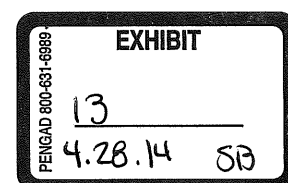


**JUDICIAL MERIT SELECTION COMMISSION**  
**Sworn Statement to be included in Transcript of Public Hearings**

**Court of Appeals**  
**(New Candidate)**

Full Name: Stephanie Pendarvis McDonald  
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Charleston, SC 29401  
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1. Do you plan to serve your full term if re-elected?  
Yes.
2. Do you have any plans to return to private practice one day?  
Not at this time, but I certainly would if I could no longer serve as a judge.
3. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice?  
Yes.
4. What is your philosophy regarding ex parte communications? Are there circumstances under which you could envision ex parte communications being tolerated?  
Ex parte communications regarding scheduling or administrative matters are at times necessary, particularly for a Chief Administrative Judge. Generally, my office handles scheduling by e-mail, with copies sent to all attorneys/parties involved in a matter. My policy is to avoid ex parte communications, however, in accordance with Canon 3(B)(7)(d), I have worked with attorneys to assist them with mediation and working toward settlement.
5. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?  
Pursuant to Canon 2 and Canon 3(E), I recuse myself from all matters involving my former law partners and their firms. Recusal is not practical in the case of lawyer-legislators, unless there is some other bias involved, as these attorneys would never be able to find any state court judge to hear their cases. My sister and several first cousins are also attorneys; they do not appear before me.
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?



It depends upon the circumstances of the case. I would probably recuse myself unless it appeared that the attorney or party was "judge-shopping," merely seeking to delay the case, or acting unreasonably. I would also look to Canon 3(E), which addresses proceedings in which a judge's impartiality might reasonably be questioned. If the alleged bias – or appearance of bias – is not reasonable, recusal simply pushes a problem litigant (or attorney) off for another judge to have to deal with. Canon 3(B) requires that a judge hear and decide matters assigned to him except in those cases when disqualification is required.

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

I have accepted lodging and meals from the South Carolina Association for Justice, the South Carolina Defense Trial Attorneys Association, and the South Carolina Bar Association when attending their conferences or speaking for their programs. These items are reported on my annual 501 disclosure form and on my Statement of Economic Interests. I enjoy normal social hospitality with my friends, many of whom are attorneys. I tend to drive myself to such events and pay my own way.

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

My response would depend upon whether I had actual knowledge of a violation raising a substantial question as to the fitness or trustworthiness of the lawyer or judge or whether I had simply received information suggesting that a violation had occurred. Under Canon 3(D), I would either "take appropriate action" or report the violation - - or both - - depending on the specifics of the situation.

9. Are you affiliated with any political parties, boards or commissions that need to be re-evaluated?

No.

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

No.

11. How do you prepare for cases that come before you?

We pull the file to learn about the case and any prior motions or orders that may impact the particular issue before me. I review any memoranda submitted by the parties and run my own Westlaw searches to check for applicable statutory or appellate authority that the lawyers may not have provided. I have found that hearings and trials run much more smoothly – and attorneys behave much better – when the judge is already familiar with the file and applicable law.

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

A judge's duty is to interpret the law, according to the Legislature's intent, and in accordance with the United States and South Carolina Constitutions. Attempting to "legislate from the bench" is not appropriate. The primary source of the declaration of the public policy of the State of South Carolina is the General Assembly. Our "courts assume this prerogative only in the absence of legislative declaration." *Citizens' Bank v. Heyward*, 135 S.C. 190, 133 S.E. 709, 713 (1925).

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

As noted in my Personal Data Questionnaire, I am often asked to speak or to serve as a panelist at law-related events in our community. I host 2 Judicial Observation (JOE) Program students each summer and attend "Courthouse Keys" luncheons and other events hosted by young attorneys. I have spoken for the Charleston School of Law's "Professionalism" series, and I try to be approachable and to mentor young lawyers, when appropriate. I will be serving on the panel for the Charleston County School District's Third Annual "Girls Summit" later this month.

14. Do you feel that the pressure of serving as a judge strains personal relationships (i.e. spouse, children, friends, or relatives)? How do you address this?

No. My daughter is sixteen (16) and is quite busy with her school, theatre, and dance activities. I serve as her driver and personal assistant. My family is very supportive, and two sets of grandparents live nearby. My daughter's father and stepmother are also very supportive, and I am fortunate to have a good relationship with them.

15. Are you currently serving on any boards or committees? If so, in what capacity are you serving?

Not at this time, mainly due to my daughter's schedule and my workload. As the information in my Personal Data Questionnaire reflects, I served on a number of boards and committees while in private practice.

16. Please describe your methods of analysis in matters of South Carolina's Constitution and its interpretation by explaining your approach in the following areas. Which area should be given the greatest weight?

- a. The use and value of historical evidence in practical application of the Constitution:

South Carolina courts and the United States Supreme Court have given great weight to past practices and historical evidence when interpreting constitutional provisions. See e.g., *Williams v. Morris*, 320 S.C. 196, 464 S.E.2d 97 (1995)(noting

that the Governor presented "overwhelming" historical evidence in his brief).

- b. The use and value of an agency's interpretation of the Constitution:

To permit an agency to interpret the Constitution or to declare "what the law is" would be to allow an improper executive encroachment into judicial responsibilities. This would implicate (and violate) the "separation of powers" doctrine. See S.C. Const. Art. Section 8. Nor may an agency overstep the powers that the General Assembly has lawfully delegated to it.

- c. The use and value of documents produced contemporaneously to the Constitution, such as the minutes of the convention:

In interpreting the Constitution (or any statute), the cardinal rule of statutory construction is to ascertain and effectuate the intent of the Legislature. This begins with an examination of the statutory text. Committee minutes are not controlling as to the intent behind, or the interpretation of, the State Constitution, but they may help with providing historical context. Other sources of legislative history would be more helpful.

- 17. Is the power of the South Carolina General Assembly plenary in nature unless otherwise limited by some specific Constitutional provision?

Yes. The legislative power of the General Assembly is not dependent upon specific constitutional authorization. The South Carolina Constitution only sets forth the limits upon the Legislature's plenary powers.

- 18. Presuming that the three branches of government have plenary power for their responsibilities, do any other levels of government (i.e. local governments) have plenary authority, or do all grants of authority to other levels of government flow from the state level in our Constitution and statutes?

No. The powers of local governing bodies are wholly derived from legislation, whether set forth by statute and/or in the Constitution. Still Article VIII, Section 17 of our Constitution provides that the constitutional provisions and laws concerning local government "shall be liberally construed in their favor." The powers, duties, and responsibilities granted to local government subdivisions shall include those "fairly implied and not prohibited by the Constitution."

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

No.

- 20. Do you belong to any organizations that discriminate based on race, religion, or gender?

Yes. I am a sustaining member of the Junior League of Charleston, Inc., which is an organization of women committed to promoting voluntarism, developing the potential of women, and improving the community through the effective action of trained volunteers. Its purpose is exclusively educational and charitable, and membership is open to women of all races, creeds, and national origin.

I am also a member of the South Carolina Women Lawyers Association.

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

Yes.

22. Have you written any scholarly articles?

Yes, but not recently.

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

I strive to be courteous and patient and to treat everyone with dignity and respect. This can be difficult at times because a judge must also maintain order in the courtroom. Still, this is never an excuse for rudeness or "robitis."

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

These rules would apply twenty-four/seven, and they are important to a judge's credibility.

25. Is there a role for sternness or anger with attorneys?

There is no role for anger, but sternness can become necessary. Attorneys are trained to be zealous advocates, and many will push to see how far they can go before the court places reasonable limits upon their behavior. All attorneys (and judges) took a civility oath in order to be members of the South Carolina Bar, and I am serious about civility in my courtroom.

26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees?

I have spent approximately \$80.00 on postage for the letter that I sent out in January. I already had the necessary paper and envelopes at my home office. If necessary, I can estimate the cost of those items and supplement this response.

27. While campaigning for this office, have you used judicial letterhead or the services of your staff for your campaign?

No.

28. Have you sought or received the pledge of any legislator prior to this date?

No.

29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening?

No.

30. 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? If so, give details

No. I have not asked any third parties to make such contacts. Friends and colleagues have offered to contact members of the General Assembly, but I do not know if they have done so. I have been introduced (or introduced myself) to members of the General Assembly at various functions.

31. Have you contacted any members of the Judicial Merit Selection Commission?

No. I did not include members of the Commission when I sent the letter announcing my candidacy.

32. 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/Stephanie P. McDonald

Sworn to before me this 9th day of March, 2014.

Rebecca Roser

Notary Public for S.C.

My Commission Expires: 5/30/2017