



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

Family Court
(New Candidate)

Full Name: The Honorable Michael H. Murphy, III

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1. Why do you want to serve as a Family Court Judge?

I was first exposed to family court as an assistant solicitor with Berkeley County Solicitors office in 1999. Although hired as a general session court prosecutor, I often found myself in family court as a juvenile prosecutor. I enjoyed the interaction with the parties involved with the juvenile justice process such as members of the Department of Juvenile Justice, guardian ad litem, defense attorneys, law enforcement agencies, and the juvenile's parents. Working with these parties I thoroughly enjoyed taking a juvenile that was on the wrong path and forming a solid framework wherein the juvenile could overcome the charge they faced and return to not only a productive child to the parents, but a productive student and member of society. When I left the solicitor's office, I continued to do juvenile work, but juvenile defense.

My first private practice employment was at Steinberg Law Firm. While there, I began engaging in a heavy domestic case load. I have represented hundreds of clients either in divorces, which included child custody, equitable distribution, strict child custody cases, child support cases, termination of parental rights and adoptions, name changes, and changing of birth certificates.

On several occasions, I have met individuals that were at the lowest point of their life, whether it be their spouse walking out on them and they did not know how they were going to put food on their table or a parent that is denied from seeing their child. With confidence, I have told each one that everything will work out. It will be a long process and may have its ups and downs, but the solution to their case is family court.

I have had the opportunity to appear in front of several judges, either a resident judge in Berkeley, Charleston, and Dorchester County, as well as, visiting judges. I have observed these judges in motion hearings, contested final hearings, DSS child support enforcement hearings, DSS child abuse and neglect hearings. What I have observed are judges making fair and just decisions (even though at times I have disagreed with

those decisions), and making those decisions with knowledge, compassion, impartiality, and sound reason.

Over time, I have desired to become a family court judge. I believe no other area of law impacts the citizens of South Carolina more than family law. I believe that I can exhibit the same qualities of the judges I appear in front of, such as impartiality, patience, care, candor, knowledge, and experience. What a great honor it would be to serve as a family court judge and positively impact lives of juveniles and litigants before me.

I have impacted positively hundreds of lives in private practice through my family law practice and desire to continue this on the bench as a family court judge. I firmly believe that I can continue this and , if elected, on a much wider scale.

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

Yes, with plans to seek reelection upon expiration of my term.

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

Not currently. If elected, I would like to retire as a family court judge.

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

Yes.

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

Ex parte communications are extremely limited and should never deal with substantive matters. Limited exceptions to *ex parte* communications would be scheduling matters, administrative purposes, or emergencies. Judicial Canon 3 addresses these limited examples.

If elected any form of communication, regarding scheduling, administrative matters, or emergencies will first go through my secretary as standard practice. If there is another attorney involved, they would be notified as well.

On occasion I have received forwarded emails from judge's staff where pro se litigants directly communicated with the judge. The judge's office prevented the *ex parte* communication. On those occasions the secretarial staff does a great job in explaining to the pro se litigant the prohibition against *ex parte* communication. I will follow this same practice.

6. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

If there was an appearance of bias and one party requested my recusal, I would likely grant the motion. Yet, there may be very limited circumstances where the matter is heard. A limited circumstance would be no other judge is available, the matter was set on an emergency basis, or acted upon immediately and there were no other judges available to hear the matter. In that circumstance before a decision is rendered, I would hear from both sides regarding the recusal. I would make it clear that the request from the moving party to recuse myself has no impact on the decision in any future appearances that party may have in front of me, as well as their client.

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

I would recuse myself from hearing the case. Further, I would actively screen my upcoming docket to identify potential conflicts so they may be resolved well before the parties appear in front of me. This would give the parties time to appear in front of another judge.

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

I will accept no gifts or social hospitality based on my position as a family court judge, I would return the gift with a short explanation as to why I cannot receive it. Although, limited gifts are allowed, I would strictly comply with Judicial Canon 4. Judicial Canon 4 clearly outlines the exceptions to gifts. Yet, at no time, will I accept a gift that may give rise to a lack of impartiality.

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

If I became aware of actual misconduct and not the appearance of misconduct, I would report such conduct to the appropriate authority. If there was an appearance of misconduct I would reach out to the lawyer or judge and address my concerns. After discussing the matter, I would determinate whether a referral to the appropriate agency is required.

If there is an appearance of infirmity of a lawyer or a judge, I would reach out to that lawyer or fellow judge first as mentioned above. After discussing the matter with the lawyer or fellow judge and ascertaining the

facts at that time, I would determine whether a referral to the appropriate agency is required.

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

No

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

No.

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

No.

13. Since Family Court judges do not have law clerks, how would you handle the drafting of orders?

I have extensive experience in drafting all manners of documents in family court to include pleadings, motions, orders, subpoenas, and discovery requests. I am very comfortable in drafting findings as well as conclusions on law. If required, I will have no issues preparing orders, or other family court documents. This would typically arise in pro-se matters.

I will continue the practice that I see now where attorneys are asked to prepare orders. It is normal practice for family court judges to issue their decisions and have one attorney prepare the order based on the decision. This decision can be oral or written. Prior to submitting the order, the attorney would copy the opposing counsel and the guardian ad litem, if one is appointed. Any objections to the order could be resolved through a conference call or correspondence with both parties stating their positions. In Department of Social Services matters and DJJ matters, the attorney for DSS and prosecutor routinely prepare their own orders following the same procedures outlined above.

I would strive for clear, concise, and unambiguous decisions from the bench to assist in the preparation of my orders.

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

Redundancy. I operate now with an electronic calendar system through Microsoft Outlook as well as a backup hard copy system. My staff

operates on the same system. I have reminders set depending on the matter either 30 days or 60 days before the due date. At a minimum I have weekly staff meetings to go over cases as well as pending deadlines.

It is extremely important, especially knowing that if elected, I will often travel out of circuit, that systems are in place to ensure that I and my secretary are tracking all deadlines and well positioned to meet those deadlines.

15. If elected, what specific actions or steps would you take to ensure that the guidelines of the guardian ad litem statutes are followed during the pendency of a case?

First, I would ensure that the guardian ad litem, appointed by me, or agreed upon by the parties, is properly qualified by meeting the qualifications set by statute. Once this is determined, I would ensure that a proper guardian ad litem appointment order is in place that specifically spells out all requirements of the guardian ad litem's position and duties during the pendency of the case.

If the matter is urgent, I would order an interim report be submitted to the court within a certain period. If the matter came before me on an emergency basis, no later than 30 to 45 days. If on a non-emergency basis, 60 to 90 days. Prior to a contested final hearing, I would ensure that a final guardian ad litem report is submitted.

Upon submission of the interim report or a final report, I would review carefully. Upon review, if I believe there is any missing information or more development is needed, I will set up a conference call with all parties involved and relay my concerns and get input from the parties. If needed I will set up a hearing. Further, if there are any improper opinions (i.e., who should be awarded custody) I would address those issues as well.

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

Judges should not set or promote public policy. At no time, will I attempt or give the appearance of setting or promoting public policy.

17. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities would you plan to undertake to further this improvement of the legal system?

Within permissible grounds, I would enjoy speaking at continuing legal education seminars for fellow judges or attorneys. I would attend upon invitation various bar meetings from the county bars to include Dorchester County and visiting counties if I am presiding during that week.

I would accept invitations to volunteer at mock trial competitions and I would speak at civilian meetings and discuss the overall family court system.

At no time during the activities above would I discuss specific cases that are before me or answer any questions that I believe directly relate to a pending matter, and of course, would not engage in *ex-parte* communications.

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

I believe my personal relationship with my spouse and significant others would not be strained upon election and service.

I have been an attorney since 1998 in private practice, government employment, and a member of the military. During this time, I have often worked early mornings, late nights, and weekends. My military career has have often required me to be absent for significant periods of time, namely Iraq for close to nine (9) months and a Kosovo Deployment for close to one (1) year. I have missed birthdays, holidays, anniversaries, and other special events.

My family is well accustomed to my profession and supports it fully. Will this position cause strain, yes, but my family is very resilient. My wife has given me her undivided support in this pursuit. My three boys, with two still at home, have as well.

19. Would you give any special considerations to a pro se litigant in family court?

No.

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

No.

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

No, unless the matter was either urgent and no other judge was present to hear the matter and both parties consented to my hearing the case and the *de minimis* financial interest is fully disclosed to all. If any party objected my presiding, I would recuse myself.

Further, if the matter went forward by consent, I would give the parties the option to have my decision reviewed by another judge without a showing of change of circumstances.

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

Yes.

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

A judge's demeanor, among others, should show calmness, promptness, confidence, politeness, fairness, be an active listener, and show appropriate humor. This demeanor should be present on the bench, and off the bench.

At all times, impartiality should be apparent.

24. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or a pro se litigant?

It is never appropriate to be angry with a member of the public who is before me to include, criminal defendants. On occasion, as a judge, you must be stern but not angry.

Family court can be an extremely stressful time, I have and will continue to appreciate this fact. Quite often, individuals who appear before me, may be appearing in court for the first time. My decision could impact their child or their financial situation and emotions may be high. A criminal defendant is afforded the same courtesy and due process rights as any person that comes before me.

Along the same lines this applies to pro-se litigants as well. They will be held to the same standards as an attorney, but will be treated knowing that they do not have the education, training, knowledge, and experience as an attorney. Unless that matter must be ruled upon immediately, requests to continue that matter to consult or retain an attorney would be considered.

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

//s// Michael H. Murphy, III

Sworn to before me this 15 day of July, 2021.

//s// Andrinna Tena Smith

(Signature)

Andrinna Tena Smith

(Print name)

Notary Public for South Carolina

My commission expires: November 25, 2023