

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

Family Court
(New Candidate)

Full Name: Robert E. Newton
Business Address: 218 East Main Street
Lexington, SC 29072
Business Telephone: (803) 356-2932

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

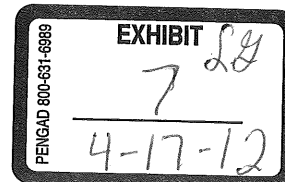
I believe I have much to offer for this position and am a strong believer in a citizen's responsibility to offer what talents or skills he or she may have in the way of public service if they are able. I am at a point professionally and personally that I am fortunate enough to be able to pursue this goal. I have almost 23 years of experience as an attorney in a practice primarily devoted to family court matters. I have been married for 25 years and have been a parent for 16 years. I believe these life experiences will allow me to bring many positive attributes to this position. As a result, I wish to humbly offer myself as a candidate.

2. Do you plan to serve your full term if elected? Yes
3. Do you have any plans to return to private practice one day? No
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?

My general belief is that a judge shall not engage in ex parte communications. This is consistent with his / her obligation to uphold the integrity and independence of the judiciary and to comply with the mandates of the Code of Judicial Conduct. I will discourage and not allow ex parte communications except as are expressly allowed pursuant to Rule 3B(7), CJC, Rule 501, SCACR. For example, in the family court an emergency situation may allow for an ex parte application for temporary relief pursuant to Rule 21, SCRFC.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

I would strive to deal with the issue of recusal at all times in a manner that was consistent with the requirements of Rule 3E, CJC, Rule 501 SCACR. I would evaluate each situation carefully and attempt to rule accordingly while being ever mindful of the need to



maintain the integrity of the judicial process and to avoid situations where my impartiality might be reasonably questioned.

As to former partners, if the matter were one that was being handled by my firm while we were associated; I would have to recuse myself. Fortunately, in my current practice only one other attorney practices in family court and that is not with any regularity, so I do not anticipate this situation arising often, if at all. If the matter were one that began after my departure and I had no other basis or need for recusal under the rules, I believe the rule would allow me to hear such matters.

As to the lawyer-legislator issue, I do not believe the mere status of a lawyer as a legislator requires recusal unless I had a close or personal relationship with the legislator such that my impartiality could be reasonably questioned. In such a case I would have to step aside.

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

I would hope to never be in a situation as a judge where I had disclosed something that had the appearance of bias. I would strive to avoid even the appearance of bias at all times. If, however, I did make such a disclosure and believed that my disclosure would mean my impartiality could be reasonably questioned I would grant the motion to maintain the integrity of the process. However, I would then attempt to transfer the matter as soon as practicable to another judge.

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

I would be ever mindful of Canon 2 that requires a judge to avoid even "the appearance of impropriety". If I felt there was the appearance of impropriety and that the interest that could be affected by the proceeding was more than de minimis then I would recuse myself. I would try to see that the matter was transferred as soon as practicable to another judge. Even if I felt the interest were de minimis, I believe I would still have an obligation to disclose the interest on the record to the parties and their lawyers.

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

I would comply with the requirements of Rule 4D(5), CJC, Rule 501, SCACR and set that as my "standard". I would discourage and avoid taking any gifts that would raise questions about my impartiality or may lead to a need for disqualification. I would also discourage family members residing in my household from doing so, as well.

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

I would evaluate the conduct to determine what appropriate action should be taken consistent with Rule 3D, CJC, Rule 501, SCACR. If I concluded the conduct of the judge or lawyer raised a substantial question as to the judge's fitness for office or the lawyer's honesty, trustworthiness, or fitness to practice I would inform the appropriate authorities. Rule 3D(1)&(2), CJC, Rule 501, SCACR.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be evaluated? 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?

Over 22 years of practice in the family court has prepared me well for the issue of Order preparation as I have spent much of my career drafting proposed Orders for the courts. I have also drafted Orders as an arbitrator of family court matters. How specific Orders would be handled will depend on the complexity of the matter. I expect I will have "standard" orders prepared as a form to be appropriately modified for routine rulings and will draw from the data base I have already created in my practice.

On contested matters, I would anticipate having the "prevailing" party, if there is clearly one, prepare a proposed order for my review consistent with my general instructions (copied, of course, to all counsel). In some instances I may have both attorneys prepare proposed orders to draw from and may require they submit them via e-mail so that my staff or I could make appropriate changes.

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

Again, my years in private practice meeting deadlines imposed by the law and the courts have prepared me well for this issue. I would anticipate establishing a "tickler" system maintained by myself and my staff similar to what I use now in my practice to meet such things as filing deadlines, proposed Order deadlines, and statutes of limitations. My plan would be to maintain this on an electronic calendar and in hard copy just as I do now.

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?

I would use the provisions therein as a monitoring tool to assure the quality of the services they provide to aid the court. For example, I would utilize the fee setting authority of S.C. Code Ann. § 63-3-850

(1976, as amended) as a tool to monitor activity as it would require accountability and a motion to seek to exceed the cap. In complex matters I may require periodic reports and schedule pre-trial conferences to monitor the matter.

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

I do not believe “judicial activism” is appropriate. Pursuant to the basic tenant of separation of powers, the judiciary is not a policy making body and should not assume that role. However, the question asks not only about “setting” policy but also about “promoting” public policy. Therefore, I should note that I believe the Courts have an obligation to promote the established public policy of the State of South Carolina.

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?

I would make myself available to participate in such activities as the rules allow to promote these goals. I would do this just as I have been active as an attorney serving on the Fee Disputes Board; the Dispute Resolution Section Council; speaking at Continuing Legal Education seminars; acting as an officer of the Lexington County Bar Association; and serving on the Board of Governors of the South Carolina Trial Lawyers Association.

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?

Having practiced for almost 23 years in a litigation intensive small firm setting, my wife, daughter, family, and friends are used to the rigors of my professional life. I realize that being a judge would add significantly to those stressors. However, I feel the work in “addressing” this has already substantially been done since I am fortunate enough to have a strong, supportive family. I have been married for 25 years to my high school girlfriend. We dated in high school and undergraduate school. We were married immediately before law school. My wife has supported me through the stresses of law school and the building of my career and is 100% committed to supporting me as I pursue a goal she knows I have had for many, many years. My entire family supports this decision as do the members of my firm and my friends. I have an excellent support network and am very fortunate in this regard.

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

No. I would certainly treat them with civility, fairness, and respect as I would all who may appear in my court. However, it

would not be proper for me to give them any "special" consideration not given to all parties.

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?

Yes. Provided the interest was so insignificant that it could not raise any reasonable question as to my impartiality.

22. Do you belong to any organizations that discriminate based on race, religion, or gender? No

23. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes

24. What percentage of your legal experience (including experience as a special appointed judge or referee) concerns the following areas? If you do not have experience in one of these areas, can you suggest how you would compensate for that particular area of practice?

During my entire legal career, my case load has averaged 75-80% of my active cases being matters in the family court. I would respectfully submit that I have had some experience in just about every matter that arises in family court during my career. My good faith estimate as to a percentage breakdown is that 60% of that legal experience involved divorce and equitable division. In many of those cases the issues of child custody, visitation, and support were also involved. My best estimate is as follows:

- a. Divorce and equitable distribution: 60%;
- b. Child custody: 15%;
- c. Adoption: 1%;
- d. Abuse and neglect: 3%;
- e. Juvenile cases: 1%.

25. What do you feel is the appropriate demeanor for a judge?

I believe professionalism is the key to proper judicial demeanor. A judge should always be aware that when a litigant enters the court they are expecting and entitled to receive justice. As they seek justice, a judge should give the parties his patience and attention. He should treat the matters before him with respect and recognition of their importance to the litigants. This is especially true in family court where the issues are very often emotional and sensitive. The parties, witnesses, and attorneys should be treated with courtesy, civility, fairness and respect accorded equally to all parties.

26. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day? 24 / 7

27. 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?

I do not believe anger has any place on the bench. As a lawyer, husband, and father I learned long ago that decisions made in anger are seldom good decisions and certainly would not be consistent with a judges obligation to conduct careful deliberations of the matters before him or her.

28. How much money have you spent on your campaign? If the amount is over \$100, has that been reported to the House and Senate Ethics Committees? None
29. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? N/A
30. Have you sought or received the pledge of any legislator prior to this date? No
31. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No
32. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No
33. Have you contacted any members of the Judicial Merit Selection Commission? No
34. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted? Yes

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

s/Robert E. Newton

Sworn to before me this 29th day of February, 2012.

Notary Public for South Carolina

My commission expires: 1-08-2017