



Amy McCulloch

Circuit Court, Fifth Judicial Circuit, Seat Number 2

Amendment to Judicial Merit Selection Commission Personal Data Questionnaire 2021

Originally Submitted July 19, 2021

Question 13.

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

- (a) civil: none from 1993 to 1996, fifty (50%) percent during 1997-1998
- (b) criminal: one-hundred (100%) percent from 1993 to 1996, approximately 20% of those criminal cases were prosecuting juvenile cases in Family Court, twenty (20%) percent during 1997-1998
- (c) domestic: none from 1993-1996, ten (10%) percent during 1997-1998
- (d) other: office management of law firm from 1997-1998, twenty (20%) percent

Question 19.

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

- (a) In re Est. of Kay, 423 S.C. 476, 816 S.E.2d 542 (2018). This case was an appeal from the Laurens County Probate Court under estate file number 2007-ES-30-208, an appeal of the decision by The Honorable Frank R. Addy, 2012-CP-30-258, an appeal of South Carolina Court of Appeals decision 2016-5414, and before the Supreme Court of South Carolina, 2016-002337. I was invited by the South Carolina Supreme Court to sit as a substitute justice for this Supreme Court argument. It involved many different aspects of probate administration of an estate complicated by real estate issues; heirs in disagreement; and a question of appropriate attorney fees and personal representative commission. It was a significant experience and a humbling opportunity.
- (b) In the Matter of Carter, 2002. I presided over the first and, so far, only jury trial in the Richland County Probate Court. Under South Carolina law, parties typically litigate without a jury but may request a jury trial in the Probate Court or the Court of Common Pleas upon removal. Although it was technically a Will challenge case, it was very complex and complicated by a multitude of variables. The case involved issues of race, class, capacity, abuse and neglect, and criminal charges. The litigants conducted their respective arguments, aggressively presenting issues for me as presiding judge. At every turn, there was a challenging legal issue about evidence admission, testimony, and courtroom conduct. After a week of trial and testimony, the jury returned their emotional verdict at midnight on Friday. The case reverberated for years.

- (c) In the matter of the Estate of Julius Clarence Dreher, Jr. estate number 1997-ES-40-880, appellate review citation Dreher v. Dreher, 370 S.C. 75, 634 S.E. 2d 646 (2006). This case required the interpretation and application of the elective share statute and a revocable inter vivos trust. My order, attached as one of my writing submissions, held that while the spouse is entitled to her elective share claim, the assets of the trust, left primarily to the decedent's son who was not the son of the surviving spouse, should not be included in the calculation of the elective share amount. I also found the statute regarding elective share to be constitutional. The Supreme Court of South Carolina later reversed my interpretation of the elective share statute at that time to allow inclusion of non-probate assets in the calculation. The statute has since been amended to follow this ruling.
- (d) In the Matter of Dhillon, 2014. This was a very legally complex case that also involved a myriad of family and geographic complications. It required determinations of intestate heirs, common law spouse and elective share claims. Factually, two women claimed to be the decedent's wife. One woman claimed to be his wife from an alleged marriage in India who had a child with the decedent. Another woman claimed to be his common law spouse in South Carolina who had two children with the decedent. The case involved contradictory legal, religious, cultural, and family issues. The conflicting testimony from the decedent's parents and the women who believed they were married to the decedent were emotionally and legally demanding. The order in this case is included as my second writing submission.
- (e) In the Matter of Sumter, 2002. The main question of disputed rights of inheritance was "Is he the Decedent's brother or is he the Decedent's son?" This matter was extremely interesting because it required extensive review of family records, court documents, the United States census, a very broken family tree, and a mildewed family Bible, and genealogical tracking back to the 1930's. This case was a sociological powerful study of how families changed names and relationships to save reputations to survive, about how children were raised in rural areas in the 1950's, and how secrets were kept and documented. The file should become a book.

Question 22.

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

Attached is a current printout of my continuing judicial education since July 19, 2021. I also attended a portion of the Richland County Bar Association Ethics CLE on October 22, 2021, course number 910700ADO and the South Carolina Probate Judges Association Conference on October 24-27, 2021, course number and approved CLE hours unknown at this time. By the time of the hearing, I will also have attended the National College of Probate Judges Fall Conference on November 9-12, 2021.

Question 36.

Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek.

\$350.24	Vista Print for cards, envelopes and business cards	July 25, 2021
\$165.00	USPS for stamp	August 24, 2021

If you have spent over \$100, have you reported your expenditures to the House and Senate Ethics Committees?

I reported these expenditures by letter dated August 30, 2021.

Question 37.

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

- (a) I have not made any contributions.
- (b) My husband Joe McCulloch has made the following contributions:

11-5-2019	Senator Harpootlian	\$1,000.00
4-3-2019	Senator Malloy	\$250.00
9-25-2018	Senator Harpootlian	\$1,000.00
6-12-2018	Senator Harpootlian	\$1,000.00
11-28-2016	Senator McLeod	\$200.00

Question 47.

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

- (a) Roy Adams, et al. vs. Richland County Probate Court, 2005-CP-40-6269 – This was an estate dispute concerning real estate in the Estate of Winona Estelle Patterson Adams that I had ordered to be sold to satisfy creditor claims of the Estate. The intestate heirs to the estate were the plaintiffs in this matter. The case was dismissed as to the Richland County Probate Court on December 12, 2005.
- (b) Stephen A. Freeman, et al. vs. Amy McCulloch, et al., 2007-CP-40-1794 – This involved the estate of Cynthia DeBerry (Freeman) 2005-ES-40-688 and the conservatorship for her son David Freeman 2005-GC-40-64. Stephen Freeman, son of Cynthia DeBerry, and his father Wendell Freeman, husband of Cynthia DeBerry, and others brought this action against me, as Probate Judge, because of rulings regarding the investment of insurance proceeds available at the death of Cynthia DeBerry. This case was dismissed on November 16, 2007.
- (c) Wendell and David Freeman vs. Amy McCulloch, et al., C/A No. 3:06-0010-MBS-JRM This was a similar, if not the same, matter as the above state action. This case was dismissed in January of 2006 in Federal Court.
- (d) Rogers Townsend and Robert Thomas vs. Richland County Probate Court, 2012-CP-40-6251 – This involved the Guardianship (2011-GC-40-48) and Conservatorship (2011-GC-40-47) captioned as a Petition of Writ Mandamus or a Writ of Certiorari related to

access to the files of the Probate Court. At the time, the files of Mary Sjoberg were under an Order of Protection for confidentiality. Neither Mr. Thomas nor Rogers and Townsend were counsel of record for any party in the current actions so their access was initially denied. Mr. Thomas had been Ms. Sjoberg's previous personal attorney and was a potential witness in the litigation. Access to the files was later granted by Probate Court after the interested parties to the matters consented and their required restrictions were agreed to by Robert Thomas and the Rogers Townsend Law Firm. The Common Pleas action was dismissed on March 6, 2013. Robert Thomas filed a Motion to Reconsider on March 22, 2013, that was denied by the Circuit Court on April 5, 2013. Robert Thomas appealed and the appeal was denied with finality October 14, 2013 by the South Carolina Court of Appeals, Op. No. 2013-000922 (S.C.Ct.App. filed Oct. 14, 2013)

- (e) Darrell Goss and Sasha Gaskins vs. Richland County Probate Court and S.C. Department of Corrections, 2018-CP-40-5477 - This was an action to allow incarcerated inmates to apply for a marriage license and be allowed to marry. The action was dismissed in August of 2019 for failure to pay the filing fee.

- (f) Marcus A. Joseph vs State of SC, 1997-CP-40-4314 – I was named as a Defendant in a lawsuit brought by someone I had prosecuted as an Assistant Solicitor for Richland County. I was not served with the Summons and Complaint. The matter was dismissed on May 1, 1998, on a Motion for Summary Judgment for lack of service.

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

Signature: *Gw. M. Cullow*

Sworn to before me this 15th day of November, 2021.

Matthew Shearer
(Notary Signature)

Matthew Shearer
(Notary Printed Name)

Notary Public for South Carolina

My Commission Expires: 9.10.2031