got it right. I
17 sit here on this Commission absolutely satisfied
18 that we got it right. I think when I listen to
19 my colleague, Mr. Safran, talk I think that what
20 you said is exactly the kind of person that Judge
21 Brown is and that's one who takes to heart those
22 things that he's confronted with and tries to use
23 it as an experience to make him better at
24 whatever it is he's trying to do. And in this
25 instance it would be trying to be the best

1 circuit court judge that he can possibly be. I
2 made a couple of notes about -- and Judge Brown,
3 not only did I get to observe him as a clerk and
4 get to know him, we teamed up together on a
5 number of substantial cases, and he is an
6 extraordinary, hard-working person. He's
7 deliberate, he's measured, soft spoken and
8 intense is sort of the words that I'd use to
9 describe him. And so, you know, after I read the
10 ballot box surveys I was trying to make sense of
11 it all. And one of the things -- one of my take-
12 aways is that, you know, first impressions are
13 usually lasting impressions. And so I wonder
14 whether or not any of the ones that, you know,
15 early on, may have mistaken your demeanor in a
16 way that gave them an impression and what it
17 would take to actually undo the impression that's
18 made. I don't -- I don't know that the first
19 impression necessarily, you know, goes away, but
20 I think it's always a worthwhile effort to try to
21 reflect and see how I can be better, how I can
22 perceive to be better, and I know that you'll
23 challenge yourself in that way. The other thing
24 -- comment that I would make is that in all of my
25 observations of you in the courtroom, I've -- I

1 never picked up the type comments that have come,
2 and so my experiences are just totally different.
3 I've been in your courtroom on a number of
4 occasions, and I don't know whether I'm in a
5 bubble and just can't see it because of our
6 relationship or what, but just know that you make
7 a bunch of us proud. We're happy that you are
8 where you are. As I reflect on this experience,
9 I know that you'll use it as another tool to try
10 to make yourself better because I think that in a
11 lot of ways you are a perfectionist. And so --
12 and I will say this as well and then I'll
13 conclude, there is absolutely nothing wrong with
14 high expectations. And when I -- one of the
15 judges that have been hardest on me since I've
16 been practicing law is Clifton Newman. And so I
17 know that I have to absolutely be prepared
18 anytime I go in front of him or otherwise I don't
19 -- well, anyway, but there's nothing wrong with
20 high expectations. But it sounds like -- and
21 somebody said it. And I don't remember which
22 commissioner it was, but you've got to figure out
23 a way to temper the expectations with what is.
24 And how do you help this young lawyer or this
25 older lawyer that's not so prepared without being

1 offensive. I mean, I don't know how you do that
2 but, I mean, I think that's a part of the
3 challenge. And I know that some judges when --
4 you know, in certain instances they take the
5 lawyers to the woodshed in their office rather
6 than taking them to the woodshed -- I mean, some
7 of us need to be taken to the woodshed from time
8 to time, but it's not always what's done, it's
9 how it's done. And obviously I'm not speaking to
10 anything directly. I have no idea but I'm just
11 talking in the abstract, I guess. But we all
12 want you to do well. As best I can see, you are
13 doing well. But there appears to be an
14 opportunity to do even better, and I know that
15 you will. So I just wanted to make those
16 comments, Mr. Chairman.

17 JUDGE BROWN: Thank you, Senator

18 CHAIRMAN RANKIN: Representative Rutherford.

19 REPRESENTATIVE RUTHERFORD: And Judge, if I could, let
20 me disagree with Andy a minute because, you know,
21 I've been on the Commission, so has Andy, long
22 enough to see Judge Verdin come in who had
23 nothing but positives. I mean, a hundred percent
24 positives and zero negatives. So there is that
25 example of someone that is a judge and, for

1 whatever reason, seems to make everybody happy.
2 Gary Hill had very, very high positives and very,
3 very low negatives. And I say that because I've,
4 again, known you since you got elected. I can
5 see how you would be a perfectionist. I can tell
6 you want to be the best judge. But if you look
7 from our perspective in reading the ballot boxes,
8 it can't be what you've been doing. Because you,
9 in the rankings, would not be up there with those
10 that lawyers consider to be the best. And that
11 is disheartening for me because, I mean, I enjoy
12 talking to you. We've talked on several
13 occasions about the law and other personal
14 things. But I would want you to be your best
15 too, and if you saw what we saw, you would be
16 disappointed in what lawyers have to say about
17 you. And whether they appear in front of you all
18 the time or not, it's kind of like what Andy
19 said, the fact that they don't appear in front of
20 you a lot shouldn't give them this notion that
21 they're walking away going, wow, I don't want to
22 ever go back. And that just should not be
23 anybody's feeling, and I know that you don't want
24 to give people that impression, and maybe you do,
25 and -- but again, it's kind of up to you.

1 JUDGE BROWN: No, sir.

2 REPRESENTATIVE RUTHERFORD: If you ever come to my
3 caucus meetings, and I know you've been, you
4 don't sit there. But I'm not the easiest person
5 to deal with and sometimes I intend that because
6 I don't want to answer dumb questions. I believe
7 there are dumb questions. But there's no ballot
8 box for me in my position as caucus leader. And
9 so it gets to be either you truly want to do the
10 best or you want to skate by. And if you want to
11 skate by, these comments are kind of reflective
12 of skating by, they really are. And yeah, you
13 can certainly do better. And I have faith in
14 you. I have pride in the fact that you've done a
15 good job since you've been there. But then I
16 read this and I'm like, Jesus, you know, what
17 have I been missing, and I don't want to see
18 that. But you shouldn't want to see it either.
19 It should be an endeavor to be better. Because
20 while the people that come into your courtroom
21 are certainly consuming, I view lawyers as your
22 real consumers because we get the comments. And
23 when you see one or two knock-offs you can
24 usually just discount them, but when you just
25 read down and it seems to be this theme, it is

1 something that I think you need to be concerned
2 about.

3 JUDGE BROWN: Well, it's something that I certainly
4 take to heart and works towards.

5 JUDGE BROWN - RE-EXAMINATION BY CHAIRMAN RANKIN:

6 Q. I'm curious, Judge, and, again, kind of
7 difficult, but ultimately how will you do that?
8 I mean, I -- and I would perish the thought of
9 being in your seat or where you're standing and
10 have been for however long you've been answering
11 these questions. Because I recognize, as a child
12 of a judge, how that -- how difficult this role
13 is. But I got voted in by more than 50 percent,
14 right. I don't know that I can analogize these
15 ballot box surveys to a popular vote, but it's as
16 close as we have to that, again, in this little
17 context of how do we judge ourselves. So I'm
18 curious how -- having heard all this, how
19 actually are you going to and what are you going
20 to do, again, answer your critics, again who are
21 in the minority? But it is a very populated,
22 dissenting group who holds up a shortness, an
23 abruptness that you present apparently more than
24 just occasionally. So give -- again, not all,
25 but give me reassurances that this is not just a

1 nodding of the head or I'm going to try to do
2 better. How will we know unless, again, we come
3 back and if this Commission here, however long
4 hereafter, that these same comments have -- are
5 being made again?

6 A. Well, I think Mr. Safran kind of hit on it
7 earlier of -- my secretary years ago -- one of my
8 secretaries put an article in my chair about --
9 it was entitled, how to work for a perfectionist.
10 And I don't remember the exact language of the
11 article, but it's certainly one of those
12 situations where me as a person, as a judge,
13 needs to step back and realize, you know, maybe
14 my expectations are higher than they should be on
15 some things. Maybe it should be being more
16 personable with the lawyers that appear in front
17 of me. For them to understand and recognize that
18 I care about them and what they're doing on
19 behalf of their clients. And talking to those
20 lawyers and certainly self-reflecting and maybe
21 even having a lawyer or someone that does see me
22 on a regular basis not have a problem with -- and
23 they don't now. I mean, I would hope that all
24 lawyers would feel like that I have an open-door
25 policy. But not afraid to come knock on my door

1 and say, Craig, you need to do this different or
2 you need to do this different. To make those
3 self-evaluations and to have somebody talk to me
4 about those things and continue to make a
5 concerted effort in my temperament, as I have
6 done, which I try to do over -- as I go
7 forward here today.

8 Q. Your invocation of the coaching story with your
9 son could not bring more into my mind Andy
10 Griffith and Opie. And I say that without a
11 smile, but with a tenderness that you exhibited
12 to your child, that human frailty and self-
13 correction. And I cannot help but wonder if Andy
14 Griffith, the role model as a sheriff, would not
15 be attractive to you as, though you expect
16 perfection, perhaps you exhibit a little more
17 humanity to quell these negative comments about
18 your temperament. I didn't ask you what
19 character was your role model or mentor, but
20 perhaps an Andy Griffith role model might help.
21 He was not only the sheriff, but he was the
22 justice of the peace, as I recall, correct?

23 A. Yes, sir.

24 Q. So what -- I mean, more than -- yes, no?

25 A. Yes, sir.

1 Q. Yes, sir, that's a good observation or --

2 A. That is a good observation, yes, sir.

3 Q. And again, I'm not trying to be trite or
4 whatever, but, again, I'm -- and then this
5 finally, I guess we have touched on it, we've not
6 invoked the actual scripture but one of the
7 commenters, not in your favor, but a negative
8 attitude, rudeness, unapproachable invokes your
9 quote, we live in a Christian society and must
10 abide by those rules. Is that something that's
11 ever come out of your mouth, which I don't
12 disagree with, but from the bench, you would have
13 never said that?

14 A. No, sir. Now, my faith is something that is very
15 important to me.

16 Q. Which I cherish and value.

17 A. And the only time I've ever invoked any
18 discussion about faith is if a litigant or
19 defendant mentions it to me. And I may make a
20 comment, but I do not recall every saying the
21 quote that you just gave. I can remember several
22 years back when we were in the old courthouse,
23 across the street in the eleven-floor courthouse,
24 I was holding criminal court one day. And there
25 was a gentleman, a priest in a purple shirt on, a

1 gray suit and a priest collar. And he sat in
2 court all day long. And at the end of the day he
3 came up and asked one of the deputies, he said
4 can I walk up and speak to Judge Brown. I said,
5 sure, you can come up here. And he came up and
6 he said, Judge, you don't remember me do you? I
7 said, no, sir. He said, I pled guilty in front
8 of you to impersonating a police officer down in
9 Lake City. And when he said that I knew exactly
10 who he was. And he said -- he said, I want to
11 thank you for what you said to me in the
12 courtroom that day. He said, you were the first
13 person that said anything encouraging to me. He
14 said when I walked out of here that day, I
15 couldn't read. I've since gone back and learned
16 how to read and now I'm pastoring a church.
17 I didn't ask him what church or where it was.
18 But going back to the faith thing, that was
19 not anything that I encouraged him or invoked
20 upon him. It was something that he came up and
21 talked to me about.

22 **Q. Well, in that vein, I would encourage you, and,**
23 **again, I've kind of pointed -- we've heard**
24 **justice, we've heard mercy. Micah 6:8, do**
25 **justly, love mercy and walk humbly with thy God.**

1 You know it; I know it. It's a charge to you as
2 a Christian. It's a charge to you as a judge.
3 You agree with that or disagree?

4 A. Absolutely agree with it.

5 Q. So humility, humbleness, perhaps, and grace, big
6 thing in our day-to-day lives, right? I'm
7 reminded that it's not always important to be
8 right, it's how I communicate that.

9 A. Right.

10 CHAIRMAN RANKIN: Mr. Strom.

11 MR. STROM: Thank you, Mr. Chairman. Judge, of
12 course, this is all a shock to me at some level
13 what we're all reading here today. And, you
14 know, I've known you a number of years. We've
15 been on many CLE panels together. I've never
16 seen any kind of inappropriate temperament. I
17 just went back and looked at your screening from
18 2014. And like most of them, there are a number
19 of nice things but it says, however, five of the
20 written comments express concern, are related to
21 judicial temperament. For example, using their
22 words, the comment stated treat parties in a
23 hostile manner and is disrespectful to all
24 parties. Known to show a lack of respect to both
25 litigants and attorneys, abusive and

1 inconsiderate of the attorneys and litigants
2 before them, often berates people in the
3 courtroom, very overbearing in the courtroom.
4 You know, that's -- I guess you get the sense
5 that this is a concern of everybody in this room.

6 JUDGE BROWN: Yes, sir.

7 MR. STROM: This temperament issue.

8 JUDGE BROWN: When I was -- mentioned about 2015 was
9 when I went through screening for the Supreme
10 Court and the Bar report came out then.

11 MR. STROM: So, I mean, I think what we're all saying
12 this seems to be a big old wake-up call.

13 JUDGE BROWN: Yes, sir.

14 CHAIRMAN RANKIN: Thank you.

15 MR. STROM: Thank you, Mr. Chairman.

16 CHAIRMAN RANKIN: Hope.

17 MS. LOGAN: I want to thank you for your service and
18 just want to add to what everybody else has
19 stated in regards to, you know, being mindful of
20 possible what some would consider robitis. I can
21 say I see a ballot statement here, and it states
22 you're short with court staff as well. Having
23 been a former court staff -- I mean, I don't know
24 if this is true or not. However, I have actually
25 worked with judges who were very rude, very

1 disrespectful, just to even court staff. And it
2 just -- it brings about a disharmony --

3 JUDGE BROWN: Yes, ma'am.

4 MS. LOGAN: -- when you have staff -- court staff who
5 are actually scared to go in the courtroom
6 because it's that particular judge. I mean, and
7 it goes a long way. And we know talk kind of
8 spreads and then people kind of buy into that or
9 they may not. But at the end of the day it's
10 very important, and I know you know that. And I
11 know it's a hard job. I'm kind of a
12 perfectionist as well and I also have to take a
13 step back sometimes and meet people where they
14 are sometimes to be able to help them versus
15 talking at them. And I'm not saying that that's
16 what's been done. But I can tell you I've had
17 some negative comments stated about me in regards
18 to wanting things to be right and wanting people
19 to get it. And it came across a little abrupt,
20 so -- and I have a love for court staff because
21 nothing would ever get done if we didn't have
22 proper court staff like our court reporters and
23 court staff. So I just wanted to mention that,
24 but also thank you for your service and at least
25 hearing us out with these concerns that we have.

1 JUDGE BROWN: Thank you.

2 CHAIRMAN RANKIN: All right, Judge. This is -- we're
3 going to wind this down, and unless you have
4 anything else you'd like to say for the record?

5 JUDGE BROWN: I don't. Thank you for allowing me to
6 be here today.

7 CHAIRMAN RANKIN: Okay. All right. This concludes
8 this portion of the screening process. I do want
9 you to know that as you remember last screenings,
10 we are very focused on both the letter and the
11 spirit of the South Carolina ethics laws. Any
12 violation of those or the appearance of
13 impropriety are deemed very serious. All that to
14 say in the event of that, which we wouldn't
15 expect, you understand that this record is not
16 closed until the release of the Report of
17 Qualifications. Do you understand that we could
18 call you back if the need were to arise, correct?

19 JUDGE BROWN: Yes, sir.

20 CHAIRMAN RANKIN: Judge, thank you.

21 JUDGE BROWN: Thank you.

22 CHAIRMAN RANKIN: Thank you for your time and Merry
23 Christmas to you and your family.

24 JUDGE BROWN: Thank you. You too.

25 CHAIRMAN RANKIN: We're going to take a quick break.

1 We're going to go into executive session on
2 motion of Senator Talley seconded by Senator
3 Sabb.

4 EXECUTIVE SESSION

5 CHAIRMAN RANKIN: Welcome. Judge Teresa.

6 JUDGE WEAVER: Teasa.

7 CHAIRMAN RANKIN: Spell the first name.

8 JUDGE WEAVER: T-E-A-S-A.

9 CHAIRMAN RANKIN: So, you're correct, this book is
10 wrong. They've got it as Teresa or Teresa.
11 Anyway, Judge Weaver.

12 JUDGE WEAVER: That's correct.

13 CHAIRMAN RANKIN: Welcome. Let me get you to raise
14 your right hand.

15 THE HONORABLE TEASA KAY WEAVER, having duly been
16 sworn, testifies as follows:

17 CHAIRMAN RANKIN: Okay, very well. You have before
18 you the PDQ and the Sworn Statement that you
19 signed. Are those ready to go in the record?

20 JUDGE WEAVER: They are.

21 CHAIRMAN RANKIN: Very good. If you'll hand those to
22 Caroline, to your right, we'll get started. You
23 are familiar with and you've been screened
24 before, correct?

25 (Exhibit Number 16 was marked for identification

1 purposes - (12 pages) Personal Data Questionnaire for
2 The Honorable Teasa Kay Weaver.)

3 (Exhibit Number 17 was marked for identification
4 purposes - (4 pages) Sworn Statement of the Honorable
5 Teasa Kay Weaver.)

6 JUDGE WEAVER: Correct.

7 CHAIRMAN RANKIN: So this process and our focus on the
8 evaluative criteria, of which they are nine, as
9 well as the ballot box survey, study of your
10 application materials, verification of compliance
11 with state ethics laws, search of newspaper
12 articles in which your name appears, study of
13 previous screenings and check for economic
14 conflicts of interest. No affidavits have been
15 filed in opposition to your election. No
16 witnesses are present to testify. And at this
17 very early hour, you have the floor to make ever
18 so brief opening comments, otherwise we'll turn
19 it over to Ms. Baker for questions.

20 JUDGE WEAVER: I don't need to make opening
21 statements, I'll go --

22 CHAIRMAN RANKIN: God bless you, I apologize for the
23 delay in getting down the agenda with you.

24 JUDGE WEAVER: No apologies necessary.

25 CHAIRMAN RANKIN: Thank you.

1 MS. BAKER: Thank you, Mr. Chairman.

2 JUDGE WEAVER - EXAMINATION BY MS. BAKER:

3 Q. Judge Weaver, after serving two years as the
4 Master-in-Equity, why do you want to continue
5 serving as a Master-in-Equity?

6 A. I greatly enjoy the job. I have served York
7 County since right after law school and I want to
8 continue serving York County. I think it's a job
9 that I wasn't familiar with until probably later
10 into when I was a solicitor. But now that I do
11 it, I think it is a great assistance to circuit
12 court. I love being available to help and assist
13 civil, and potentially criminal, hopefully one
14 day, and just making sure that the docket runs
15 efficiently, runs smoothly and make sure that we
16 get these cases moved in a timely fashion.

17 Q. Judge Weaver, what do you think your reputation
18 is among attorneys that practice before you?

19 A. What do I think my reputation is?

20 Q. Uh-huh.

21 A. Well, I hope I have a reputation for being fair,
22 for having a good demeanor and allowing everyone
23 an opportunity to speak and that just I'm just
24 generally a nice person. So, at least I hope
25 that's the -- hope that that's their take on it.

1 Q. Judge Weaver, the Commission received 329 ballot
2 box surveys regarding you with 11 additional
3 comments. The ballot box survey, for example,
4 contained the following positive comments:
5 Always very prepared. Rules fairly. Turns
6 around orders very quickly. Hard worker. And
7 although Judge Weaver has not been on the bench
8 for long, she exhibits excellent judicial
9 temperament, is very knowledgeable and acts the
10 way you would want a judge to act. Two of the
11 written comments expressed concerns that you have
12 difficulty deciding matters. What response would
13 you offer to this comment?

14 A. I would offer that if a judge doesn't have a time
15 where they have a difficulty deciding a matter
16 then they don't get very many contested matters
17 before them or difficult cases and there's always
18 novel issues. I would say that, of course, I
19 deal with difficult issues and it might take me
20 some time. But, you know, I make sure that the
21 way I'm ruling is that I've really researched and
22 considered both sides before making a decision.

23 Q. Thank you.

24 MS. BAKER: I would note that the Piedmont Citizens
25 Committee found Judge Weaver qualified in the

1 evaluative criteria of constitutional
2 qualifications, physical health and mental
3 stability. And well qualified in the evaluative
4 criteria of ethical fitness, professional and
5 academic ability, character, reputation,
6 experience and judicial temperament. The
7 Committee commented: "The Committee was
8 impressed by Judge Weaver's enthusiastic embrace
9 of her new job in the civil sphere, her work
10 ethic and her personable cooperative manner. By
11 all accounts she has been an excellent Master."

12 **Q. Judge Weaver, I just have a few housekeeping**
13 **questions. Since submitting your Letter of**
14 **Intent, have you contacted any members of the**
15 **Commission about your candidacy?**

16 A. No.

17 **Q. Are you familiar with section 2-19-70, including**
18 **limitations on contacting members of the General**
19 **Assembly regarding your screening?**

20 A. I am aware.

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.

1 Q. 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.

6 Q. Have you reviewed and do you understand the
7 Commission's guidelines on pledging in South
8 Carolina code § 2-19-70(E)?

9 A. Yes.

10 MS. BAKER: I would just note for the record that any
11 concerns raised during the investigation
12 regarding the candidate were incorporated into
13 the questioning of the candidate today. Mr.
14 Chairman, I have no further questions.

15 CHAIRMAN RANKIN: All right. Representative Smith.

16 JUDGE WEAVER - EXAMINATION BY VICE CHAIRMAN SMITH:

17 Q. Judge Weaver, I haven't met you before, but I
18 appreciate you being here. And I see you're from
19 York County; is that right?

20 A. Yes.

21 Q. Okay. Did you have to drive down here today?

22 A. I did.

23 Q. Did you have any car trouble or any problems like
24 that on the way down?

25 A. No, I did not.

1 Q. All right. Then obviously you have not done
2 business with Carolina Motor Works or Gary
3 Simrill's outfit over there, racket I call it, in
4 York County. And do you have a spare tire in
5 your car?

6 A. I do not.

7 Q. You don't have a spare tire in your car?

8 A. Well, maybe I do.

9 Q. Well, you must have bought one from -- that's one
10 thing he's famous for is not providing spare
11 tires to his purchasers, so I've suffered all
12 those problems in the past. Appreciate you being
13 here and sorry that we had to make you wait for a
14 while, we'er -- in spite of our best efforts, we
15 sometimes run behind, but appreciate your service
16 and appreciate you offering for us today.

17 A. Thank you, thank you very much.

18 CHAIRMAN RANKIN: Ms. Weaver, Judge Weaver, excuse me.

19 And I do see it correctly here. Teasa Kay
20 Weaver.

21 JUDGE WEAVER: Teasa.

22 CHAIRMAN RANKIN: Teasa, spelled T-E-A-S-A. I want to
23 apologize for my mispronunciation, not once, say
24 twice. And that's T-W-I-C-E-T, twicet. Thank
25 you again for being here. You've got wonderful

1 letters of recommendation. Obviously, you're
2 well in the job, the bench -- the Bar, rather
3 supports your being there. The attorneys that
4 practice before you support you and so a job well
5 done, keep it up would be my only suggestion to
6 you.

7 JUDGE WEAVER: Thank you so much.

8 VICE CHAIRMAN SMITH: All right, unless there are
9 questions of the Commission members, this will
10 conclude this portion of the screening process.
11 We focus very seriously on both the letter and
12 the spirit of the South Carolina ethics laws.
13 Any violation or the appearance of impropriety in
14 that regard is a very serious matter for us. You
15 understand that this record is not closed until
16 the formal release of the record of
17 qualifications. And you understand that we could
18 call you back should the need arise, correct?

19 JUDGE WEAVER: I do.

20 CHAIRMAN RANKIN: Judge Weaver, God bless you and
21 thank you. And Merry Christmas to you and your
22 family.

23 JUDGE WEAVER: Merry Christmas. Thank you.

24 (Off the Record)

25 THE HONORABLE CHARLES B. SIMMONS, being duly sworn,

1 testifies as follows:

2 CHAIRMAN RANKIN: Judge, you have before you the two
3 documents that have to be signed and if you need
4 any updates, now's your chance, otherwise do you
5 have any objections to them being part of the
6 record?

7 JUDGE SIMMONS: No, sir.

8 CHAIRMAN RANKIN: Very well, we'll put them in.
9 (Exhibit Number 18 was marked for identification
10 purposes - (11 pages) Personal Data Questionnaire for
11 The Honorable Charles B. Simmons.)

12 (Exhibit Number 19 was marked for identification
13 purposes - (3 pages) Sworn Statement of The Honorable
14 Charles B. Simmons.)

15 JUDGE SIMMONS: Do I sign them now?

16 CHAIRMAN RANKIN: You've already signed them, haven't
17 you?

18 JUDGE SIMMONS: Well, one of them. This is blank.

19 CHAIRMAN RANKIN: You have affirmed by oath that that
20 is the fact and that you want those in the
21 record, correct?

22 JUDGE SIMMONS: I've signed the originals. But now
23 what happened between then and now, I'm going to
24 trust y'all.

25 CHAIRMAN RANKIN: You take that up with Senator Talley

1 after this.

2 JUDGE SIMMONS: Yes, sir, very fine senator. Very
3 fine senator.

4 CHAIRMAN RANKIN: Very quick and again, I apologize
5 for the delay. We have -- as we investigate your
6 qualifications for continued service, you know we
7 look at nine evaluated criteria. We also look at
8 a number of things, ballot box survey, check of
9 the economic conflicts of interest, thorough
10 study of your application materials, verification
11 of your compliance with state ethics laws, search
12 of newspaper articles in which your name would
13 appear and past screenings as well. No
14 affidavits have been introduced in opposition to
15 your service and no witnesses that decided to be
16 present. You have the opportunity for ever so
17 brief opening statement. Otherwise I'll turn it
18 over to Ms. Crawford.

19 JUDGE SIMMONS: In the essence of time, I'll be glad
20 to waive that.

21 CHAIRMAN RANKIN: Very well, thank you.

22 MS. CRAWFORD: Thank you, Judge.

23 JUDGE SIMMONS - EXAMINATION BY MS. CRAWFORD:

24 **Q. I was looking at your PDQ and you have been**
25 **serving as the Greenville Master-in-Equity since**

1 **1989?**

2 A. Yeah, it's been a little minute.

3 **Q. It has been a minute.**

4 A. Yeah.

5 **Q. After serving this 31 minutes, or years, why do**
6 **you want to continue serving?**

7 A. I'm remarkably blessed to hold that position. I
8 enjoy it. I have great issues. I have great
9 lawyers and fellow judges and I just hope I can
10 continue for a little bit longer.

11 **Q. Thank you, Judge. Judge Simmons, since your last**
12 **screening, multiple lawsuits were filed against**
13 **you, naming -- and I know you went through each**
14 **of these with your screening attorney. Do you**
15 **want to briefly, just an overview of the nature**
16 **of the disposition of these lawsuits.**

17 A. It's just the nature of the position.
18 Frequently, I believe all of them are pro se
19 lawsuits. Sometimes pro se -- well, sometimes
20 any litigant, doesn't like the outcome that the
21 court feels is the appropriate outcome. And so
22 all of these have been filed against me in my
23 judicial capacity, as well as most of them, a
24 boatload of other people and law firms. And to
25 the best of my knowledge all of them have been

1 summarily dismissed. I know quite a few of them
2 went to the federal level. But there have been
3 no allegations of any kind of personal issues or
4 offense by me other than doing what I felt like
5 the law compelled me to do.

6 **Q. Thank you, Judge. What do you believe your**
7 **reputation is among attorneys that have practiced**
8 **before you?**

9 A. Well, I think it's pretty good. I try hard. I
10 respect the position. I try to listen to people
11 and -- with non-jury on a good day, you're going
12 to make at least half the people upset with you.
13 But I've just learned over the years that if you
14 are actively engaged and if you let the litigants
15 know that this is a person who cares and is
16 concerned and they've issued a ruling. And most
17 of them go home, they may not agree with the
18 ruling, but at least they will respect the
19 process and hopefully the judge.

20 **Q. Thank you, Judge. The Commission received 729**
21 **ballot box surveys regarding you. Fifty-six**
22 **additional comments. They contained many**
23 **numerous positive comments. I guess, all**
24 **positive comments. He's the best. He's usually**
25 **rules against me, too. I still think he's the**

1 best. He ought to be on a higher court. Judge
2 Simmons is the epitome of what every judge should
3 be, fair, intelligent and always displaying great
4 judicial temperament. The best judicial
5 temperament of any judge I've appeared before.
6 Judge Simmons genuinely wants to get the law
7 right and treats lawyers with respect. A role
8 model for all judges.

9 MS. CRAWFORD: Mr. Chairman, none of the written
10 comments expressed concerns.

11 JUDGE SIMMONS: If you want to read a couple of
12 others, we'll --

13 MS. CRAWFORD: Okay.

14 JUDGE SIMMONS: I'm just kidding.

15 MS. CRAWFORD: I would note that the Upstate Citizens
16 Committee found Judge Simmons qualified in the
17 evaluative criteria of constitutional
18 qualifications, physical health and mental
19 stability. The committee found him well-
20 qualified in the evaluative criteria of ethical
21 fitness, professional and academic ability,
22 character, reputation, experience and judicial
23 temperament

24 Q. I just have a few housekeeping questions. Judge,
25 since submitting your Letter of Intent, have you

1 contacted any members of the Commission about
2 your candidacy?

3 A. No.

4 Q. Are you familiar with 2-19-70, including the
5 limitations on contacting members of the General
6 Assembly regarding your screening?

7 A. Yes.

8 Q. Since submitting your Letter of Intent, have you
9 sought or received the pledge of any legislator,
10 either prior to this date or pending the outcome?

11 A. No.

12 Q. Have you asked any third parties to contact
13 members of the General Assembly on your behalf?

14 A. I have not.

15 Q. Are you aware of anybody trying to intervene in
16 the process of your --

17 A. I'm not aware of that.

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

21 A. Yes.

22 Q. I would note for the record that any concerns
23 raised during the investigation regarding this
24 client/candidate were incorporated into the
25 questioning of him today. I have no further

1 **questions.**

2 CHAIRMAN RANKIN: By anybody, any members of the
3 Commission. Senator Talley.

4 SENATOR TALLEY: Mr. Chairman, I don't have a
5 question. But Judge, I would say two things:
6 One, I'm glad you run your courtroom much more
7 efficiently than the Judicial Merit Selection
8 Commission.

9 JUDGE SIMMONS: I prefer not to wade into those
10 waters, sir.

11 SENATOR TALLEY: Understood, understood. But when I
12 got the information of your ballot box surveys, a
13 lot of which Ms. Crawford went over, I'd just say
14 I agree wholeheartedly. Your courtroom is a
15 pleasure to practice in front of. You may not
16 always say that about some cases that we have in
17 front of you. But you really are great to
18 practice in front of and have been a good
19 resource for me over the years as I've appeared
20 in front of you. So, again, I hate that we kept
21 you waiting as long as we did today. I hate you
22 have to go through this process, based on your
23 outstanding qualifications but appreciate very
24 much your continued service.

25 JUDGE SIMMONS: Oh, thank you, sir.

1 CHAIRMAN RANKIN: Very well, anything from anyone
2 else? Judge Simmons, you certainly have a light
3 touch, it appears, in our proceedings. I'm sure
4 you're a joy to be before and hold court in a fun
5 way. So ...

6 JUDGE SIMMONS: Well, not everybody would agree with
7 that.

8 CHAIRMAN RANKIN: Well, at least not with the
9 rulings. But that's -- that becomes --

10 JUDGE SIMMONS: That's fair enough.

11 CHAIRMAN RANKIN: Yeah, that's your business when
12 it's the rulings, so.

13 JUDGE SIMMONS: Absolutely.

14 CHAIRMAN RANKIN: Anyway I want to thank you for
15 being here. Again, likewise again apologize
16 for delay in reaching your candidacy. This
17 will conclude this portion of the screening
18 process. You are aware that we are being
19 serious about both the letter and the spirit of
20 South Carolina ethics laws. Any violation or
21 appearance of impropriety is deemed a big deal.
22 If there were to be a violation of those, you
23 understand that we're not closing this record
24 and it won't be closed until the final release
25 of the Report of Qualifications. All that to

1 say, I need a verbal response that you
2 understand we could call you back?

3 JUDGE SIMMONS: Absolutely, don't want to get that
4 call.

5 CHAIRMAN RANKIN: Very good. I don't anticipate
6 it'll happen, but with that, Judge, thank you.
7 And your smile is infectious. It's even making
8 Murrell Smith smile. So, thank you, God bless
9 you.

10 JUDGE SIMMONS: And I hope y'all had a great
11 Thanksgiving. I repeat my earlier comments.
12 I'm going back to Greenville, Merry Christmas.
13 Thank y'all so much. Bye, Bye.

14 (Off the Record)

15 CHAIRMAN RANKIN: Welcome Judge Jackson.

16 JUDGE JACKSON: Thank you very much. I appreciate
17 it.

18 CHAIRMAN RANKIN: Yes, sir. Let's jump right into
19 it. Raise your right hand, if you don't mind.

20 THE HONORABLE JAMES B. JACKSON, being duly sworn,
21 testifies as follows:

22 CHAIRMAN RANKIN: Welcome and I apologize for the
23 delay in reaching you.

24 JUDGE JACKSON: Don't worry about it. Been here
25 before.

1 CHAIRMAN RANKIN: Sir?

2 JUDGE JACKSON: Been here before.

3 CHAIRMAN RANKIN: Well, I hope not waiting as long
4 as you've had to wait today. But anyway,
5 you've got two statements there, a PDQ and a
6 Sworn Statement. Are those ready to go into
7 the record?

8 JUDGE JACKSON: Yes, sir.

9 CHAIRMAN RANKIN: If you'll hand those to Caroline,
10 to your right. It was going in that direction,
11 so your intuition is correct. We, in our roles
12 of investigating your qualifications for
13 continued service, you understand we look at
14 the nine evaluative with your criteria, but we
15 also look at the ballot box survey, a study of
16 your application materials, verification of
17 your compliance with the state ethics laws,
18 search of newspaper articles in which your name
19 appears, study of previous screenings and a
20 check for economic conflicts of interest. No
21 affidavits have been filed in opposition of
22 your election. No witnesses are here to
23 testify for you. And with that, sir, we'll
24 open the floor to you for a brief statement,
25 otherwise turn it over for questions of

1 counsel.

2

3 (Exhibit Number 20 was marked for identification
4 purposes - (12 pages) Personal Data Questionnaire
5 for The Honorable James B. Jackson.)

6 (Exhibit Number 21 was marked for identification
7 purposes - (3 pages) Sworn Statement of The
8 Honorable James B. Jackson.)

9 JUDGE JACKSON: I'd just like to say I'm happy to be
10 serving as Master-in-Equity in Orangeburg.

11 I've been there -- March was seven years now
12 and I'd certainly like to do another term.

13 I've enjoyed it. It's a part-time job. But
14 it's one of the best part-time jobs you can
15 have, so I'd love to --

16 CHAIRMAN RANKIN: Very good. Well, thank you.

17 JUDGE JACKSON: -- be approved again. Thank you.

18 CHAIRMAN RANKIN: Yes, sir. All right.

19 MS. ROSS: Thank you, Mr. Chairman.

20 JUDGE JACKSON - EXAMINATION BY MS. ROSS:

21 **Q. Thank you Judge. You've preemptively my first**
22 **question where I was going to ask why, after**
23 **seven years, you'd like to continue serving.**
24 **So, tell us, what's your favorite aspect of**
25 **being a Master-in-Equity?**

1 A. Well, I tell people all the time, I kind of
2 like being a judge. I really wanted to be a
3 judge, I remember, since I was a young boy.
4 Didn't care much about being a lawyer, but I
5 knew you had to be a lawyer to get to be a
6 judge, so. It's something I enjoy doing. I
7 feel like that I'm able to listen to testimony
8 and be fair and I'm able to make decisions.
9 Sometimes they're close decisions, but you have
10 to make them and I try and do that. And so
11 that people can move on.

12 **Q. And what do you think your reputation is among**
13 **attorneys that practice before you?**

14 A. As far as I know it's good. I've, again, I
15 have friends who I've known for a long time and
16 I've always told them, you know, if there's
17 ever any problem, let me know and pretty much
18 I've not heard any real problems. So I think
19 my reputations good, particularly in
20 Orangeburg.

21 **Q. Along those lines, Judge Jackson, the**
22 **Commission received 370 ballot box surveys**
23 **regarding you with 12 additional comments. The**
24 **ballot box survey, for example, contained the**
25 **following positive comments: It is always a**

1 pleasure to appear before Judge Jackson. His
2 demeanor in the courtroom is impeccable and his
3 decision making skills are excellent. I hope
4 he remains on the bench for many years to come.
5 Only one of the written comments expressed
6 concern and just that you are not up to being a
7 judge. How would you respond to that?

8 A. Well, I think I am. I think I've been -- I've
9 got a lot of experience, both in the criminal
10 world and civil cases, tried a lot of cases. I
11 feel like I'm certainly capable of being a good
12 judge. I think I am a good judge.

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

14 MS. ROSS: I would note that the Lowcountry Citizens
15 Committee found Judge Jackson qualified in the
16 evaluative criteria of constitutional
17 qualifications, physical health and mental
18 stability and well qualified in the evaluative
19 criteria of ethical fitness, professional and
20 academic ability, character, reputation,
21 experience and judicial temperament. The
22 Committee commented good fit, great manner,
23 public servant in every aspect of his work,
24 empathy, compassion and great experience.

25 **Q. Judge, I just have a few housekeeping issues**

1 and questions for you. Since submitting your
2 Letter of Intent, have you contacted any
3 members of the Commission about your candidacy?

4 A. No, ma'am.

5 Q. Are you familiar with Section 2-19-70,
6 including the limitations on contacting members
7 of the General Assembly regarding your
8 screening?

9 A. Yes, I am.

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

14 A. No, I have not.

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

19 A. I'm not aware of anybody and I've certainly not
20 asked anybody.

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

24 A. Yes, ma'am.

25 MS. ROSS: I would just note for the record that any

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

5 CHAIRMAN RANKIN: Okay. Judge Jackson, I just want
6 briefly comment on the -- both the letters of
7 reference that you have, impeccable. But also,
8 and very importantly, the ballot box surveys
9 cannot say enough good things about Judge
10 Jackson, excellent job, fair, knowledgeable and
11 thorough. Your demeanor is impeccable and
12 decision making skills are excellent. I don't
13 know how you can top that.

14 JUDGE JACKSON: I try to do it every day.

15 CHAIRMAN RANKIN: Well, you're succeeding. So I
16 want to commend you for your excellent work and
17 your desire to continue serving in this vein.
18 And unless there are questions of other members
19 of the Commission, this will close this portion
20 of the screening process. You know and let me
21 remind you that we are very serious about both
22 the spirit and letter of the ethics laws and
23 any violation or appearance of impropriety is a
24 really big deal, would warrant us calling you
25 back for further explanation, don't expect

1 that. I need you to acknowledge that you
2 understand that.

3 JUDGE JACKSON: I certainly do, Senator.

4 CHAIRMAN RANKIN: Because this record isn't closed
5 until the final release of the Report of
6 Qualifications.

7 JUDGE JACKSON: Yes, sir.

8 CHAIRMAN RANKIN: Judge Jackson and Merry Christmas
9 to you and your family.

10 JUDGE JACKSON: Thank all of you. Thank you very
11 much. Appreciate it.

12 CHAIRMAN RANKIN: Take care.

13 (Off the Record)

14 CHAIRMAN RANKIN: Welcome, Judge.

15 JUDGE STRICKLAND: All right, good afternoon.

16 CHAIRMAN RANKIN: Raise your right hand, if you will
17 please?

18 THE HONORABLE JOSEPH M. STRICKLAND, having duly been
19 sworn, testifies as follows::

20 CHAIRMAN RANKIN: Judge, thank you for being here.

21 Our apologies for the delay in reaching you. A
22 couple of things, you've got the Personal Data
23 Questionnaire and a Sworn Statement. Any
24 objections to those being made a part of the
25 record?

1 JUDGE STRICKLAND: No objection.

2 CHAIRMAN RANKIN: And those are just perfect as is?

3 JUDGE STRICKLAND: Yes, sir.

4 CHAIRMAN RANKIN: Very well. Judge, if you'll give
5 those to Caroline right there, we'll put them
6 in the record. You're aware of our
7 investigation of your qualifications to serve
8 and our focus on the nine evaluative criteria.
9 We also look, as you know, at the ballot box
10 survey, study of your application materials,
11 verification of your compliance with the state
12 ethics law, search of newspaper articles in
13 which your name appears, study of previous
14 screenings and a check for economic conflicts
15 of interest. No affidavits have been filed in
16 opposition to your candidacy and no active
17 witnesses have decided to be present. You,
18 Judge, have an opportunity for a brief
19 statement, otherwise we'll turn it over to Mr.
20 Gentry for his questions.

21 (Exhibit Number 22 was marked for identification
22 purposes - (12 pages) Personal Data Questionnaire
23 for The Honorable Joseph M. Strickland.)

24 (Exhibit Number 23 was marked for identification
25 purposes - (3 pages) Sworn Statement of The

1 Honorable Joseph M. Strickland.)

2 JUDGE STRICKLAND: I waive the brief statement.

3 CHAIRMAN RANKIN: Thank you so much. Mr. Gentry.

4 JUDGE STRICKLAND - EXAMINATION BY MR. GENTRY:

5 Q. Good afternoon, Judge. After serving over 30
6 years as a Master-in-Equity, why do you want to
7 continue to serve?

8 A. Well, it's a challenging job. It's a rewarding
9 job. And quite frankly, I think I make an
10 impact on my community. And I want to keep
11 doing that.

12 Q. All right. Judge, you indicated in your PDQ
13 that since your last screening, several
14 lawsuits have been filed against you in your
15 capacity as a Master-in-Equity by disgruntled
16 litigants in foreclosure cases. Have all of
17 these cases now been dismissed to your
18 knowledge?

19 A. Yes, sir.

20 Q. Okay. You also indicated in your PDQ that
21 since your last screening, you were mistakenly
22 sued by a finance company. Can you please
23 explain the nature of this case and has it been
24 dismissed?

25 A. That case was dismissed, I believe, before I

1 was even served. That was a confusion. I owed
2 some money and I paid the money and a lawsuit
3 was filed after I paid the money. And that
4 was, again, withdrawn and dismissed before I
5 even got served.

6 **Q. Judge, the Commission received 692 ballot box**
7 **surveys regarding you with 37 additional**
8 **comments. The ballot box survey, for example,**
9 **contained the following positive comments:**
10 **Judge Strickland is both smart and**
11 **professional. His years of experience and**
12 **strong work ethic make him an excellent judge.**
13 **He is thoughtful and fair to all who appear**
14 **before him. Seven of the written comments**
15 **expressed concerns. Three of the comments**
16 **raised concerns about your age and mental**
17 **state. What response would you offer to this**
18 **concern?**

19 A. Were there any specific concerns or just in
20 general?

21 **Q. In general, Judge.**

22 A. Well, I am 65 years old. I have served for 31
23 years. And I have not heard that complaint
24 before. So that's my response to it. I don't
25 -- I disagree, obviously. But I don't know any

1 specific complaints about my age or mental
2 status.

3 **Q. Four of the comments raised concerns about**
4 **courtroom behavior, what response would you**
5 **offer to this concern?**

6 A. Well, I tend to -- I'd call it a user-friendly
7 courtroom. I'm a little less formal than a lot
8 of judges are. And I think a lot of young
9 lawyers, in particular, are offended. I do one
10 thing if I get a case that I think ought to be
11 settled. I have a stick I bring with me, in
12 chambers normally. But normally, since we've
13 been in COVID, I sometimes bring it in the
14 courtroom. I call it my settlement stick and I
15 wave it at the lawyers now. Younger lawyers
16 who don't come before me very often think I'm
17 going to hit them. And I think some of them
18 really thought that, that I was going -- I was
19 threatening to hit them and I wasn't. I was in
20 a way of trying to tell them, this is a case
21 that needs to be settled and this is my
22 settlement stick. And when I wave it, it's
23 time to settle the case. That's the only thing
24 I can think of that might offend somebody.
25 Because some of the younger lawyers seem not to

1 understand that I'm not going to hit them with
2 the stick.

3 MR. GENTRY: I would note that the Midlands Citizens
4 Committee found Judge Strickland qualified in
5 the evaluative criteria constitutional
6 qualifications, physical health and mental
7 stability. And well qualified in evaluative
8 criteria of ethical fitness, professional and
9 academic ability, character, reputation,
10 experience and judicial temperament. The
11 Committee stated in summary: "Judge Strickland
12 is extremely qualified."

13 Q. I have a few housekeeping issue questions to
14 ask you. Judge Strickland, since submitting
15 your Letter of Intent, have you contacted any
16 members of this Commission about your
17 candidacy?

18 A. No.

19 Q. Are you familiar with Section 2-19-70,
20 including the limitations on contacting members
21 of the General Assembly regarding your
22 screening?

23 A. Yes.

24 Q. Since submitting your Letter of Intent, have
25 you sought or received the pledge of any

1 legislator pending the outcome of this hearing?

2 A. No.

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

7 A. No. Have you reviewed and do you understand
8 the Commission's guidelines on pledging and
9 South Carolina Code Section 2-19-70(E)?

10 Q. Yes.

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

16 CHAIRMAN RANKIN: Mr. Strom.

17 MR. STROM: Thank you, Mr. Chairman. I don't have
18 any questions, but I do have a couple of
19 comments. I've known Judge Strickland since
20 he's been on the bench and he is just a prince
21 of a fellow. Mr. Chairman, he -- if there's a
22 Bar meeting anywhere, he's there with young
23 lawyers. He commented earlier about how he,
24 you know, he calls the lawyers back in the back
25 and talks to them about settlement. He's just

1 doing an excellent job and I'll end by reading
2 one of his comments. "Judge Strickland is a
3 treasure and that's the truth." Thank you, Mr.
4 Chairman.

5 CHAIRMAN RANKIN: Mr. Safran.

6 MR. SAFRAN: Thank you, Mr. Chairman. I, too, have
7 known Judge Strickland a long time. Actually,
8 before he took on the role as Master here and I
9 actually had the opportunity to appear before
10 him many years ago. He is truly the epitome of
11 what we would look for in that position. He
12 has been, I guess, probably the picture of
13 temperament during that time. I think we have
14 been extremely blessed to have him during this
15 period of time and certainly anything about age
16 having any factor here is something that comes
17 from someone that doesn't really know just how
18 dedicated you are to the job and certainly
19 we're happy that you're offering again.

20 JUDGE STRICKLAND: All right. Thank you both.

21 CHAIRMAN RANKIN: Very well. Judge, thank you so
22 much, unless there are other questions from the
23 Commission members. This will conclude this
24 portion of the screening process. We take very
25 seriously the South Carolina ethics laws in the

1 letter and in spirit. And a violation of that
2 body of law or the appearance of impropriety,
3 you understand, would be taken very seriously
4 by us. Don't anticipate this but you
5 understand that we could call you back should
6 there be any issue there, correct?

7 JUDGE STRICKLAND: Yes, sir.

8 CHAIRMAN RANKIN: This record is not closed until
9 the final and the release of the record of the
10 qualifications. So with that, sir, we bid you
11 adieu. Again, thank you for hanging with us
12 and for tolerating our tardiness getting to
13 your screening.

14 JUDGE STRICKLAND: Thank you so much.

15 CHAIRMAN RANKIN: Take care, Merry Christmas to you.

16 JUDGE STRICKLAND: Thank you.

17 (Off the Record)

18 CHAIRMAN RANKIN: All right. And we're going on
19 record.

20 THE HONORABLE MARVIN H. DUKES, III, having duly been
21 sworn, testifies as follows:

22 CHAIRMAN RANKIN: You have the PDQ, the Sworn
23 Statement, are those ready to go into the
24 record?

25 JUDGE DUKES: Yes.

1 CHAIRMAN RANKIN: All right. If you'll hand those
2 to Caroline right there. Judge, you are
3 familiar with our process here as we
4 investigate your candidacy for continued
5 service on the bench. We look at the nine
6 evaluative criteria as well as your application
7 materials, a study of the state ethic laws and
8 search of newspaper articles in which your name
9 appears, study of the previous screenings and a
10 check for economic conflicts of interest. No
11 affidavits have been filed in opposition to
12 your election. And no witnesses are present to
13 testify. With that, sir, we apologize for the
14 delay in getting to you. We will make as quick
15 use of your time as need be. Ms. Foster.

16 (Exhibit Number 24 was marked for identification
17 purposes - (14 pages) Personal Data Questionnaire
18 for The Honorable Marvin H. Dukes, III.)

19 (Exhibit Number 25 was marked for identification
20 purposes - (3 pages) Sworn Statement of The
21 Honorable Marvin H. Dukes, III.)

22 JUDGE DUKES - EXAMINATION BY MS. FOSTER:

23 **Q. Judge Dukes, after serving 13 years as a**
24 **Master, why do you want to continue serving as**
25 **the Master-in-Equity?**

1 A. In brief, I enjoy it. And I believe I'm good
2 at it. And I would like to continue doing it.

3 Q. Judge Dukes, what do you think your reputation
4 is among attorneys that practice before you?

5 A. I hope that it's good. I've worked very hard
6 to be fair, to be diligent and to try to do the
7 right thing. And so I hope I have a good
8 reputation with attorneys.

9 Q. Judge Dukes, the Commission received 718 ballot
10 box surveys regarding you with 45 additional
11 comments. The ballot box survey, for example,
12 contained the following positive comments:
13 Judge Dukes is the most honest, fair and
14 pleasant Judge I've ever been before in the
15 past 24 years. Judge Dukes is patient and
16 respectful to all the litigants and parties
17 that enter his court. He does a great job and
18 it is an honor to practice in his court. Six
19 of the written comments expressed concerns
20 regarding favoritism. What response do you
21 offer to this concern?

22 A. Well, I would respectfully disagree with the
23 comments. I work very hard to be even-handed
24 and to make sure, not only is the process fair,
25 but it appears fair because the appearance of

1 fairness is a big part of the system. So, I'm
2 sorry to hear about those six comments. But if
3 anything, it'll just -- it'll make me work
4 harder to try to make sure we don't have
5 comments like that in the future.

6 **Q. Thank you, Judge Dukes.**

7 MS. FOSTER: I would note that the Lowcountry
8 Citizens Committee found Judge Dukes qualified
9 in the evaluative criteria of constitutional
10 qualifications, physical health and mental
11 stability. The Committee felt him well
12 qualified in evaluative criteria of ethical
13 fitness, professional and academic ability,
14 character, reputation, experience and judicial
15 temperament. The Committee stated, in summary,
16 very experienced, humble and patient, very
17 personable, astute judge, handles complex cases
18 well, works well with attorneys, pleasant,
19 knowledgeable and smart.

20 **Q. Just some housekeeping issues. Judge Dukes,**
21 **since submitting your Letter of Intent, have**
22 **you contacted any members of the Commission**
23 **about your candidacy?**

24 A. I have not.

25 **Q. Are you familiar with Section 2-19-70,**

1 including the limitations on contacting members
2 of the General Assembly regarding your
3 screening?

4 A. I am.

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

9 A. I have not.

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

14 A. I have not and I am unaware of any such person.

15 Q. Have you reviewed and do you understand the
16 Commissions's guidelines on pledging and SC
17 Code § 2-19-70(E)?

18 A. I am.

19 Q. I would just note for the record that any
20 concerns raised during the investigation
21 regarding the candidate were incorporated into
22 the questioning of the candidate today. Mr.
23 Chairman, I have no further questions.

24 CHAIRMAN RANKIN: All right. Judge Dukes, since
25 we've done this most recently with you.

1 Everyone is well familiar with you and it's
2 good to be held at high, high regard by your
3 Bar, as they have said so many great things
4 about your service. So unless there are
5 questions by the members of the Commission,
6 JMSC, at this point we will close the
7 screening. Only this portion because you
8 understand that we have the focus -- very
9 important focus on both the letter and the
10 spirit of the South Carolina ethics laws. Any
11 violations by you or the appearance of
12 impropriety of those is a serious matter. You
13 understand we can call you to come should that
14 arise?

15 JUDGE DUKES: I understand.

16 CHAIRMAN RANKIN: Which we don't expect because, as
17 you know, this record isn't closed until the
18 final release of the Report of Qualifications.
19 With that, Judge Dukes, we again thank you for
20 coming. We apologize for the delay and Merry
21 Christmas to you and your family.

22 JUDGE DUKES: Thank you, sir. Thank you all.

23 (Off the Record)

24 CHAIRMAN RANKIN: Judge Bishop.

25 JUDGE BISHOP: It is, yes, sir.

1 CHAIRMAN RANKIN: Very well, if you'll raise your
2 right hand?

3 THE HONORABLE WHITNER S. BISHOP, having duly been
4 sworn, testifies as follows:

5 CHAIRMAN RANKIN: You have before you two documents,
6 the PDQ and the Sworn Statement. Are those
7 ready to go in the record as is?

8 JUDGE BISHOP: I believe they are sir, yes, sir.

9 CHAIRMAN RANKIN: If you'll hand those to Caroline,
10 she will hand them to the court reporter.

11 Thank you so much. Judge, we are in our
12 investigation of your candidacy for continued
13 service. We look at a number of things, the
14 nine evaluative criteria and also the ballot
15 box survey and a study of your application
16 materials, verification of your compliance with
17 the state ethics laws, search of the newspaper
18 articles in which your name appears, a study of
19 your previous screenings and a check for
20 economic conflicts of interest. No one has
21 filed an affidavit in opposition to you and no
22 witnesses are here to testify. You have the
23 opportunity for a brief statement if you'd
24 like. Given the hour, which again I apologize
25 for, you can waive and hand it over to Mr.

1 Hinson for questions.

2 (Exhibit Number 26 was marked for identification
3 purposes - (12 pages) Personal Data Questionnaire
4 for The Honorable Whitner S. Bishop.)

5 (Exhibit Number 27 was marked for identification
6 purposes - (1 pages) Amendment to Personal Data
7 Questionnaire for The Whitner S. Bishop.)

8 (Exhibit Number 28 was marked for identification
9 purposes - (4 pages) Sworn Statement of the
10 Honorable Whitner S. Bishop.)

11 JUDGE BISHOP: Well, if you'll allow me, please,
12 sir. I just want to say thank you very much
13 for letting me come before you. Hope it gives
14 you an opportunity to get to know me a little
15 bit. And I know being away from your office,
16 as I'm away from mine, it's hard to come back.
17 I get it, so, thank you very much for letting
18 me come before you today.

19 JUDGE BISHOP - EXAMINATION BY MR. HINSON:

20 MR. HINSON: Thank you, chairman. Mr. Chairman, I
21 would note for the record that based on the
22 testimony contained in the candidate's PDQ,
23 which has been included in the record with the
24 candidate's consent, Judge Bishop meets the
25 statutory requirements for this position

1 regarding age, residence, and years of
2 practice.

3 **Q. Judge Bishop, how do you feel your legal and**
4 **professional experience thus far renders you**
5 **qualified and will assist you to be an**
6 **effective Master-in-Equity?**

7 A. So based on my current practice, which I've
8 been a solo practitioner now for generally 13
9 years, 18 years in the transactional world, I
10 believe has prepared me immensely for the
11 Master-in-Equity position because I see, as
12 I've said earlier, the finished product that
13 comes out of the Master's offices, especially
14 from a real estate standpoint. And I believe
15 18 years of that has prepared me well for
16 handling matters in the Master-in-Equity court.

17 **Q. Thank you, Judge. Judge Bishop, the Commission**
18 **received 161 ballot box surveys regarding you**
19 **with 14 additional comments. Ballot box**
20 **survey, for example, contained the following**
21 **positive comments: Extremely well qualified**
22 **for this position. One said, an excellent**
23 **choice for this seat. Two expressed concern**
24 **about your lack of trial experience. How would**
25 **you address that concern?**

1 A. I certainly understand that concern. I did
2 practice litigation after I clerked for Judge
3 Johnson. I did do defense work for about a
4 year and a half. So I've been in the
5 courtroom. I've been in front of a judge. I
6 am currently a municipal judge, part-time. I
7 have been a magistrate judge hearing bond
8 matters. I certainly believe I can work as a
9 judge. I swear in witnesses. I go through
10 evidentiary matters, currently. And I
11 certainly think I'm qualified to be the Master-
12 in-Equity in Spartanburg.

13 **Q. Thank you, Judge. Another expressed concern**
14 **regarding your temperament in dealing with**
15 **opposing counsel. How would you address that**
16 **concern?**

17 A. Well, I was surprised to hear that, to tell you
18 the truth, and it has bothered me a little bit.
19 I have had the pleasure of assisting tens of
20 thousands of clients over the past 18 years.
21 And I have felt like I have treated everyone
22 with kindness, integrity and gentleness, really
23 the fruits of the Spirit, I believe, I treat
24 everyone that way. So to hear that was
25 surprising to me. I don't recall when that

1 might have happened. But if it's one person,
2 out of 18 years of practice, I'm not going to
3 please everybody.

4 **Q. Thank you, Judge.**

5 MR. HINSON: I would note that the Upstate Citizens
6 Committee found Judge Bishop qualified in the
7 evaluative criteria of constitutional
8 qualifications, physical health and mental
9 stability. The Committee found him well
10 qualified in the evaluative criteria of ethical
11 fitness, professional and academic ability,
12 character, reputation, experience and
13 temperament.

14 **Q. Just a few housekeeping questions. Judge**
15 **Bishop, are you aware that as a judicial**
16 **candidate you are bound by the Rule of -- by**
17 **the Code of Judicial Conduct as found in Rule**
18 **501 of the South Carolina Appellate Court**
19 **Rules?**

20 A. Yes, sir.

21 **Q. Judge, since submitting your Letter of Intent,**
22 **have you contacted any members of the**
23 **Commission about your candidacy?**

24 A. No, sir.

25 **Q. Are you familiar with Section 2-19-70,**

1 including the limitations on contacting members
2 of the General Assembly regarding your
3 screening?

4 A. I am, yes, sir.

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

9 A. I have not.

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

14 A. I have not and I am not.

15 Q. And have you reviewed and do you understand
16 that Commission's guidelines on pledging and SC
17 Code § 2-19-70(E)?

18 A. Yes, sir.

19 MR. HINSON: Mr. Chairman, I would note for the
20 record that any concerns raised during the
21 investigation by staff regarding the candidate
22 were incorporated into the questioning of the
23 candidate today. And with that, I have no
24 further questions. Thank you.

25 CHAIRMAN RANKIN: All right. Thank you, Mr. Hinson.

1 Questions by members of the Commission. Ms.
2 Logan.

3 MS. LOGAN: Hello, Mr. Bishop.

4 JUDGE BISHOP: Hello.

5 MS. LOGAN: It's good to see you. We've worked very
6 well together when I worked in Spartanburg
7 County as the Clerk of Court and know your
8 professional demeanor to be very kind and fair.
9 So I was surprised by that comment. But like
10 you said, it's only one. And we get all kind
11 of a range of comments from folks who
12 participate in the ballot box. I wanted to
13 just put that on the record and wish you the
14 best on that. But also, I want to also add to
15 the record that Senator Scott Talley has
16 recused himself from this hearing. And he
17 wanted that on the record but thank you for
18 running for this position and I wish you the
19 best of luck.

20 JUDGE BISHOP: I thank you very much.

21 CHAIRMAN RANKIN: Judge Bishop, that looks like
22 that's it. You have the opportunity for a
23 closing statement.

24 JUDGE BISHOP: If I may, yes, sir, I'd love to. I
25 want you all to hear this from me. There is no

1 doubt in my mind that I can be the Master-in-
2 Equity. I hold myself to a very high standard.
3 I have impeccable ethics and I treat people
4 with kindness. And I want you all to be
5 comfortable in knowing that, if I am pushed
6 through, that I will not let any of you down.
7 I just wanted to put that on the record.

8 CHAIRMAN RANKIN: Very well, all right, sir. With
9 that, this will close this portion of the
10 screening process. You're reminded that
11 pursuant to our evaluative criteria we take
12 very seriously both the letter and the spirit
13 of the South Carolina ethics laws. Any
14 violation or the appearance of impropriety of
15 those will be deemed very serious. You
16 understand that we could call you back because
17 this record is not closed until the final
18 release of the Report of Qualifications. Do
19 you understand that?

20 JUDGE BISHOP: Yes, sir, I do.

21 CHAIRMAN RANKIN: Very well. Again, our apologies
22 for the delay. Thank you very much for being
23 here, your testimony and your offering for this
24 position. God bless you and Merry Christmas to
25 you and your family.

1 JUDGE BISHOP: Thank you. Merry Christmas to you as
2 well. Thank you for having me.

3 CHAIRMAN RANKIN: Thank you.

4 (Off the Record)

5 CHAIRMAN RANKIN: For the court reporter's benefit,
6 if you don't mind, take your mask off so she
7 can hear. If you will, in the interest of
8 time, please raise your right hand.

9 SHANNON M. PHILLIPS, having duly been sworn,
10 testifies as follows:

11 CHAIRMAN RANKIN: Very well, I apologize for the
12 delay in starting this. We've had a lot of
13 activity before, so we will try to be as brief
14 with you. First thing, the two documents you
15 have before you, are those ready to go into the
16 record?

17 MS. PHILLIPS: Yes, they are.

18 CHAIRMAN RANKIN: All right, if you'll hand those to
19 Caroline to your right. You are aware as we
20 investigate your candidacy that we focus on
21 both the nine evaluative criteria, also ballot
22 box survey, study of your application
23 materials, verification of your compliance with
24 the state ethics laws, search of newspaper
25 articles in which your name appears, study of

1 previous screenings and a check for economic
2 conflicts of interest. No affidavit has been
3 introduced in opposition to your election and
4 no witnesses are present to testify. You have
5 the opportunity to make an ever so brief
6 statement given the interest of your time in
7 getting back to Spartanburg. Otherwise, I will
8 turn over to Mr. Hinson for questions, so.

9 (Exhibit Number 29 was marked for identification
10 purposes - (12 pages) Personal Data Questionnaire
11 for Shannon M. Phillips.)

12 (Exhibit Number 30 was marked for identification
13 purposes - (1 pages) Amendment to Personal Data
14 Questionnaire for Shannon M. Phillips.)

15 (Exhibit Number 31 was marked for identification
16 purposes - (4 pages) Sworn Statement of Shannon M.
17 Phillips.)

18 MS. PHILLIPS: Thank you. I'm Shannon Phillips.

19 I'm running for Spartanburg County Master-in-
20 Equity. I appreciate your time and
21 consideration. And Mr. Hinson has been very
22 helpful to me and I wanted to let you guys know
23 that.

24 CHAIRMAN RANKIN: Very Well, thank you. Mr. Hinson.

25 MS. PHILLIPS - EXAMINATION BY MR. HINSON:

1 MR. HINSON: Good afternoon. Mr. Chairman, I'd note
2 for the record that based on the testimony
3 contained in the candidate's PDQ, which has
4 been included in the record with the
5 candidate's consent. Ms. Phillips meets the
6 statutory requirements for this position
7 regarding age, residence and years of practice.

8 **Q. Ms. Phillips, how do you feel your legal and**
9 **professional experience thus far renders you**
10 **qualified and will assist you to be an**
11 **effective Master-in-Equity?**

12 A. I've one short matter of housekeeping. There
13 is an amendment to the PDQ on question 47. It
14 asked if I've been named in any civil
15 proceedings. I've been named an in a domestic
16 proceeding. This year my husband and I adopted
17 our two foster children. That finalized in
18 May. If you need further information I'm happy
19 to address any questions.

20 **Q. Thank you.**

21 A. Otherwise, as to your question, I'm interested
22 in the Master-in-Equity position. I've been a
23 civil litigator for approximately 12 years.
24 And the past seven years since I've been
25 focusing on practicing in Spartanburg County,

1 I've handled approximately 125 cases. About 20
2 percent of those have advanced through some
3 form of non-jury judicial decision. I feel
4 comfortable with the rules of civil procedure
5 and the rules of evidence. And I'm most
6 interested in becoming a judge in that
7 position. I feel I'm most qualified for that
8 position. And I am most interested in becoming
9 a judge because I've enjoyed helping people
10 through the legal process and look forward to
11 helping even more people by offering the remedy
12 that they seek.

13 **Q. Thank you. Ms. Phillips, the Commission**
14 **received 106 ballot box surveys regarding you**
15 **with seven additional comments. The ballot box**
16 **survey, for example, contained the following**
17 **positive comments: "Best qualified of all the**
18 **candidates." One said you were dedicated to**
19 **your craft and has strong moral compass. Two**
20 **expressed concerns about your experience. How**
21 **would you address those concerns?**

22 **A.** Again, I've practiced for approximately 12
23 years. All of those in civil litigation. I
24 began my practice in Dallas, Texas for a very
25 large firm, completing mostly federal court

1 litigation on teams of attorneys for
2 nationally-known clients in very complex
3 litigation. After I moved back to South
4 Carolina I worked for Ogletree Deakins in
5 Greenville where I did employment defense work,
6 mostly in federal court, some state court work.
7 And then since I've been in Spartanburg I have
8 had approximately 125 cases. I would say 25 of
9 those have been federal. But the balance of my
10 time is probably 50/50, time spent on federal
11 and civil court cases. The rules of civil
12 procedure are the same. And so I feel that
13 even if one of those individuals may not have
14 had a lot of cases with me, that doesn't mean I
15 haven't handled a lot of cases. And I've been
16 either solo or lead counsel on those cases for
17 the past seven years. Sometimes I've been
18 against teams of attorneys and handled those
19 fairly well.

20 **Q. Thank you.**

21 MR. HINSON: I would note for the record that the
22 Upstate Citizens Committee found Ms. Phillips
23 qualified in the evaluative criteria of
24 constitutional qualifications, physical health,
25 and mental stability. And the Committee found

1 her well qualified in the evaluative criteria
2 of ethical fitness, professional and academic
3 ability, character, reputation, experience and
4 judicial temperament. I just have a few
5 housekeeping questions for you. Are you aware
6 that as a judicial candidate you are bound by
7 the Code of Judicial Conduct as found in Rule
8 501 of the South Carolina Appellate Court
9 Rules?

10 A. Yes.

11 **Q. Since submitting your Letter of Intent, have**
12 **you contacted any members of the Commission**
13 **about your candidacy?**

14 A. I have. I work with Senator Scott Talley and
15 so I believe he was recently appointed to the
16 Commission. And since my Notice of Intent was
17 filed I have talked to him about my candidacy
18 and my qualifications, of which he's well
19 aware. We've worked together very closely for
20 about seven years.

21 **Q. Are you familiar with Section 2-19-70,**
22 **including the limitations on contacting members**
23 **of the General Assembly regarding your**
24 **screening?**

25 A. I am.

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

5 A. I have not.

6 Q. Have you asked any third parties to contact
7 members of the General Assembly on your behalf
8 or are you aware of anyone attempting to
9 intervene 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 in SC Code
13 § 2-19-70(E)?

14 A. Yes.

15 Q. Mr. Chairman, I would note for the record that
16 any concerns raised during the investigation by
17 staff regarding the candidate were incorporated
18 into the questioning of the candidate today and
19 with that I don't have any further questions.

20 CHAIRMAN RANKIN: Very well. Ms. Phillips, you work
21 presently where?

22 MS. PHILLIPS: I work at Talley Law Firm in
23 Spartanburg.

24 CHAIRMAN RANKIN: Very good. And I think we're
25 going to have a motion over here in a minute.

1 Do you have a preference for Tennessee's soon
2 to be vacant head coaching position and
3 Vanderbilt's vacant position in South Carolina,
4 because surely you're a SEC fan, correct?

5 MS. PHILLIPS: I am an SEC fan. I went to the
6 University of Tennessee for undergrad and my
7 blood runneth (sic) Orange. So I would not
8 mind if Vanderbilt hires USC's former coach.

9 CHAIRMAN RANKIN: And then Dabo goes to Tennessee or
10 Vanderbilt?

11 MS. PHILLIPS: I was raised a Clemson fan, so I
12 would like to keep Dabo right where he is.

13 CHAIRMAN RANKIN: Lord, you were doing so well. So
14 well.

15 MS. PHILLIPS: Forgive me.

16 CHAIRMAN RANKIN: It's a shame. Nice knowing you.
17 No. Thank you very much. Unless there are
18 other questions. Again, I appreciate -- well,
19 actually Hope.

20 MS. LOGAN: It's good seeing you. I know we've
21 crossed paths in the hallways in the
22 Spartanburg Judicial Center. I just want to go
23 on record to state that Senator Talley has
24 recused himself in this hearing.

25 MS. PHILLIPS: Thank you.

1 CHAIRMAN RANKIN: And you made this clear. I want
2 to make sure that I understood it. But when
3 you first spoke with Senator Talley about this,
4 obviously, he was not on the JMSC?

5 MS. PHILLIPS: That's right.

6 CHAIRMAN RANKIN: Yeah, okay.

7 MS. PHILLIPS: And we did not foresee that.

8 CHAIRMAN RANKIN: Very good. All right. Ms.
9 Phillips, thank you so much. This will
10 conclude this portion of the screening process.
11 Pursuant to the law and our view of very
12 serious adherence to the letter and spirit of
13 the South Carolina ethics laws. Any violation
14 or appearance of impropriety is deemed a very
15 serious thing, in which case, if that were to
16 arise, which we would not anticipate, you
17 understand we would call you back, correct?

18 MS. PHILLIPS: Yes, thank you. And to clarify I did
19 not contact any other member of the Commission.

20 CHAIRMAN RANKIN: Right. Right. Well, we
21 understood that. I just wanted to make sure I
22 was listening totally correctly there. This
23 record isn't closed until the final release of
24 the record of qualification. And therefore,
25 again, we can have you back, again, we don't

1 anticipate that. Thank you for being here.

2 And go Cocks, right?

3 MS. PHILLIPS: I can't, sorry.

4 CHAIRMAN RANKIN: Just say, go SEC. Don't say go
5 Orange, really.

6 MS. PHILLIPS: Go SEC.

7 CHAIRMAN RANKIN: Yeah, you can't be --

8 MS. PHILLIPS: And sometimes ACC.

9 CHAIRMAN RANKIN: -- one master, come on. Is
10 Vanderbilt, is it Tennessee, I mean.

11 MS. PHILLIPS: No, it's definitely Tennessee, I'm
12 sorry.

13 CHAIRMAN RANKIN: Well, we beat y'all last year.
14 God bless you. Merry Christmas.

15 (Of
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Record)

16 CHAIRMAN RANKIN: Come on up, sir. I apologize for
17 the delay here.

18 MR. ROGERS: Not a problem.

19 CHAIRMAN RANKIN: Raise your right hand.

20 SHANE W. ROGERS, having been duly sworn, testifies
21 as follows:

22 CHAIRMAN RANKIN: I apologize for the delay in
23 getting started here. We've had a lot going on
24 previously. We will make very quick work of
25 this, unless there are questions of the

1 Commission members. To get started, you have
2 before you the PDQ, the Sworn Statement. Any
3 objections to those being made a part of the
4 record?

5 MR. ROGERS: No objection.

6 CHAIRMAN RANKIN: If you'll hand those to Caroline
7 to your right. We, in this effort to
8 investigate your qualifications for service as
9 a Master-in-Equity, look at lots of things.
10 The evaluative criteria, nine of those, plus
11 the ballot box survey, study of your
12 application materials, verification of your
13 compliance with the state ethics laws, search
14 of newspaper articles in which your name
15 appears, study of previous screenings and a
16 check for economic conflicts of interest. No
17 affidavits have been introduced in opposition
18 to your candidacy, nor have witnesses asked to
19 be present to testify. With that, sir, you
20 have the right to make a brief opening
21 statement, otherwise we'll turn it over to Emma
22 Dean for questions. She's subbing for Roland
23 today.

24 (Exhibit Number 32 was marked for identification
25 purposes - (15 pages) Personal Data Questionnaire

1 for Shane W. Rogers.)

2 (Exhibit Number 33 was marked for identification
3 purposes - (7 pages) The Sworn Statement of Shane W.
4 Rogers.)

5 MR. ROGERS: Given the time frame, I'm not going to
6 make an opening statement unless y'all want to
7 hear something special.

8 CHAIRMAN RANKIN: Thank you. Emma.

9 MR. ROGERS - EXAMINATION BY MS. DEAN:

10 MS. DEAN: Thanks, Mr. Chairman. I note for the
11 record that based on his testimony contained in
12 the candidate's PDQ, which has been included in
13 the record with the candidate's consent, Shane
14 Rogers meets the statutory requirements for
15 this position regarding age, residence and
16 years of practice. Mr. Rogers, how do you feel
17 your legal and professional experience thus far
18 renders you qualified and will assist you to be
19 an effective Master-in-Equity?

20 A. Simply put, I've been doing litigations since I
21 started practicing. Before I went to law
22 school, I wanted to be a litigator. I've been
23 involved in civil litigation from the moment I
24 started practicing. The week after I was sworn
25 in, I was involved in a trial. So I've been in

1 a courtroom and courtroom-related settings
2 since the day I started. Always wanted to be
3 involved in litigation, that was always my
4 interest. Quite honestly, doing what I'm doing
5 now. Standing on my feet and talking in front
6 of a group was kind of what drew me to the
7 practice of law. As far as my experience, I've
8 been involved in various areas of civil
9 litigation, having appeared in front of Judge
10 Cooper, the Master-in-Equity in Spartanburg,
11 several times. Judge Simmons, over in
12 Greenville. On a lot of occasions, Jack
13 Kimball over in York when I was there. So, my
14 practice is pretty diverse. Started out in
15 insurance defense background, originally, and
16 some probate litigation. Came to Spartanburg,
17 returned home to Spartanburg where I'm from and
18 started doing a lot of litigation there. But
19 it kind of went into different areas. So, in
20 short, it's just my legal experience. The
21 background that I have is largely civil
22 matters, no real criminal background. As far
23 as practice, no family court, other than
24 appointed cases. So this is the court that
25 made the most sense from my legal practice and

1 my experience. I think that answers the
2 question.

3 Q. Thank you, Mr. Rogers. The Commission received
4 92 ballot box surveys regarding you with 13
5 additional comments. The ballot box survey,
6 for example, contained the following positive
7 comments: Superior candidate. We're lucky he
8 is interested in the position. Unusually broad
9 and deep litigation experience. He would be
10 great for this position. He practices
11 regularly before the Master in the seventh
12 circuit. Has the legal knowledge to be a
13 valuable member of the bench. Mr. Rogers, you
14 did not receive any written negative comments.
15 In your PDQ, you stated that you have been
16 involved as a defendant in one lawsuit, Smith
17 v. H-O-E-Y, Hoey, it says, which was filed on
18 April 13th, 2018 in the Spartanburg Master's
19 court. The case was dismissed on July 13th,
20 2018. Can you explain the nature of this
21 lawsuit?

22 A. I was actually not a party. I represented a
23 party --

24 Q. Great.

25 A. -- in that litigation. The only case that I

1 would have potentially been a party would have
2 been as a personal representative in a probate
3 matter in a petition to sell real property.
4 That's the only time I've ever been in a case
5 where I was actually a named party. Otherwise,
6 it's been a representative capacity.

7 **Q. Thank you.**

8 MS. DEAN: I will note the Upstate Citizens
9 Committee found Mr. Rogers to be qualified in
10 the areas of constitutional qualification,
11 physical health and mental stability. The
12 Committee found him well qualified in the areas
13 of physical fitness, professional and academic
14 ability, character, reputation, experience and
15 judicial temperament.

16 **Q. Mr. Rogers, just to move into some housekeeping**
17 **issues. 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. I am.

22 **Q. Since submitting your Letter of Intent, have**
23 **you contacted any members of the Commission**
24 **about your candidacy?**

25 A. I have not. I would like to clarify just Scott

1 Talley, Senator Talley, is on the Commission.
2 I have contacted him because we're a party --
3 opposing parties in cases. But it's not with
4 regard to my candidacy of Master-in-Equity.
5 But in full disclosure, I have communicated
6 with Mr. Talley about cases that he and I are
7 involved in.

8 Q. Thank you. Are you familiar with Section 2-19-
9 70, including the limitations of contacting
10 members of the General Assembly regarding your
11 screening?

12 A. I am.

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

17 A. I have not.

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

22 A. I have not and I am not aware of anybody doing
23 that.

24 Q. Have you reviewed and do you understand the
25 Commission's guidelines on pledging in South

1 **Carolina Code § 2-19-70(E)?**

2 A. I am.

3 MS. DEAN: Mr. Chairman, I would note for the record
4 that any concerns raised during the
5 investigation by staff regarding the candidate
6 were incorporated into the questioning of the
7 candidate today. I've no further questions.

8 CHAIRMAN RANKIN: Very well. Hope, anything?

9 MS. LOGAN: Yeah. Hello, Mr. Rogers. I don't think
10 we've had the pleasure of meeting, but I wanted
11 to first go on record and make the statement
12 that Senator Scott Talley has recused himself
13 from this hearing. But I quickly want to add a
14 note that you've been waiting a long and want
15 to get through. But you have a plethora of
16 wonderful reference letters by some great
17 people that I know personally and
18 professionally. But one in particular, I need
19 to send a message back to John Rogers, was the
20 first person that I helped intern when I worked
21 in the solicitor's office. I think very highly
22 of John and he's an impeccable person, just
23 like the rest of these folks that have written
24 you reference letters. But please tell John I
25 said hello and I wish him the best and thank

1 you for running for this position.

2 MR. ROGERS: I appreciate that and I'll be happy to
3 speak to him about it.

4 MR. ROGERS - EXAMINATION BY VICE CHAIRMAN SMITH:

5 Q. Mr. Rogers, let me just ask you a quick
6 question. You practice at, I see, Johnson &
7 Smith, is that with Doug Smith's law firm?

8 A. It is.

9 Q. All right. And since you're under oath, what
10 is it like being partners with Doug Smith?

11 CHAIRMAN RANKIN: You can plead the Fifth.

12 A. I enjoy it because he's not there quite as
13 frequently as he was in years past. Doug's
14 actually been a really good resource for me to
15 work with. He's done a lot of litigation work
16 in the past. And so he was -- he was my first
17 connection to the law firm and is part of the
18 reason why I came to join Johnson Smith as Doug
19 basically recruited me to come over and do some
20 litigation work.

21 Q. Well, good. I went to high school with Doug's
22 wife and so I've known them forever, so tell
23 Doug -- actually I'll draw you a picture of
24 what I want you to tell Doug.

25 A. Okay.

1 CHAIRMAN RANKIN: All right. With that, unless
2 there are other questions, this will conclude
3 this portion of the screening process. You
4 understand that pursuant to our evaluative
5 criteria, both the spirit and the letter of the
6 ethic law is a big deal to us. We view that
7 very seriously and any violation or the
8 appearance of impropriety would be very heavily
9 debated by us and worthy of lots of attention.
10 All that to say this record is left open until
11 the final release of the Report of
12 Qualifications. You understand that we could
13 call you back if there was any issue with that,
14 correct?

15 MR. ROGERS: I certainly understand that.

16 CHAIRMAN RANKIN: All right, sir. With that we'll
17 close this portion. Thank you for being here.
18 Merry Christmas to you and your family.

19 MR. ROGERS: I thank you for your time, everybody.

20 (Off the Record)

21 CHAIRMAN RANKIN: Judge Wall, welcome.

22 JUDGE WALL: Thank you, sir, and thank you, Mr.
23 Chairman.

24 CHAIRMAN RANKIN: My apologies for the delay in
25 getting started. If you will raise your right

1 hand?

2 THE HONORABLE TOMMY JUDGE WALL, having duly been
3 sworn, testifies as follows:

4 CHAIRMAN RANKIN: Very well, to make quick work of
5 the preliminaries, you've got before you two
6 documents, do you have any objection to those
7 being included in the record?

8 JUDGE WALL: No, sir. I do not.

9 CHAIRMAN RANKIN: All right. If you'll hand those
10 to Caroline to your right, she'll hand those to
11 the court reporter and we'll get started. All
12 right. Judge, this is part of our
13 investigation into your candidacy. You know
14 that we look at nine evaluative criteria. We
15 also look at your ballot box surveys, a
16 thorough study of your application materials,
17 verification of your compliance with state
18 ethic laws, search of newspaper articles in
19 which your name appears, study of previous
20 screenings and a check of economic conflicts of
21 interest. No affidavits have been introduced
22 in opposition to your campaign and no witnesses
23 are present to testify. You have the
24 opportunity to make a brief statement if you'd
25 like, otherwise we'll turn it over to Ms.

1 Barton for questions.

2 (Exhibit Number 34 was marked for identification
3 purposes - (15 pages) Personal Data Questionnaire
4 for The Tommy Wall.)

5 (Exhibit Number 35 was marked for identification
6 purposes - (1 page) Amendment to Personal Data
7 Questionnaire for The Honorable Tommy Wall.)

8 (Exhibit Number 36 was marked for identification
9 purposes - (5 pages) Sworn Statement of The
10 Honorable Tommy Wall.)

11 JUDGE WALL: Certainly, sir, I respect your time. I
12 would just like to thank everyone for your time
13 here and I do appreciate it and I welcome your
14 questions.

15 CHAIRMAN RANKIN: Thank you so much. Ms. Barton.

16 JUDGE WALL - EXAMINATION BY MS. BARTON:

17 MS. BARTON: Thank you, Mr. Chairman. I note for
18 the record that based on the testimony
19 contained in the candidate's PDQ, which has
20 been included in the record with the
21 candidate's consent, Judge Thomas Wall meets
22 the statutory requirements for this position
23 regarding age, residence and years of
24 experience.

25 **Q. Judge Wall, how do you feel your legal and**

1 professional experience thus far renders you
2 qualified and will assist you to be an
3 effective Master-in-Equity?

4 A. First, I have 10 years of trial experience
5 prior to becoming a magistrate judge. I've
6 been a magistrate judge for what is quickly
7 approaching 16 years presiding over civil and
8 criminal cases as a full-time judge during that
9 time. And it is my humble belief that that
10 experience gives me the qualifications that I
11 need to perform the duties of Master-in-Equity.

12 Q. Thank you. Judge Wall, the Commission received
13 a 194 ballot box surveys regarding you, with 22
14 additional comments. The ballot box survey,
15 for example, contained the following positive
16 comments: Judge Wall has always been fair and
17 has the best temperament of any judge I have
18 appeared before. Very fair and reasonable. He
19 would carry on the high standards established
20 by Judges Couch and Cooper. He is fair,
21 courteous, patient and very understanding. Six
22 of the written comments expressed concerns.
23 Several of the comments indicated concern
24 regarding your lack of experience in civil law.
25 What response would you offer to these

1 **concerns?**

2 A. First, I would respond that I've had, again,
3 almost 16 years. In February, it'll be 16
4 years experience presiding over civil and
5 criminal cases. So, that again has been as a
6 full-time judge presiding over a variety of
7 civil cases, having to make rulings mostly in
8 bench trials, which, of course, is what a
9 Master-in-Equity does. So, it would be --
10 presiding over bench trials, and that has given
11 me a great deal of experience. It also -- in
12 preparation for seeking this position I have,
13 at my own expense, taken several criminal CLEs
14 and -- sorry, getting a little nervous standing
15 before y'all and I said criminal. CLEs the
16 2020, 2019 and 2018 Master-in-Equity bench Bar
17 CLE, I did that. Also took some additional
18 civil and property CLEs in preparation for
19 this. I've been in conversations with Judge
20 Cooper regarding what occurs in the Master-in-
21 Equity office. He will certainly -- and he
22 would do this for any of the candidates I know.
23 Whoever the person is that's selected will have
24 a good opportunity to spend several months with
25 him, working with him prior to taking the

1 position.

2 **Q. Thank you. Two comments expressed concern**
3 **about starting court on time, specifically**
4 **referencing not starting before 10:00 a.m.**
5 **What response would you offer these concerns?**

6 A. I'm concerned that a person had that thought
7 that we did not start before 10:00 a.m. Our
8 court is scheduled to began at 9:00 and we have
9 various court times that are scheduled.
10 Regarding that specific situation, I would have
11 to know more about it to truly respond to it.
12 I would just say to the Commission members that
13 I greatly respect everyone's time. I never
14 want to be the delay, the cause for any delay
15 in the court system and work very hard to
16 prevent that from happening.

17 **Q. Thank you. One comment expressed concern that**
18 **you sometimes appear aloof. What would you, if**
19 **any, respond to this concern?**

20 A. I certainly -- I take that response seriously.
21 However, I'm really not sure what would have
22 caused that. The person may have just mistaken
23 in some way my behavior or demeanor and I'm
24 really -- I'm not sure what could have possibly
25 caused that. I know -- I'm not sure if it

1 indicated in the courtroom or outside of the
2 courtroom. One thing I will say, my peripheral
3 vision is not as good as it should be. I've
4 been known many times to walk down the hall and
5 be just about to walk by a very good friend and
6 did not see them until they said, Tommy. And I
7 looked and saw them there. It's entirely
8 possible I walked past somebody and somebody
9 just thought I walked past them and was looking
10 past them. But that would not have been my
11 intent.

12 **Q. Thank you. Judge Wall, your SLED report**
13 **indicated that you were named in two civil**
14 **matters filed in District Court. Derham**
15 **Williams, a pro se inmate at the time, versus**
16 **Judge Durham Cole, et al., filed December of**
17 **2011 and dismissed for service issues shortly**
18 **thereafter. And Peter Smith, a pro se inmate**
19 **at a local detention facility at the time**
20 **versus Mike Moran and yourself, filed June 1998**
21 **and dismissed shortly thereafter for service**
22 **issues. Are you familiar with these lawsuits**
23 **at all?**

24 **A. No, I'm not familiar with those lawsuits.**

25 **MS. BARTON: I would note that the Upstate Citizens**

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

9 **Q. Just a few more questions, Judge.**

10 A. Yes, ma'am.

11 **Q. Are you aware that as a judicial candidate, you**
12 **are bound by the Code of Judicial Conduct as**
13 **found in Rule 501 of the South Carolina**
14 **Appellate Court Rules?**

15 A. Yes, ma'am, I am.

16 **Q. Since submitting your Letter of Intent, have**
17 **you contacted any member of the Commission**
18 **about your candidacy?**

19 A. I did have contact with Senator Talley prior to
20 him being named to this Commission.

21 **Q. But not subsequent to?**

22 A. No, ma'am. Not subsequent to.

23 **Q. Are you familiar with Section 2-19-70,**
24 **including the limitations on contacting members**
25 **of the General Assembly regarding your**

1 **screening?**

2 A. Yes, ma'am.

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

7 A. No, ma'am.

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

12 A. No, ma'am.

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

16 A. Yes, ma'am, I have reviewed and I do understand
17 it.

18 MS. BARTON: Mr. Chairman, I would note for the
19 record that any concerns raised during the
20 investigation by staff regarding the candidate
21 were incorporated into the question of the
22 candidate today and I have no further
23 questions.

24 VICE CHAIRMAN SMITH: All right. Thank you very
25 much. Hope, questions.

1 MS. LOGAN: Good afternoon.

2 JUDGE WALL: Good afternoon.

3 MS. LOGAN: It's good to see you.

4 JUDGE WALL: Good to see you.

5 MS. LOGAN: I wanted to go on record to first state
6 that Senator Scott Talley has recused himself
7 from this hearing and wanted that to be on the
8 record as his wishes. But I also wanted to
9 include on the record of our professional
10 friendship, a long-term friendship, having
11 worked in the solicitor's office and as you
12 became the chief magistrate. I do want to
13 apologize because I might be part of the
14 problem of why you started at 10:00 versus 9:00
15 when I worked in the courthouse and would often
16 ask you to come to a meeting that happened
17 abruptly because we had some major issue going
18 on, so that's on the record. And I may be part
19 of that problem, in regards to that, because
20 I've known you to be nothing but a level-
21 headed-ready-to-work. And one of the -- I know
22 a lot of smart people and I include you on that
23 list. I'm happy that you're running. I wish
24 you the very best and I think your
25 qualifications and your letters of support are

1 impeccable and again, wish you the very best,
2 Judge Wall.

3 JUDGE WALL: Thank you, ma'am. I appreciate that
4 and if I could just say, even had you had me in
5 a meeting I would have texted another judge who
6 would have covered that court. So, the court
7 wasn't held up, but thank you.

8 VICE CHAIRMAN SMITH: All right. Pete, you have
9 questions.

10 MR. STROM: Thank you, Mr. Chairman. Judge Wall, I
11 don't know you but I've looked over your resume
12 and I'm very impressed with what I see. I
13 mean, obviously, you have plenty of time in a
14 courtroom, trying cases. Certainly, a
15 magistrate judge hears civil and criminal. We
16 all understand that. I see that you've been
17 the chief judge and you've been responsible for
18 the finances and stay on top of that. That
19 tells me you know how to run a docket. And
20 probably the most impressive thing I see here
21 is the fact that you've run the drug court up
22 there since 2010 and, you know, we all know
23 that that is a passion.

24 JUDGE WALL: Yes, sir.

25 MR. STROM: That's not something you get paid extra

1 for. It involves overtime. It involves
2 getting involved emotionally with people and
3 the carrot and stick approach trying to make
4 your community better. And I just want to
5 thank you for spending that time doing that. I
6 know the people from Spartanburg County want to
7 thank you as well.

8 JUDGE WALL: Thank you, sir. I greatly appreciate
9 that.

10 VICE CHAIRMAN SMITH: Thank you. Any further
11 questions. All right. Judge Wall, without
12 further adieu, this will conclude your
13 screening process. Let me take this
14 opportunity to remind you that pursuant to the
15 Commission's evaluative criteria, the
16 Commission expects you to follow the spirit as
17 well as the letter of ethics law. We will view
18 any transgressions with a heavy weight in the
19 screening deliberations. The record's going to
20 remain open until the formal release of the
21 Report of Qualifications and you may be called
22 back at such time if the need arises.
23 Hopefully, it will not. So, with that being
24 said, I thank you for your service to the State
25 of South Carolina. Thank you for being here.

1 Certainly apologize for the delay. We're on
2 what we call Senate time over here in the
3 General Assembly. But we appreciate your
4 patience with us and wish you and your family a
5 very Merry Christmas.

6 JUDGE WALL: Thank you, sir, no apology necessary.
7 And again, thank you all.

8 (Off the Record)

9 CHAIRMAN RANKIN: Raise your right hand, if you
10 will?

11 THE HONORABLE ROBERT E. HOOD, having duly been
12 sworn, testifies as follows:

13 CHAIRMAN RANKIN: You have before you the PDQ and
14 the Sworn Statement, are those ready to be put
15 into the record?

16 JUDGE HOOD: Yes, sir.

17 CHAIRMAN RANKIN: If you'll hand those to the court
18 reporter there. We will put them in as
19 Exhibits. Judge, you're familiar with this
20 evaluative process and our investigation in
21 your continued service on the bench. But I
22 want to put this on the record. There are nine
23 evaluative criteria that we look at, in
24 addition to your ballot box survey, a study of
25 your application materials, a check for

1 economic conflicts of interest, verification of
2 your compliance with the state's ethic laws,
3 search of newspaper articles in which your name
4 appears and a study of previous screenings.

5 Three affidavits have been filed in opposition
6 to your election. And three witnesses, I
7 believe -- are present to testify, are now one.
8 There's only and only one affidavit.

9 (Exhibit Number 37 was marked for identification
10 purposes - (17 pages) Personal Data Questionnaire
11 for The Honorable Robert E. Hood.)

12 (Exhibit Number 38 was marked for identification
13 purposes - (7 pages) Sworn Statement of The
14 Honorable Robert E. Hood.)

15 JUDGE HOOD: I was only informed on one affidavit
16 that was filed, Mr. Chairman.

17 CHAIRMAN RANKIN: My apologies. We had a Kelly temp
18 fill out my cheat sheet here and they have been
19 fired. You have the opportunity to make a
20 brief opening statement. And without that,
21 we'll turn it over to Ms. Crawford for very
22 concise questions and then we'll proceed with
23 this hearings.

24 JUDGE HOOD: All right. I'll waive any opening
25 statement. Thank you Mr. Chairman.

1 CHAIRMAN RANKIN: Very well.

2 JUDGE HOOD - EXAMINATION BY MS. CRAWFORD:

3 MS. CRAWFORD: Good morning -- or good afternoon
4 Judge. I am not the Kelly temp.

5 CHAIRMAN RANKIN: Meet Kelly.

6 **Q. Judge, after serving eight years on the circuit**
7 **court why do you want to continue serving?**

8 A. Well, I first want to say that the past eight
9 years have been -- and the ability to serve and
10 the privilege of serving as a circuit court
11 judge has been the greatest honor of my life.
12 And I am just so thankful to the members of the
13 General Assembly who have, over the years have,
14 entrusted me with this critical and crucial
15 position in our state and I really do see it as
16 an act of service. That's why I wanted this
17 position at such an early age in life. I think
18 that we are -- we live in what is the greatest
19 justice system that the world has ever created
20 and it has its imperfections and it has its
21 issues. But I really do believe that we are
22 striving every day in South Carolina to make
23 the justice system accessible to all and for
24 all to have an opportunity to be heard. Just
25 the work that we've done in the past eight

1 months during the COVID time. I mean we've
2 reshaped how we do hearings in South Carolina
3 and that's due to the hard and dedicated work
4 of the circuit court judges. And I want to
5 continue in that for the people of this state.

6 **Q. Thank you, Judge. Judge, what do you think**
7 **your reputation is among attorneys that**
8 **practice before you?**

9 A. I would like to think that my reputation is
10 fair, prompt, on time. I think most of the
11 attorneys know that I like to start hearings in
12 an orderly fashion. I've practiced law for a
13 number of years and I spent many hours and
14 hours of my life waiting in the courtroom for a
15 judge to show up. So I think the attorneys
16 that know me and know me well know that I like
17 to be prompt, especially when anytime with a
18 jury is there and is present. We're taking
19 these people away from their jobs and their
20 livelihoods and their families and I want to
21 make the best use of that time. I think most
22 of the attorneys also know that I make my
23 decisions fairly quick. If I don't make my
24 decision from the bench, it's usually made on,
25 I would say 95 percent of my cases within a

1 week to two weeks of the hearing taking place.
2 The volume of cases that I hear, especially
3 being a resident judge in Richland County, is
4 so large that, you know, I don't have -- number
5 one, I can't remember all the details. But you
6 just don't have time to delay and delay and
7 delay with so many hearings that take place.
8 So I would hope that that is my reputation that
9 I'm fair. I also like to think that I'm
10 predictable, especially in criminal court. I
11 practiced criminal law for a number of years as
12 a prosecutor and as a defense attorney. And
13 one of the main things that I wanted for my
14 client, whether that was the defendant or the
15 victim in a case, was predictability. And I
16 think that I've established that reputation
17 amongst the criminal Bar as someone who's
18 predictable in how their hearing is likely to
19 go in front of me in a criminal case.

20 **Q. Thank you, Judge. Judge Hood, the Commission**
21 **received 990 ballot box surveys regarding you.**
22 **One hundred and six of those ballot box**
23 **surveys contained additional comments. The**
24 **survey, for example, contained many positive**
25 **comments, including the following: Great**

1 judge. An excellent trial judge. Smart and
2 professional judge and is a great example for
3 the bench. And my personal favorite looks a
4 lot like Judge Manning. Judge, there were a
5 few concerns raised. One concerning your
6 practice concerning ex parte communications.
7 Can you explain your practice concerning ex
8 parte communications with attorneys, in light
9 of Canon 3 of the Code of Judicial Conduct?

10 A. Yes, ma'am. Well, there are certain
11 circumstances where ex parte communications are
12 expressly allowed. For example, a TRO is the
13 most glaring example right off the top of my
14 head, where somebody can come to you, prior to
15 the filing of a case, and request an ex parte
16 hearing with you on a matter. But absent that,
17 I just do not participate in ex parte hearings.
18 In the earlier years of my practice, I did a
19 lot of meetings with attorneys in my office
20 during the case, prior to the case, after the
21 case. And I just really slimmed down any
22 meetings with any attorneys back in chambers.
23 You know, I've almost come to the point that
24 the safest place to do it is just to put it on
25 the record and create the record. You know,

1 when attorneys do call me and want information
2 about scheduling or -- which is also allowed
3 under the ex parte communication rules. You
4 know, the first question I ask is, does the
5 other side know you're talking to me. The
6 other thing that I do is I try to limit my
7 email correspondence. So when you get a new
8 law clerk in, it's teaching them about what ex
9 parte communications is a whole -- it's a whole
10 'nother (sic) job in and of itself. So I try
11 to filter the majority of the communication
12 that comes in through the law clerk, so that
13 there is a filter there, in case somebody is
14 having ex parte communications with the court,
15 so. But I do not tolerate ex parte
16 communications. I'm not interested in having
17 them in -- only under the situations where
18 they're allowed under the rules.

19 **Q. Thank you, Judge. Judge Hood, several comments**
20 **indicated concern about your attitude about and**
21 **conduct towards females, especially female**
22 **attorneys. What response would you offer to**
23 **these concerns?**

24 **A.** Well, the first thing that I would like to do
25 is I would like to apologize to anybody that I

1 have offended. I have the upmost respect for
2 women and I feel terrible that anyone feels
3 uncomfortable because of something that I have
4 done or that I have said. I am determined in
5 my professional life and in my personal life to
6 make my best effort to build women up to
7 recognize their struggles. To recognize the
8 work that they do and to treat them with
9 dignity and respect.

10 **Q. Thank you, Judge. Another area of concern**
11 **raised in the ballot box surveys regards your**
12 **judicial temperament. The responses indicated**
13 **that you would lose your temper or talk down to**
14 **attorneys or litigants in the courtroom. How**
15 **would you respond to these comments.**

16 **A.** Well, I'm not going to stand here and say I've
17 never lost my temper in court because I have.
18 And I realize that that is an issue that I deal
19 with and that I am constantly keeping in check.
20 And that is often brought on by stress or
21 pressure or the business or the hecticness of
22 the work week that is going on. And I
23 understand that that is no excuse. However, I
24 will do my best to be courteous and respectful
25 to all who appear in front of the court. I

1 think it's important to put things in
2 perspective that I was 36 years old when I was
3 elected. The majority of the people who were
4 appearing in front of me had been practicing
5 law, some of which, longer than I had been
6 alive. And it was very hard -- in my practice
7 of law, I had very strong and influential trial
8 lawyer mentors who taught me there was a right
9 way to do things and there was a wrong way to
10 do things. I remember my first murder trial.
11 I think I objected from the bench because I was
12 just so used to being a lawyer and I heard
13 something and I'm like, well, object, you know.
14 And I caught myself and it was hard. It was a
15 work in progress to go from -- using a baseball
16 analogy, from being the coach and the player
17 and determining the strategy or what pitch is
18 called to being the umpire and just following
19 the rules and applying the rules. And so, I do
20 my best to deal with my temper. I'm right
21 there on the bench. I have two phrases. One
22 says, take a pause and one says, you're the
23 umpire to remind myself that I'm not the player
24 or the coach and I don't get to determine the
25 strategy.

1 **Q. Thank you, Judge. Finally, other comments have**
2 **indicated that you may show favoritism to**
3 **certain attorneys. How would you respond to**
4 **that?**

5 A. Well, I have plenty attorneys, some of which
6 are in this room, who I've ruled against
7 multiple times. The docket that I handle and
8 the volume of cases that I handle simply does
9 not allow me or afford me the opportunity to
10 play favorites. It's just too massive and it's
11 too much to keep up with. And so -- that one,
12 I understand the temperament comments, that one
13 catches me off guard a little bit. And I don't
14 want people to feel that way. I want people to
15 feel like that everybody gets a shake and gets
16 a fair shake regardless of who your lawyer is.
17 But, you know, it's easy to sit out in the
18 audience and think somebody's playing favorites
19 when it's really just about, you know, who's
20 doing the lawyering and what they're doing, so.

21 **Q. Thank you, Judge.**

22 MS. CRAWFORD: Mr. Chairman, I would note for the
23 record that the Midlands Citizens Committee
24 found Judge Hood qualified in the evaluative
25 criteria of constitutional qualifications,

1 physical health and mental stability. The
2 Committee found him well qualified in the
3 evaluative criteria of ethical fitness,
4 professional and academic ability, character,
5 reputation, experience and judicial
6 temperament. The Committee also added the
7 following comment, "Judge Hood is an asset to
8 the bench." Mr. Chairman, I believe we have a
9 complainant here.

10 CHAIRMAN RANKIN: Judge, if you'll have a seat --

11 JUDGE HOOD: Yes, sir.

12 CHAIRMAN RANKIN: -- we will hear from the --
13 perhaps there were three, but there are one.
14 And I think, in fact, it is only one. Ms.
15 Ballard, is that you?

16 MS. BALLARD: Mr. Chairman, yes, it is. It's been a
17 while since I've seen all of you --

18 CHAIRMAN RANKIN: It's been a long time, that green
19 shimmy, shimmy cocoa puff is throwing me off.
20 Take that mask off.

21 MS. BALLARD: I can do that, good. Thank you.

22 CHAIRMAN RANKIN: Very well. State your name for
23 the record?

24 MS. BALLARD: Dessa Ballard.

25 CHAIRMAN RANKIN: Raise your right hand?

1 MS. DESSA BALLARD, having been duly sworn, testifies as
2 follows:

3 CHAIRMAN RANKIN: Very well. Erin.

4 MS. CRAWFORD: Thank you, Mr. Chairman. Ms.

5 Ballard, the Commission is in receipt of your
6 complaint against Judge Hood and it's been
7 provided to each Commission member. In that
8 sworn complaint, you allege three issues with
9 Judge Hood in the handling of a case in which
10 you were involved. You allege that Judge Hood
11 told you that he would not grant habeas corpus
12 unless your client agreed not to sue the state
13 after his release. You also allege that Judge
14 Hood requested proposed orders from defense
15 counsel without informing them as how he
16 intended to rule or what should be in the order
17 and that he signed the proposed order submitted
18 by defense counsel. Finally, you allege that
19 Judge Hood acted as an advocate for the state
20 because of his prior employment as a statewide
21 grand jury prosecutor and failed to act
22 impartially. Ms. Ballard, prior to filing a
23 complaint with the Judicial Merit Selection
24 Commission, you raised issues about Judge
25 Hood's action in two other forums. You

1 appealed Judge Hood's order alleging, among
2 other things, bias. However, the court ruled
3 that this issue was un-preserved for appellate
4 review and that you never moved at any point
5 for Judge Hood to recuse himself. You also
6 filed a complaint against Judge Hood with
7 judicial standards based on the same
8 allegations that you now make to the
9 Commission. That complaint was dismissed. Ms.
10 Ballard, is there anything else you would want
11 to add regarding your allegations detailed in
12 your sworn complaint regarding Judge Hood?

13 MS. BALLARD: No, my complaint is pretty clear.

14 MS. BALLARD - EXAMINATION BY CHAIRMAN RANKIN:

15 **Q. Okay. Questions by members of the Commission.**
16 **Ms. Ballard, this matter was litigated and the**
17 **Court of Appeals issued a decision?**

18 A. The Court of Appeals reversed in part and
19 remanded for us to pursue post-conviction
20 relief proceedings.

21 **Q. This has been effectively litigated. Again,**
22 **perhaps not with any regard to Judge Hood's**
23 **service on the bench, but this has been vetted**
24 **before another tribunal effectively; is that**
25 **correct?**

1 A. You mean the disciplinary counsel, the
2 Commission on Judicial Conduct?

3 Q. Yes, ma'am.

4 A. It was dismissed, yes, by an investigative
5 panel.

6 Q. All right. And for the record, do you
7 understand that, but for COVID, the timing of
8 your complaint would not have been allowed,
9 correct?

10 A. Yes. And I wanted to thank you, as well as the
11 staff for that.

12 Q. Okay. Have you ever filed a complaint against
13 a judicial candidate or a sitting judge before
14 at a JMSC?

15 A. No.

16 Q. All right. And have you ever filed a complaint
17 against a sitting judge or judicial candidate
18 before ODC, other than Judge Hood?

19 A. I don't believe so, no. I've defended quite a
20 few judges and lawyers before ODC. But no, I
21 don't believe I've ever filed a complaint
22 against one, other than Judge Hood.

23 Q. So this is your trade, you know how to do this?

24 A. I do.

25 CHAIRMAN RANKIN: Very well. Very good. Okay,

1 questions by any members of the Commission
2 regarding this? Mr. Rutherford?

3 REPRESENTATIVE RUTHERFORD: For the record, Mr.

4 Chairman. I don't share with my Chairman, as I
5 don't a lot of things. But because of COVID, I
6 think if it's late, it's just late. And so I
7 don't share our acceptance of it. And I just
8 wanted to place that on the record because I
9 don't want to start the standard where things
10 can be late for any given reason. Judges'
11 applications had to be in, other information
12 had to be in. We had to be here. And the fact
13 that it was late, you know, nothing against Ms.
14 Ballard, but if it was late I don't believe we
15 should have accepted it. And in reading it, it
16 does look like the re-litigation of something,
17 which again, you take your shot and you
18 continue to take your shot. I didn't see
19 anything new in here that moved the needle one
20 way or another. That's just my two cents.

21 MS. BALLARD - RE-EXAMINATION BY CHAIRMAN RANKIN:

22 **Q. Ms. Ballard, with regard to the time limit,**
23 **again, you're not a lay person who might or**
24 **might not know the strict adherence to a**
25 **statute of limitations, for example?**

1 A. Correct.

2 Q. So again, we have accepted it, just as, again,
3 rightly or wrongly, why were you late in filing
4 this?

5 A. Well, unlike many people I've not been affected
6 by COVID. My business has stayed pretty
7 steady. And if it weren't for the last minute
8 I would never get anything done. This was not
9 something I wanted to do. I've never done it
10 before. I've been a lawyer for 37 years. I
11 felt it was my obligation to bring it to this
12 committee's attention. I think it's unfair to
13 characterize it as saying, I've already had two
14 bites at the apple because that's not the
15 question. We did appeal it. And we did file a
16 complaint with the Commission on Lawyer -- on
17 Judicial Conduct. But the question that was
18 raised here was whether Judge Hood possesses
19 the requisite ethical fitness to serve as a
20 judge. This committee's done a great job,
21 during my entire career, on giving us very good
22 judges. I've never said a word before. But I
23 appeared in front of a judge who clearly became
24 a advocate for the State, who was one of the
25 parties in the case. I felt obligated to bring

1 this to your attention. I have no agenda. I
2 don't know Judge Hood. This was the first time
3 I ever appeared in front of him. I take my
4 obligations as a lawyer very seriously. And
5 that's the only reason I filed this complaint
6 because I felt like this committee needed to be
7 aware of the single occasion on which Judge
8 Hood became an advocate. And it was adverse to
9 my client but he became an advocate, which he's
10 not supposed to do. And I felt like it was
11 important for this committee to be aware of
12 that.

13 CHAIRMAN RANKIN: Okay. Thank you. Questions.
14 Representative Smith.

15 MS. BALLARD - EXAMINATION BY REPRESENTATIVE SMITH:

16 Q. Thank you, Ms. Ballard, how are you doing
17 today?

18 A. I'm great and I hope you are.

19 Q. I'm doing well. Let me preface this by saying
20 I've had a case or two with you. I've got
21 immense amount of respect for you. But as I
22 look through this, you know, I hear that you're
23 not getting the second bite of the apple. I
24 sort of agree with you that you've got the
25 opportunity -- you're making allegations about

1 his fitness and his ability to serve and that
2 does come before us. But still coming before
3 us we have to weigh what you have presented to
4 us. And as I look through this complaint and
5 then I turn and look at Judge Hood's response.
6 I mean, they're polar opposites.

7 A. I've not seen his response, so I don't know.

8 Q. Okay. Well, I don't know what the rules are,
9 the committee, well, they're shaking heads, I
10 guess you don't get to see it.

11 A. No, I don't know.

12 Q. But he doesn't agree with you. And so, when we
13 go through this, you know, a couple of things
14 that when I looked through this is we've got
15 the, obviously, to make a determination as to
16 the merit of these. And so when you look --
17 and the Court of Appeals has dismissed it. The
18 ODC has dismissed it, all for practical
19 purposes. And I know there maybe other reasons
20 that that happens. How are we to weigh in --
21 give weight to this when other forms have
22 found, for a lack of a better term, that
23 there's no merit to this?

24 A. My obligation, as a lawyer is to bring this up
25 when it's supposed to be brought up. I brought

1 it before the Commission on Judicial Conduct
2 because I was obligated to do so. I brought it
3 before this committee because I felt obligated
4 to do so. I have no agenda here. I do take
5 issue with the suggestion that the Court of
6 Appeals did this, so it shouldn't matter or the
7 Commission on Judicial Conduct did this and it
8 shouldn't matter. This committee is charged
9 with determining whether all applicants for
10 judicial seats possess the requisite character
11 and fitness to be judges. The Court of Appeals
12 doesn't do that. The Commission on Judicial
13 Conduct doesn't do that. You do that. So it
14 was my obligation as a lawyer to bring this to
15 your attention. I have no interest in the
16 outcome. It was my obligation. And many
17 people say they're going to do things like this
18 and then they don't do it because they're
19 scared to do it. I've heard many lawyers in my
20 career say, oh, I'm going to bring that up
21 before the Judicial Standards Commission when
22 he comes up for re-election and they don't do
23 it. And that is letting down their obligations
24 as lawyers. If there's something that a judge
25 has done that is evidence of an ethical breach,

1 it's your obligation as a lawyer to bring it to
2 the committee's attention and that's what I
3 did.

4 Q. So if there is an ethical breach, it's also
5 your duty as an attorney to move to recuse the
6 judge. Did you move to recuse?

7 A. I did not.

8 Q. Okay. So, if you've got these ethical
9 obligations that you have to follow, and you
10 pick and choose when you follow them, does that
11 not cause some concern there? I mean, look I
12 hate to say this, I did it to a well-respected
13 judge one time, but my client was over there.
14 He told me if my client didn't plead guilty he
15 was going to put him jail for the maximum term.
16 And so my client said, I don't want him to be
17 my judge. I want him to be gone. And I rolled
18 out there as a lawyer, had two years under my
19 belt and made that motion. And he was staring
20 -- he was throwing daggers at me with his eyes.
21 But I, you know, I had that ethical obligation
22 and I went and I did it. And so here you're
23 talking about your ethical obligations but then
24 you didn't recuse him when the opportunity is
25 there. And that's the mechanism for attorneys

1 to say, Judge, you've stepped out of your role
2 as a fair and impartial arbiter of this case
3 and you're now sitting on the side of the
4 State. And I'm going to ask you to recuse
5 yourself and, you know, we do it all -- I mean,
6 I presume it happens routinely around the state
7 and so, you know, that's really my concern when
8 I look at this. And again, it's not a
9 reflection on you. And I want to say this
10 that, again, I'm not trying to criticize you,
11 but when I've got to weigh it and you -- there
12 is the opportunity and the mechanism that the
13 law creates to raise issues, and it's not
14 raised, it's not preserved for appeal, but then
15 you're going to come back and come over here.
16 And I want these complaints to come. I mean, I
17 really do. And, you know, I'm one of the ones
18 that said, regardless of the lateness of the
19 filing that we had COVID restrictions, I differ
20 from Mr. Rutherford. If you can file things
21 differently because of COVID then, then we're
22 going to do it over here because I'm not
23 foreclosing and calling on a technicality under
24 these exceptional circumstances. I didn't know
25 that, you know, you were like me, we don't do

1 things until the last minute and that causes
2 it. That would have probably changed some of
3 my thought process on it. But regardless of
4 that, you know, we've allowed it and I don't
5 think we're trying to make this a process of
6 intimidation or a process of trying to
7 routinely dismiss them. But I'm looking at
8 this on the merits. And again, I'm just going
9 to tell you my concern -- and I speak for
10 Murrell Smith only. But my concern is that,
11 you know, the opportunity and the mechanism to
12 bring this and say Judge, you know, you need to
13 recuse yourself, give the Court of Appeals an
14 opportunity to do that, to review this, to give
15 us an opportunity to just not have, you know,
16 he said, she said and other avenues have not
17 found any legitimacy or merit to what these
18 allegations are and then ask us to come and do
19 it all over again when you didn't do your
20 portion of what you should have done and that
21 was raise the issue at the trial court.

22 A. With respect, the activity in which Judge Hood
23 engaged was after we had tried the case. Had I
24 made a motion at that point to recuse him, it
25 would have appeared to be as weak a motion as

1 it was. The standard for recusing a judge is
2 pretty high. It requires extra judicial bias.
3 I didn't think I could prove that as a lawyer.
4 You have to decide when to object and when not.
5 That would not have been an effective and
6 useful objection for me to make. And I would
7 point out that the Court of Appeals did not
8 address the issue. They said it was not
9 preserved, which was correct. It was not
10 preserved. And it was not preserved
11 intentionally because I didn't think it was the
12 right place and time to raise it.

13 **Q. Well, I appreciate that and, you know, we**
14 **thoroughly investigate these things. And so we**
15 **have staff that goes through this with a fine**
16 **tooth comb and, you know, when we did that, you**
17 **know, I saw that there was a case that they**
18 **provided where a similar occurrence happened**
19 **with you and Judge Houston. Same thing you**
20 **brought it to the attention of the Court**
21 **Appeals post and not preserved and they had**
22 **some sharp criticism for that. What's the**
23 **difference between Judge Houston's and this**
24 **one?**

25 **A. I don't recall that matter, I'm sorry.**

1 **Q. All right, we'll produce that to you. The case**
2 **-- I don't have it in front of me, but there's**
3 **a case that happened a few years ago with that.**

4 **A. People call me about cases all the time that**
5 **I've handled and they're published in the**
6 **Southeastern Reporter and I don't remember them**
7 **and I'm sorry.**

8 **Q. So, you may not have been the trial attorney**
9 **in that one, okay.**

10 **A. I get hired to do appeals. I have no idea. I**
11 **did have a civil case that I handled on appeal**
12 **that Judge Houston was the trial judge that had**
13 **to do with a trust in a state matter and that**
14 **could have been the case, but I'm speculating.**
15 **Again, I'm not asking for this committee to**
16 **explain to me why you don't think my complaint**
17 **has merit, that's not why I'm here. I don't**
18 **need an explanation from you. I did my job. I**
19 **came here. I told you about it. You owe me no**
20 **explanation whatsoever. It's completely within**
21 **your discretion to dismiss my complaint. It**
22 **was my obligation to raise it.**

23 **Q. Yeah, I don't necessarily agree with that, you**
24 **know, that we don't, we owe the public the**
25 **duty. And you're part of the public. So, you**

1 know, I don't, I don't agree with you that we
2 don't owe an explanation. We owe a duty to
3 investigate these things and to determine
4 whether they have merit. And then -- and so
5 what all I'm trying to do is offer you the
6 opportunity. I hear what you say. I'm going
7 to raise it and y'all figure it out. I see it
8 a little bit more. I mean, if you're going to
9 come here and you're present testifying. I
10 know you and I appreciate that you didn't
11 really say anything. You didn't, you said I
12 stand on my complaint. But I'm just trying to
13 make a determination, you know, of if this
14 rises to the level, how do we get there. And I
15 do think that we have to find, by some burden
16 of proof, preponderance of the evidence or
17 something and maybe that's just me -- the
18 lawyer in me talking. But we have to find that
19 there is some credibility to it and we'll
20 certainly hear from Judge Hood and see what he
21 says about this before we move forward. But,
22 you know, I want to give you that opportunity
23 for us -- to tell us what we need to learn
24 about this case or what we didn't know to find
25 that what has previously been determined by two

1 other entities. And they're not binding on
2 this committee. And let me make sure I say
3 that because, you know, what ODC says is a
4 different standard than this. What the Court
5 of Appeals is a different standard. But it's
6 more the findings that came from there, not --
7 that brings some of this sway some of the
8 tension though to it, so. All right. That's
9 all the questions I have.

10 CHAIRMAN RANKIN: Representative Rutherford.

11 REPRESENTATIVE RUTHERFORD: I just wanted to change
12 my comments to state that I disagree with my
13 chairman and my other chairman on the
14 acceptance of it, since he said he would have
15 accepted it, that's fine. And I wanted to tell
16 you how much we appreciate you being here.

17 MS. BALLARD: Thank you.

18 REPRESENTATIVE RUTHERFORD: Because it is a very
19 real thing when lawyers feel obliged to make
20 comments against judges that they come before
21 us. And, in fact, that's one of the things we
22 try and encourage so that we can get a sense of
23 what's going on. But I do want to differ with
24 you in that we do owe you an obligation of
25 telling you why -- how we're looking at this

1 and why and owe you the opportunity, if you
2 would like, to disagree with us as we state
3 what we're stating because maybe we're wrong.
4 I've looked at this, and again, I don't think
5 it's proper that we address it, but if it's
6 going to be in front of us. I just simply
7 don't think it meets with something I would be
8 concerned with for a candidate in front of this
9 committee, be they a sitting judge or a lawyer
10 if they had done the same conduct. I don't
11 believe that because it's been to Judicial
12 Standards that that weighs heavily on my mind,
13 it does not. Or the Court of Appeals, that
14 doesn't weigh either. I'm just looking and
15 taking it as I'm reading it. I further
16 appreciate you saying, hey, I felt like I had
17 to do this and so this is what I did. I do
18 somewhat differ on the fact that I don't
19 believe that coming in front of JMSC is an
20 obligatory step for a lawyer that has a problem
21 with a judge. I think Judicial Merit -- or
22 Judicial Standards is where that complaint
23 should go, not necessarily here. But if you
24 would, as you talked to other people and they
25 say they're going to come, encourage them,

1 please come. I hope this has not been a
2 daunting, evil experience for you. Even as we
3 banter back and forth, I think we're all happy
4 to have you, even if we disagree. So, I just
5 want to get that message out there because we
6 do want to hear from lawyers.

7 MS. BALLARD: It's not an evil experience at all.

8 REPRESENTATIVE RUTHERFORD: Well, good.

9 MS. BALLARD: I'm happy to do my service.

10 REPRESENTATIVE RUTHERFORD: Well, good.

11 CHAIRMAN RANKIN: All right, Ms. Ballard, unless
12 there's anything else you'd like to put in the
13 record. We'll ask you to stand down. Thank
14 you. You can put on that and my glasses are
15 off, but that is --

16 MS. BALLARD: Rhinestones.

17 CHAIRMAN RANKIN: Rhinestones.

18 MS. BALLARD: Yes.

19 CHAIRMAN RANKIN: Not Shimmy, shimmy cocoa puffs.

20 MS. BALLARD: If you can sparkle, why would you not?

21 CHAIRMAN RANKIN: Very well. It might be a new
22 Spartanburg line. Judge Hood, come on back up.
23 All right, Judge.

24 MS. CRAWFORD: Thank you, Judge. At this time,
25 would you like to respond to the complaint?

1 JUDGE HOOD: Well, I did respond in full in writing
2 a few weeks ago.

3 MS. CRAWFORD: The Commission has that.

4 JUDGE HOOD: Once I received notice of that. And I
5 did make the attachments to that. And this was
6 an issue that arose in June of 2017.

7 REPRESENTATIVE RUTHERFORD: I'm sorry, can I
8 interrupt real quick. If he's already
9 responded in writing. I know we all saw that.
10 I mean, is it necessary -- because sometimes
11 you feel like you're on your feet and you have
12 to say something because somebody said
13 something about you. If it's not necessary,
14 given the time, does he still have unless a
15 member wants to hear it. If they certainly,
16 they can. But I've looked at it, I've read it.
17 I don't see the need to --

18 MS. CRAWFORD: No, there's no obligation, it's just
19 your opportunity to respond.

20 CHAIRMAN RANKIN: Judge, if there's something beyond
21 what you've already submitted, then the point
22 here is you have the floor to make any response
23 to Ms. Ballard's additional comments.

24 JUDGE HOOD: No, I responded in full to ODC when the
25 investigation -- when the complaint was filed

1 some nine months after the incident allegedly
2 occurred. I responded to this committee in the
3 time fashion given to me by the committee to
4 respond and I stand by what happened that day.
5 You haven't heard her mention a rule that I
6 violated because I didn't violate any rules.
7 And, you know, I appreciate her and her
8 feelings and her belief in her obligations to
9 go forward with this. But I believe my
10 response is my response and I'm happy to answer
11 any questions about the situation that anybody
12 has.

13 CHAIRMAN RANKIN: All right. Yeah. Yeah, and for
14 the record, again, the complaint will be made a
15 part of the record, as well as your responses.
16 Unless there's objection from anybody on the
17 Commission. Representative Rutherford moves,
18 seconded by Representative Smith. All right.
19 Judge, if there are any -- now, we'll move on
20 unless there are other questions or comments,
21 we'll move on to some housekeeping things and
22 then open it for regular.

23 JUDGE HOOD: Thank you, Mr. Chairman.

24 MS. BALLARD: May I be excused, Mr. Chairman?

25 CHAIRMAN RANKIN: Ms. Ballard, you may be excused.

1 Thank you so much for being here.

2 MS. BALLARD: Thank you very much.

3 CHAIRMAN RANKIN: And Merry Christmas and think
4 about a line for the Spartanburg Chamber of
5 Commerce.

6 MS. BALLARD: It was good to see you all.

7 CHAIRMAN RANKIN: Take care. Thank you very much.
8 Merry Christmas to you.

9 JUDGE HOOD - CONTINUANCE OF EXAMINATION BY MS. CRAWFORD:

10 Q. Judge Hood, just a few final questions.

11 A. Yes, ma'am.

12 Q. Since submitting your Letter of Intent, have
13 you contacted any members of the Commission
14 about your candidacy?

15 A. No, ma'am.

16 Q. Are you familiar with Section 2-19-70,
17 including the limitations on contacting members
18 of the General Assembly regarding your
19 screening?

20 A. Yes, ma'am.

21 Q. Since submitting your Letter of Intent, have
22 you sought or received the pledge of any
23 legislator prior to the state or pending the
24 outcome of your screening?

25 A. No, ma'am.

1 Q. Have you asked any third parties to contact
2 members of the General Assembly on your behalf?

3 A. No, ma'am.

4 Q. Are you aware of anyone attempting to
5 intervene?

6 A. I am not.

7 Q. Have you reviewed and do you understand the
8 Commission's guidelines on pledging in South
9 Carolina Code § 2-19-70(E)?

10 A. Yes, ma'am.

11 MS. CRAWFORD: Mr. Chairman, I would note for the
12 record that any concerns raised during the
13 investigation regarding Judge Hood have been
14 addressed and been incorporated into the
15 questions today and I have no further
16 questions.

17 CHAIRMAN RANKIN: All right. Mr. Strom, any
18 questions?

19 MR. STROM: No questions.

20 CHAIRMAN RANKIN: All right. Judge, it is -- the
21 hour is late and that is not lost on me. I
22 want to first thank you again for your patience
23 with out timing though you were delayed nearly
24 as much as others.

25 JUDGE HOOD: I was a little -- you know, when I got

1 here, when I saw the 11:30 person at 3:30, I
2 wondered if I needed to find some food. Then
3 things sped up, so --

4 CHAIRMAN RANKIN: Once we told a white lie to Pete
5 Strom and Todd Rutherford, things moved along
6 very quickly. I want to compliment you on two
7 things; one, just the general statement, your
8 desire to do this early in life. I know you.
9 I've never appeared before you. But I knew you
10 more as an attorney, an aggressive, sharp
11 attorney. As you were pursuing, this was an
12 infant idea, perhaps for you and I was
13 impressed with your kind of spunk and quick-
14 wittedness and grasp of, I think reality
15 dealing with some tough stuff, but you have
16 obviously brought that to the bench. You have
17 an attitude of, again, levity perhaps, not in a
18 dismissive way, but in a maybe disarming way to
19 make folks comfortable before you. And that
20 comes out by those who are writing about you
21 here. So, kudos for doing this early and
22 sticking with it and making some tough
23 decisions, recognizing you're not going to
24 please everybody. You can't please everybody.
25 But apparently you're doing it in a favorable

1 way, so I want to commend you for that.

2 JUDGE HOOD: Thank you, Mr. Chairman.

3 Representative Smith. Let's go to Hope first,
4 I'm sorry.

5 MS. LOGAN: Just quickly. When I worked in
6 Spartanburg, you were a true pleasure, staff
7 was always excited when we knew you were on the
8 docket to come to Spartanburg. And we looked
9 forward to always having you, always a
10 pleasure. I just wanted to put that on the
11 record.

12 JUDGE HOOD: An old judge told me one time, there's
13 no reason that a juror should ever be mad at
14 you or a courthouse staff person should be mad
15 at you, and I believe that. And I treat them
16 all with great dignity and respect and get to
17 know their names and who they are. And when I
18 go around the state and teach young lawyers, I
19 say, you know who the most important person in
20 the room is, it's not me, it's the court
21 reporter, right? And you need to be nice to
22 her and respectful to her and same thing to the
23 bailiffs. And so I try to impart that to these
24 young lawyers that it's just as important, you
25 know, how you treat everybody matters. And so,

1 thank you for those comments, ma'am.

2 VICE CHAIRMAN SMITH: Judge Hood, we got your
3 response in the record. So I don't want to re-
4 litigate that. But just for my own edification
5 because I hear what Ms. Ballard says, I've got
6 a duty to report it. And I've come up here and
7 let you determine whether these are ethical
8 lapses which should impact on his fitness to
9 serve. And so with that being said, the
10 allegations to which you read and I reviewed
11 your response seemed to deny it. Now, is --

12 (Exhibit Number 39 was marked for identification
13 purposes - (4 pages) Complaint.)

14 (Exhibit Number 40 was marked for identification
15 purposes - (64 pages) Response to Complaint.)

16 JUDGE HOOD: I don't deny that the conversation took
17 place. I deny her characterization of the
18 comments; number one, and under Canon 3(b)8 of
19 Rules the Judicial Canons, judges are required
20 under the commentary to facilitate and assist
21 in the resolution of the case. And I heard
22 this case. Mr. Carpenter's case is a -- it's a
23 shocking sentence. Keep in mind, he was
24 sentenced when I was in the eighth grade by
25 Judge Cottingham. I mean, I was in the eighth

1 grade, another state away. And here we were 26
2 years later and I -- and the State had been
3 sued and SCDC had been sued. And, you know, I
4 thought a reasonable resolution to the case
5 was, let's let him out of jail and he agrees,
6 like we do in 95 percent of all civil
7 settlements -- this was a civil case that, you
8 know, he's going to forego any claims he may
9 have against the state. And I said, I know
10 nobody in this room has the authority to make
11 this decision. The guy from the AGs has to go
12 ask his boss. The private attorney that
13 represents SCDC has to go ask their boss. Ms.
14 Ballard, who wasn't present for the meeting,
15 she was present via phone, has to go ask her
16 client. So, I said, if it works out, it works
17 out. If you can't come up with a solution, let
18 me know and I'll rule. And I did. And she
19 came back immediately and said, we want the
20 deal, right. I mean, she said, immediately we
21 want the deal. And then about a week or I
22 can't remember the exact time frame. A week or
23 two weeks later, the lawyers for the State came
24 back and said, we ain't doing it. And I said,
25 no problem because it's just a suggestion. I

1 thought I was supposed to facilitate the
2 resolution of cases. And, you know, and then I
3 ruled against her. And, you know, nine months
4 later she filed an ethical violation against
5 me, you know. So ...

6 VICE CHAIRMAN SMITH: So, and I know a habeas corpus
7 is a lot more serious than other cases.

8 JUDGE HOOD: Sure.

9 VICE CHAIRMAN SMITH: And all that, but we have
10 motions to compel or we have motions hearings
11 and we come and say, Judge, we're talking, we
12 can do this. And, you know, we think we can
13 get a resolution and the judges kind of give us
14 guidance. I told a candidate earlier today, a
15 lot of judicial assisted settlements, I mean,
16 you know. It helps move the needle and, you
17 know, in essence that's what you're saying is
18 there were discussions in chambers about a
19 resolution. You sat and listened and said,
20 this is a way to do it and that was it. And --

21 JUDGE HOOD: I said this is, you know, I think this
22 is a reasonable resolution to the case. I'm
23 not forcing anybody to do it. But take it back
24 to your respective clients and discuss it and
25 see if you want to do it or not. And the State

1 came back and SCDC came back and said, we're
2 not doing it. And, you know, I asked them to
3 submit proposed orders and they did and she had
4 already submitted a proposed order and I ruled.
5 I mean, I don't -- I mean, in normal terms of
6 civil court this happens all the time. In
7 normal terms of criminal court, people come in
8 the back and say, the State's offering X, the
9 defense wants Y, you know. I think this is the
10 -- you know, this is the road to meet in the
11 middle, do it if you want to do it, don't do it
12 if you don't want to do it. You want to pick a
13 jury, we'll go pick a jury. So, I mean, I
14 thought about -- I mean, the way I was trained
15 as a young lawyer was that was part of the
16 judge's role and responsibility in getting
17 things done and that's what I was attempting to
18 do, so.

19 VICE CHAIRMAN SMITH: As someone who's been around,
20 done the criminal work and the civil work for
21 years and is, everybody wants to hear from the
22 judge at some point. My client will never
23 plead until the judge says whether he will go
24 along with the sentence or not go along with
25 the sentence. So, what I don't want this to do

1 is deter that commentary under the rule you
2 cite and/or the ability to go back and try to
3 get some affirmation from the court that this
4 would be an acceptable thing to the court.
5 Because eventually in criminal cases and/or if
6 you're ruling, I mean, you know, they want the
7 -- you know, if you give them some guidance of
8 where you're leaning and it doesn't bind you to
9 anything, it certainly does help facilitate a
10 resolution. So, I don't, you know, while --
11 look and again, I'm -- you know, I'm not trying
12 to criticize Ms. Ballard either. I certainly
13 agree with Representative Rutherford. If
14 people have got complaints, I want them to
15 bring them to us because that's what we're here
16 for. We're the gatekeeper of this, but also I
17 don't -- I want you to continue doing the job
18 that you do throughout this and don't let that
19 deter you. As well as we don't want anyone to
20 deter -- next time Ms. Ballard comes up here
21 and it's a complaint that has merit, I don't
22 want to chill her from bringing that to us.
23 So, I appreciate you listening to me. And I
24 doubt I'll be on this Commission by the time
25 you're up here again. Doubt I'll be in the

1 legislature, but nonetheless, I appreciate you
2 letting me ramble on.

3 JUDGE HOOD: Thank you, Mr. Vice Chairman.

4 CHAIRMAN RANKIN: Senator Sabb.

5 SENATOR SABB: Thank you, Mr. Chairman, real quick.

6 I did not know Judge Hood before you offered.
7 I actually met him through a fellow house
8 member by the name of Bakari Sellers, who was
9 absolutely convinced that this young lawyer was
10 ready to be a judge. And I don't know that I
11 was ever convinced but Bakari was so convinced
12 until I became convinced. And I have seen
13 first-hand -- I will deny this, although it's
14 on the record. If you ever tell Bakari that he
15 was right, I'll deny it. But he was absolutely
16 correct. And I've appeared in front of you a
17 number of times, both virtually as well as in
18 person and I've been impressed. And I, like
19 Murrell, would just encourage you to keep on
20 doing what you're doing.

21 JUDGE HOOD: Thank you, Senator Sabb.

22 CHAIRMAN RANKIN: All right, anyone else? Mr.
23 Strom.

24 MR. STROM: I move we adjourn.

25 CHAIRMAN RANKIN: For the record, in addition to the

1 wagging of Representative Rutherford's head
2 earlier, we will note Mr. Strom's --

3 JUDGE HOOD: Well, Mr. Rutherford wasn't in the room
4 while I was talking about people that I had
5 ruled against. He probably has the biggest
6 tick mark of people that I've ruled against in
7 the room.

8 CHAIRMAN RANKIN: So glad to hear that. So glad to
9 hear that. All right, without further adieu.
10 This will end this portion of the screening
11 process. This record is not closed. You
12 understand that the final report of the
13 qualifications effectively closes that record.
14 In the meantime, because of our strict
15 adherence to both the letter and the spirit of
16 the ethic laws, you understand that we can call
17 you back, should there be a violation or the
18 appearance of impropriety in that regard,
19 correct?

20 JUDGE HOOD: Yes, sir, Mr. Chairman.

21 VICE CHAIRMAN SMITH: Very well, with that Mr. Hood,
22 we thank you for your continued willingness to
23 serve. And we will see you another day.

24 JUDGE HOOD: Thank you, Mr. Chairman and thank you
25 all for your service and giving of your time to

1 be on this committee, thank you. Merry
2 Christmas.

3 CHAIRMAN RANKIN: Take care. All right. On motion
4 of it's time Rutherford and Representative
5 Murphy, we will see you guys on Wednesday at
6 noon.

7 (There being nothing further, the proceeding concluded at
8 5:42 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JENNIFER NOTTLE, COURT REPORTER AND NOTARY PUBLIC
3 IN AND FOR THE STATE OF SOUTH CAROLINA AT LARGE, HEREBY
4 CERTIFY THAT I REPORTED THIS PROCEEDING, ON MONDAY, THE
5 30TH DAY OF NOVEMBER, 2020, AND THAT THE FOREGOING 287
6 PAGES CONSTITUTE A TRUE AND CORRECT TRANSCRIPTION OF MY
7 STENOMASK REPORT OF SAID PROCEEDING.

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

12 IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL THIS
13 21ST DAY OF DECEMBER, 2020.

14 

15 JENNIFER NOTTLE, COURT REPORTER

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