

1 STATE OF SOUTH CAROLINA)
)
2 COUNTY OF RICHLAND)

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4 - - -

5 JUDICIAL MERIT SELECTION COMMISSION

6 TRANSCRIPT OF PUBLIC HEARING

7 - - -

8 BEFORE: SENATOR LARRY MARTIN, CHAIRMAN
9 ELIZABETH BROGDON, CHIEF COUNSEL
10 REPRESENTATIVE BRUCE BANNISTER
11 KRISTIAN BELL
12 SENATOR CHIP CAMPSER
13 REPRESENTATIVE DAVID MACK
14 SENATOR GERALD MALLOY
15 SUSAN WALL
16 ROBERT WILCOX

17 DATE: April 27, 2015

18 TIME: 2:15 P.M.

19 LOCATION: Gressette Building, Room 209
20 1101 Pendleton Street
21 Columbia, SC

22 REPORTED BY: LORI S. MORTGE,
23 Certified Court Reporter

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1 SENATOR MARTIN: We'll go ahead and
2 convene the Judicial Screening Commission -- am I
3 on? Can you hear me okay? There comes the senator
4 from Darlington. Come on in.

5 I'd like to welcome everybody and
6 appreciate everybody being here. We're only
7 missing -- we're missing two House members -- no,
8 one House member.

9 REP. BANNISTER: One House member.

10 SENATOR MARTIN: Yeah. Senator --
11 Representative Clemmons can't be here, but Senator
12 Campsen is coming and Pete Strom is not going to be
13 here. So you have both their proxies.

14 SENATOR MALLOY: Who has proxies?

15 SENATOR MARTIN: There you go, for the
16 record. Bannister.

17 SENATOR MARTIN: Bannister has whose
18 proxies?

19 REP. BANNISTER: Clemmons and Strom.

20 SENATOR MALLOY: So you have Senate and
21 Clemmons? All right.

22 SENATOR MARTIN: The -- this meeting is
23 called pursuant to Chapter 19 of Title 2 of the code
24 requiring the review of judicial candidates. The
25 function of the Commission is not to choose between

1 candidates, of course, but rather to declare whether
2 or not the candidates who offer for the position on
3 the bench in our judgment are qualified to fulfill
4 the positions they seek. The inquiry we undertake
5 is a thorough one. It centers around the
6 Commission's nine evaluated criteria and involves a
7 complete personal and professional background check
8 on each candidate. These public hearings are
9 convened for the purpose of screening these
10 candidates.

11 Today we'll screen one vacancy on the
12 Appellate court, one vacancy on the Family Court.
13 And with that, let's see -- there we go. I'm going
14 to recognize and introduce to the Commission, as you
15 know, our chief counsel now, Elizabeth Brogdon, and
16 we welcome her. She's done a very great job, very
17 seamless transition in getting ready for this
18 hearing today and, Elizabeth, we're glad to have you
19 with us.

20 MS. BROGDON: I'm very glad to be here.

21 SENATOR MARTIN: You may proceed.

22 MS. BROGDON: Mr. Chairman, at this time
23 I would like to request a vote on the cover page for
24 the draft report. And it shows that the report will
25 be delivered on Thursday, May 7, 2015, the 48-hour

1 period ending at noon, Tuesday, May 12, 2015, and
2 the election is currently scheduled for noon,
3 Wednesday, May 27, 2015.

4 SENATOR MARTIN: All right.

5 MS. BROGDON: This cover page is in
6 everybody's folders.

7 SENATOR MARTIN: All right. Everybody
8 understand what we have before us? We have a motion
9 for a vote in favor of this -- of the cover page.

10 REP. BANNISTER: So moved.

11 SENATOR MARTIN: The motion is seconded.
12 Any discussion? Hearing none, we'll move
13 immediately into vote. All those in favor please
14 say aye.

15 (At this time the members audibly say
16 aye.)

17 SENATOR MARTIN: Note the ayes have it.
18 Ms. Brogdon?

19 MS. BROGDON: Mr. Chairman, may we
20 please distribute the signature page to the
21 Commission members for the draft report?

22 SENATOR MARTIN: Yes -- yes, ma'am,
23 we'll do that right now. Move that around the
24 table. All right.

25 MS. BROGDON: And while that's going I

1 would like to introduce the screening attorneys for
2 the Spring 2015 candidates. Emma Dean, who is chief
3 counsel for the House judiciary committee, will be
4 screening Judge Braddock and Justice Pleicones. And
5 then Tiffany Hendricks, who's staff attorney to the
6 Senate judiciary committee, is the screening
7 attorney for Judge Brigman. And then I'm screening

8
9 And now, Mr. Chairman, I would like to
10 suggest that we move into executive session.

11 SENATOR MARTIN: All right. Any
12 objection to proceeding into executive session?

13 (No response.)

14 SENATOR MARTIN: Hearing none, so
15 ordered. We'll consider ourselves in executive
16 session.

17 (Off-the-record executive session.)

18 SENATOR MARTIN: Let's recognize
19 Elizabeth again for the -- as we go back on the
20 record. Ms. Brogdon?

21 MS. BROGDON: Mr. Chairman, at this time
22 I would like to introduce a proposed amendment to
23 Rule 13 of the procedural rules of the Judicial
24 Merit Selection to reflect the current practice of
25 the Commission. This proposed amendment adds the

1 following language to the bottom of the current
2 paragraph of current Rule 13: The affidavit must
3 either be mailed to the Commission or hand delivered
4 as provided by the Commission. It must be signed
5 and notarized. The complainant must also attach
6 copies of any documentation such as trial
7 transcripts, orders, letters or other materials that
8 the Claimant believes supports the affidavit. The
9 documentation must be attached to and submitted with
10 the affidavit and hard copy and may not be submitted
11 by electronic or other means.

12 SENATOR MARTIN: All right. Everybody
13 has heard the proposed rule change. Any discussion?

14 (No response.)

15 SENATOR MARTIN: Hearing none, we'll
16 move immediately into a vote. All those in favor of
17 the change please say aye.

18 (At this time the members audibly say
19 aye.)

20 SENATOR MARTIN: Those no?

21 (No response.)

22 SENATOR MARTIN: The ayes have it. The
23 record appears to be unanimous. Ms. Brogdon?

24 MS. BROGDON: Mr. Chairman, I would also
25 like to introduce a proposed amendment to Rule 13 of

1 the rules for citizen committees on judicial
2 qualifications to clarify that the prohibitions in
3 that rule do not apply to magistrate judge positions
4 or any other judicial position that is not screened
5 by the Commission. This proposed amendment revises
6 Subsection B of the rule, and this proposed
7 amendment is also in everybody's folders.

8 Subsection B would be revised to read as
9 follows: Service on the Committee results in a
10 relationship between Committee members that may
11 create a conflict of interest if Committee members
12 who have served together later evaluate one another.
13 Therefore, no Committee member shall offer for or
14 accept a nomination or a South Carolina judicial
15 position that is screened by the Judicial Merit
16 Selection Commission while a member of that
17 committee for a minimum of one year after leaving
18 the Committee.

19 SENATOR MARTIN: All right. Discussion
20 on this proposed amendment. The idea is if it's a
21 magistrate serving on the Citizens Committee they
22 would be barred from being screened for a position
23 because they happen to have been on the Citizens
24 Committee. That's where the issue has come up.

25 SENATOR MALLOY: Just for clarity,

1 Mr. Chairman, was that your intent whenever you --
2 whenever this was drafted?

3 SENATOR MARTIN: Right.

4 SENATOR MALLOY: It was never meant to
5 prevent them from serving?

6 SENATOR MARTIN: That's right. That's
7 right.

8 SENATOR MALLOY: So, basically, that has
9 been prohibited and it's caught somebody in the gap,
10 if you will?

11 SENATOR MARTIN: That's correct. That's
12 my understanding of it. Any other discussion?

13 (No response.)

14 SENATOR MARTIN: Hearing none, we'll
15 move immediately into a vote. All those in favor of
16 the proposed change say aye.

17 (At this time the members audibly say
18 aye.)

19 SENATOR MARTIN: Those no?

20 (No response.)

21 SENATOR MARTIN: The ayes have it and
22 appears to be unanimous. Ms. Brogdon?

23 MS. BROGDON: Mr. Chairman, I would like
24 to offer and have made -- oh, excuse me. I would
25 like to present the Commission with the judicial

1 seats that we expect to screen for the Fall 2015 and
2 the Spring 2016 elections. And those are also in
3 your folders, a listing of all of those candidates.

4 SENATOR MARTIN: Anybody have any
5 question about that? Item 5 I guess in y'all's
6 folder.

7 MR. WILCOX: Seven.

8 SENATOR MARTIN: Seven? It got changed
9 again? Oh, me. I've got letters. I've got
10 letters. Thank you very much.

11 MS. BROGDON: Okay. And, Mr. Chairman,
12 last I would like to offer and have made exhibits to
13 the record the following: The Citizens Committee
14 reports for the Spring 2015 from the Pee Dee
15 Citizens Committee and the Midlands Citizens
16 Committee.

17 SENATOR MARTIN: Any objection to that?

18 (No response.)

19 SENATOR MARTIN: Hearing none, I ask at
20 this time that the Citizens Committee -- Pee Dee
21 Citizens Committee reports for the Spring 2005 be
22 marked -- or '15 be marked as exhibits and entered
23 into the public hearing record.

24 That's all the business we have now for
25 the Commission. We'll proceed to the candidate

1 portion of our hearing.

2 (EXH. 1, Midlands Citizens Committee
3 Report, dated Spring Screening 2015, was
4 marked for identification.)

5 SENATOR MARTIN: Judge Braddock,
6 welcome.

7 JUDGE BRADDOCK: Pleased to be here,
8 sir.

9 SENATOR MARTIN: Delighted to have you
10 with us. You have your -- does he have his PDQ
11 statement? Is that what that means? I will proceed
12 by administering the oath.

13 THE HONORABLE BRYAN W. BRADDOCK
14 being first duly sworn by the Chairman, testified as
15 follows:

16 EXAMINATION

17 BY SENATOR MARTIN:

18 Q. Thank you very much. Have you had the
19 opportunity to review your personal data
20 questionnaire?

21 A. I previously reviewed it, yes, sir.

22 Q. That's correct. Anything need to be
23 changed?

24 A. I believe I've recently submitted some
25 in addition, which I believe should be attached.

1 Q. All right. Do you object to our making
2 the summary and any amendments, if applicable, part
3 of the record of your sworn testimony?

4 A. No, sir.

5 SENATOR MARTIN: All right. It will be
6 done at this point in the transcript.

7 (EXH. 2, Judicial Merit Selection
8 Commission Personal Data Questionnaire
9 for The Honorable Bryan W. Braddock,
10 dated March 2, 2015, was marked for
11 identification.)

12 BY SENATOR MARTIN:

13 Q. The Judicial Merit Selection Committee
14 has thoroughly investigated your qualifications for
15 the bench. Our inquiry has focused on nine
16 evaluated criteria and has included a ballot box
17 survey, thorough study of your application material,
18 verification of your compliance with the State
19 ethics laws, search of newspaper articles in which
20 your name appears, study of previous screenings and
21 a check for economic conflicts of interest. We've
22 received no affidavits filed in opposition to your
23 election, no witnesses are present to testify.

24 Do you have a brief opening statement
25 you would like to make at this time?

1 A. No, sir. I'm just honored to be here
2 and look forward to the process.

3 SENATOR MARTIN: All right. If you'll
4 answer our counsel's questions, please -- Senator
5 from Darlington.

6 SENATOR MALLOY: Thank you, Mr. Chair.
7 I just wanted to let the Committee know and for the
8 listeners that Judge Braddock is now a municipal
9 judge in Hartsville, which is my home town. And I
10 looked back at his numbers and it looks like he
11 practiced law at the same law firm I was practicing
12 at for a brief period of time, from '99 until June
13 2000. So we would have had an overlap of about six
14 months. And, also, I know him and frequently have a
15 case opposing or with, so I just wanted the
16 Committee to be aware of that.

17 SENATOR MARTIN: All right. Ms. Dean.

18 MS. DEAN: Thank you, Mr. Chairman.
19 Mr. Chairman and members of the Commission, I have a
20 procedural matter to take care of with this
21 candidate.

22 EXAMINATION

23 BY MS. DEAN:

24 Q. Judge Braddock, you have before you the
25 sworn statement you provided detailed answers to

1 over 30 questions regarding judicial conduct,
2 statutory qualifications, office administration and
3 temperament. You submitted an amendment to the
4 sworn statement last week. Are there any additional
5 amendments you would like to make at this time to
6 your sworn statement?

7 A. None of which I'm aware.

8 MS. DEAN: Thank you. At this time,
9 Mr. Chairman, I would like to ask that Judge
10 Braddock's sworn statement be added as an exhibit to
11 the hearing record.

12 SENATOR MARTIN: All right. Any
13 objections?

14 (No response.)

15 SENATOR MARTIN: Hearing none, the sworn
16 statement will be entered into the record at this
17 time.

18 (EXH. 3, Judicial Merit Selection
19 Commission Sworn Statement for The
20 Honorable Bryan W. Braddock, was marked
21 for identification.)

22 MS. DEAN: Thank you.

23 Q. Judge Braddock, please state for the
24 record the city and circuit in which you reside.

25 A. I reside in Hartsville, South Carolina,

1 which is in the Fourth Judicial Circuit.

2 MS. DEAN: One final procedural matter.
3 I note for the record that based on the testimony
4 contained in the candidate's PDQ, which has been
5 included in the record with the candidate's consent,
6 Judge Braddock meets the statutory requirements for
7 this position regarding age, residency and years of
8 practice.

9 Q. Judge Braddock, can you please explain
10 to the Commission how you feel your legal and
11 professional experience thus far will assist you in
12 being an effective judge?

13 A. Well, from a legal perspective my
14 practice is almost exclusively family. Has been for
15 a number of years. I decided probably ten years ago
16 that to become a family court judge was my ultimate
17 goal in the practice of law and, therefore, I have
18 focused almost exclusively in that area. I have
19 handled cases in virtually every area in which a
20 family court judge would have to deal.

21 I have attempted to keep myself involved
22 in areas of practice in which a lot of private
23 attorneys do not have the opportunity to be
24 involved. Just from the last couple of years I was
25 a contract attorney for DSS in Lee County. Recently

1 I've been offering my services as a volunteer
2 guardian ad litem to stand in for juvenile
3 defendants in DJJ matters so I can keep abreast of
4 DJJ cases and I keep myself fresh as far as how
5 those are handled.

6 I have had my time on the bench as a
7 municipal judge so as a family court judge, of
8 course, I would be dealing with criminal issues
9 within the DJJ realm.

10 Q. Thank you, Judge Braddock. And you
11 touched on this next question already through your
12 experience, but as a prospective family court judge
13 what do you consider your greatest strengths and
14 greatest weaknesses?

15 A. As a family court judge I'd like to
16 think sort of two things. My greatest strength I
17 think would be my knowledge of the law, which I do
18 everything I can endeavor to stay on top of all
19 changes, statutory law as well as case law, make
20 sure I'm familiar with all those. I have a number
21 of attorneys that do call upon me and ask questions
22 in that regard.

23 The other thing I try to endeavor to do
24 is make sure not to lose touch with the fact that
25 these people in the process are humans. They're not

1 just names, they're not just figures, they're not
2 just plaintiff or defendant. As a judge I'd like to
3 think I would be able to maintain a -- keep in touch
4 with the fact that there are humans involved in this
5 process.

6 Weakness? Well, probably my familiarity
7 involvement with the DJJ process. As I've discussed
8 with many attorneys and many people in this process,
9 as private attorneys we don't get retained often to
10 be involved in the DJJ office unless you work with
11 the Public Defender's office or the Solicitor's
12 office. You're somewhat removed from that process
13 which, again, is why I volunteer my services to try
14 to keep myself around the DJJ court and keep a
15 familiarity with that process.

16 Q. Thank you, Judge. In your view, what
17 are the strengths and weaknesses of the present
18 Family Court system and what changes would you like
19 to see made?

20 A. Well, the strengths of the Court, of
21 course it's sort of an easy out by its very nature
22 which allows the judge to seek out the most
23 equitable resolution to issues before him or her. I
24 am a strong proponent of the mediation process which
25 has been instituted in all but 13 counties in the

1 State, mandatory in all but 13 -- those being the
2 most rural and least populated as a general rule.

3 I'm proud of the institution of that process and my
4 experience has been at least in the counties in
5 which I practice, which is 12 over in my region,
6 probably have an 85 percent success rate at
7 mediation. We have very good mediators and they're
8 able to resolve the cases that can be resolved.

9 Really resolve the issues that ought not to be tried
10 and allow the trial judge to focus on the issues
11 which really need to be tried and resolved through
12 trial.

13 Weaknesses of the Court. Well, part of
14 that I think is in some regard the lack of mediators
15 in certain geographic areas, which is sort of just a
16 result of the number of members of the Bar in those
17 areas. And unavailability, therefore, of the
18 mediation process in some areas where I think it
19 might be helpful.

20 Q. Thank you, Judge. And your last answer
21 touched on this a bit, but what suggestions would
22 you offer for improving the backlog of cases on the
23 docket in the Family Court?

24 A. Mediation. Mediation, like I said, is
25 highly successful. It requires an additional

1 expenditure by the parties. Of course, under the
2 ADR rules if they have financial issues there's a
3 motion they can file to either reduce or waive the
4 mediation fee. I'm often contacted by attorneys and
5 ask if I will volunteer my services for one side or
6 the other, or if I'll do it at a reduced price based
7 on the financial issues with the parties.

8 But I strongly believe that process
9 allows the parties to resolve their case more
10 quickly and less expensively. And, also, the
11 earlier the mediation takes place, instead of the
12 mediation taking place a year into the process,
13 mediations 60 to 90 days into the process can really
14 help resolve, like I said, the issues that really
15 should be resolved and allow the parties and their
16 attorneys to focus on the issues that truly need to
17 be mitigated.

18 Q. Thank you, Judge. How do you believe
19 that a judge should respond to the following
20 situation? An unrepresented mother is seeking
21 custody of her children in a contested divorce case.
22 Her husband's attorney is raising objections to
23 every statement she makes. She clearly is unable to
24 effectively present her case; yet, she insists she
25 cannot afford an attorney. You want to make sure

1 she gets a fair hearing. What could or should you
2 do?

3 A. That's a good question. From a selfish
4 perspective as an attorney, what you don't want is
5 you don't want the judge advocating on behalf of the
6 party. The judicial canons, the rules allow the
7 judge to ask questions to gain certain information
8 as necessary for him or her to make a complete
9 decision but, clearly, there is a line over which
10 the judge cannot step and become a proponent or
11 either party.

12 You know, there are no rules of -- for
13 us to appoint attorneys in private matters so,
14 unfortunately, in some regard -- like I said, the
15 judge can still try to figure out the information
16 that's necessary to make a knowing decision, but I
17 don't think the judge can act as an attorney or
18 protect the party if the party's not providing
19 information in an appropriate manner following the
20 rules.

21 One of the standard statements the
22 judges make that I've ever been in front of when
23 there is a pro se party is say -- go through and
24 question them and, first of all, give them
25 opportunity for a continuance if this is the first

1 time they've been to court and they indicate that
2 they believe they need an attorney. But if they
3 come back and they still don't have an attorney,
4 make sure that they have the confidence with which
5 to represent themselves, they don't have any mental
6 infirmities or anything of that nature to prevent
7 them from representing themselves. But, thereafter,
8 they're expected to comply with the same rules that
9 the attorneys are.

10 Q. Thank you, Judge. To what extent do you
11 believe that a judge should or should not defer to
12 the actions of the Legislature?

13 A. Well, we have the checks and balances in
14 our system. The Legislature creates the law. I
15 believe it's the trial judge's job to enforce the
16 law. You have the appellate courts to interpret the
17 law to a greater degree. There may be very, very
18 limited situations in the way trial lawyers -- I
19 mean, a trial judge is called upon to interpret the
20 law. That's part of the job but, for the most part,
21 the law is clear. The standards are clear, that a
22 judge's duties are simply abide by the law.

23 Q. Thank you, Judge. Please explain to the
24 Committee how you would conduct yourself as a family
25 court judge regarding judicial temperament and

1 avoiding an appearance of bias.

2 A. The judge, of course, is a reflection of
3 the process. To the litigants who are coming into
4 the courtroom who may have never experienced the
5 court process, the judge is a representation of the
6 system itself and the process itself. So the manner
7 in which the judge presents him or herself to them
8 in the courtroom needs to be consistent with the
9 respect that they would hopefully give the Court.
10 You get what you get, in essence.

11 Q. Thank you, Judge. Judge Braddock, your
12 SLED report indicated that a tax lien was filed
13 against you in the amount of a little over \$2,000.
14 Notably, this lien has been satisfied. Could you
15 please just respond to that lien?

16 A. I reviewed that issue, that lien. The
17 only thing I can determine, there was a period of
18 time in which I had issue with the corporate
19 accountant providing an amended corporate return.
20 And because of a delay in that process I wasn't able
21 to amend the return to clarify so I basically was
22 sort of sitting on standby waiting for her to do her
23 job before I could resolve that because the numbers
24 weren't what they were going to be in the system.
25 So that resulted in sort of an overlap period there

1 where there was an unpaid period. I resolved that,
2 of course, as soon as we got the overturned result.

3 Q. Thank you, Judge. Judge Braddock, your
4 SLED report and, also, your PDQ amendment stated
5 that you were named in a lawsuit in 2012. Could you
6 briefly explain that?

7 A. Yeah. My client was fortunate enough
8 that we were awarded attorney's fees by the other
9 party as part of a final court order. The other
10 party did eventually pay the attorney's fees, but it
11 still showed up as a judgment on the rolls. And so
12 when the other party -- not my client but the other
13 party had a foreclosure filed against them, the
14 attorney for the bank mortgage company looked
15 through, found that judgment naming me as a
16 creditor, in essence, and named me as a party.

17 I actually wasn't really even aware, I
18 believe, until you brought it to my attention
19 because I pulled the file and had the file pulled
20 and reviewed and it appears they filed the action,
21 named me as a party, and within seven days filed an
22 amended complaint removing me as a party. I don't
23 believe I was ever even served with the original
24 pleadings. But in going back and reviewing, it
25 appears that that's what it was.

1 MS. DEAN: Thank you, Judge. At this
2 time, Mr. Chairman, I request that we go into
3 executive session.

4 SENATOR MARTIN: All right. We'll
5 consider ourselves in executive session, meaning all
6 microphones off and the stenographer will cease
7 momentarily.

8 (Off-the-record executive session.)

9 SENATOR MARTIN: We'll consider
10 ourselves out of executive session and back on the
11 record. Ms. Dean, do you have anything further?

12 MS. DEAN: Just housekeeping issues,
13 Mr. Chairman, thank you.

14 Q. Judge Braddock, at this time have you
15 sought or received the pledge of any legislator
16 prior to this date?

17 A. No, ma'am.

18 Q. Have you sought or have you been offered
19 a conditional pledge of support of any legislator
20 pending the outcome of your screening?

21 A. No.

22 Q. Have you asked any third parties to
23 contact members of the General Assembly on your
24 behalf?

25 A. No, ma'am.

1 Q. Are you aware of anyone attempting to
2 intervene in any part of the process on your behalf?

3 A. No.

4 Q. Have you contacted any members of the
5 Commission?

6 A. No, ma'am.

7 Q. Do you understand that you're prohibited
8 from seeking a pledge or commitment until 48 hours
9 after the formal release of the Commission's report?

10 A. Yes, ma'am.

11 Q. Have you reviewed the Commission's
12 guidelines on pledging?

13 A. Yes, ma'am.

14 Q. And as a follow-up to that, are you
15 aware of the penalties for violating the pledging
16 rules, that is, it's a misdemeanor, and upon
17 conviction the violator must be fined not more than
18 \$1,000 or in prison not more than 90 days?

19 A. Yes, ma'am. One follow-up. Senator
20 Malloy, obviously, is in the same town and I've seen
21 and said hello. But I've been very -- probably
22 overly hesitant to talk to anyone on this Committee.
23 I believe Representative Bannister is going to be
24 presenting at a CLE in Hilton Head in August and his
25 staff was contacted to coordinate that, but I don't

1 believe he and I ever had any direct communication
2 either on that issue.

3 Q. Thank you. And just on to this
4 question, are you aware of the penalties as I just
5 laid them out?

6 A. Yes, ma'am.

7 MS. DEAN: Thank you. I would note that
8 the Pee Dee Citizens Committee found Judge Braddock
9 is qualified in the evaluative criteria of
10 constitutional qualifications, physical health,
11 mental stability. The committee found Judge
12 Braddock to be well qualified in the remaining
13 criteria, ethical fitness, professional and academic
14 ability, character, reputation, experience and
15 judicial temperament. The Committee stated, in
16 summary, this Committee has no concerns with Judge
17 Braddock's legal knowledge or capability to perform
18 well on the Family Court bench.

19 I would just note for the record that
20 any concerns raised during the investigation
21 regarding the candidate were incorporated into the
22 questioning of the candidate today.

23 Mr. Chairman, I have no further
24 questions.

25 SENATOR MARTIN: All right. Thank you,

1 Ms. Dean. Any question by the member of the
2 Commission or comment?

3 (No response.)

4 SENATOR MARTIN: Hearing none, Judge
5 Braddock, we thank you for being here. Your
6 cooperation with our staff during this screening
7 process, as you know the record will remain open and
8 you may be called back should something arise if
9 need be. I'll remind you, again, if you do that --
10 over and over again of our 48-hour rule. Should
11 anyone inquire of you about whether to advocate on
12 your behalf, you should also remind them about the
13 48-hour rule. And we thank you for offering and for
14 your willingness to serve the people of South
15 Carolina in this important capacity. Thank you.

16 JUDGE BRADDOCK: Thank you, sir.

17 SENATOR MARTIN: Thank you.

18 (Candidate excused.)

19 JUDGE BRIGMAN: Good morning -- good
20 afternoon. I'm sorry.

21 SENATOR MARTIN: That's okay. All
22 right. Welcome, Judge Brigman. It's good to have
23 you with us.

24 JUDGE BRIGMAN: Thank you, sir.

25 SENATOR MARTIN: Do you have someone

1 here you'd like to introduce to the Commission?

2 JUDGE BRIGMAN: I do. I brought with me
3 today my dad. This is Ken Baker.

4 MR. BAKER: Good to see you.

5 JUDGE BRIGMAN: He just recently retired
6 from the practice of law after 50 years, and he is
7 my hero and so I'm glad he came with me today.

8 SENATOR MARTIN: Thank you, Mr. Baker.
9 It's good to see you.

10 MR. BAKER: Thank you, sir.

11 SENATOR MARTIN: All right. Would you
12 raise your hand to take the oath?

13 THE HONORABLE CELY ANNE BRIGMAN
14 being first duly sworn by the Chairman, testified as
15 follows:

16 EXAMINATION

17 BY SENATOR MARTIN:

18 Q. Have you had the opportunity to review
19 your Personal Data Questionnaire? Everything seemed
20 to be in order?

21 A. Yes, sir.

22 Q. No changes? Do you object to our making
23 the summary and any amendments part of the record of
24 your sworn testimony?

25 A. I do not.

1 SENATOR MARTIN: Okay. It will be done
2 at this point in the transcript.

3 (EXH. 4, Judicial Merit Selection
4 Commission Personal Data Questionnaire
5 for The Honorable Cely Anne Brigman,
6 dated February 12, 2015, was marked for
7 identification.)

8 BY SENATOR MARTIN:

9 Q. The Judicial Merit Selection Commission
10 has thoroughly investigated your qualifications for
11 the bench. Our inquiry has focused on nine
12 evaluated criteria, including a ballot box survey,
13 thorough study of your application materials,
14 verification of your compliance with State ethics
15 law, search of newspaper articles in which your name
16 appears, study of previous screenings and check of
17 economic conflicts of interest. We've received no
18 affidavits in opposition to your election, no
19 witnesses are present to testify.

20 Do you have a brief opening statement
21 you would like to make at this time?

22 A. Just briefly, Mr. Chairman. I do
23 appreciate the opportunity to appear before you
24 today. This is quite an arduous but humbling
25 experience and I appreciate your staff, they have

1 been nothing but gracious and kind and helpful. And
2 I also appreciate the work that each of you do
3 individually on behalf of the South Carolina
4 Judicial System.

5 SENATOR MARTIN: Thank you. Will you
6 answer -- yes, Senator from Darlington.

7 SENATOR MALLOY: Thank you,
8 Mr. Chairman. Before we go into the record I want
9 to make certain that, again, this seat comes out of
10 my circuit. Ms. Brigman is someone that I nominated
11 and was subsequently appointed by the Governor to be
12 a magistrate in Darlington County probably back in
13 2003 or 2004, and so we had frequent contact in that
14 regard. Not as frequent as it needs to be.

15 And her dad, Ken, is a past president of
16 the South Carolina Trial Lawyers. Ken is one of my
17 early and constant supporters, contributes to my
18 campaign. And he and I were involved in probably
19 the biggest trial in Darlington County history
20 during the Beasley vs. Toyota of Florence.

21 MR. BAKER: Big loss, ultimately.

22 SENATOR CAMPSEN: He wasn't going to
23 tell us that.

24 SENATOR MALLOY: Well, we didn't lose
25 initially. It was 5-0 so they sort of took it away

1 from us. We'll talk about that later.

2 On an issue obviously that -- just keep
3 in mind if you don't object in a death penalty trial
4 it is waived, but if you don't object in a civil
5 case obviously the Court can bring it up on their
6 own and, therefore, a verdict of about \$18 million
7 is no longer there. It's worth the reading if you
8 do civil cases. So I may not have been here so I'm
9 glad we may have lost to Mr. Baker because if I had
10 got that money I probably would have been in the
11 Bahamas or somewhere right now.

12 But, seriously, I want to make sure you
13 put that on the record that we had contact and
14 Mr. Baker was -- has been a contributor to my
15 campaign since the beginning in the early part of
16 it.

17 SENATOR MARTIN: Thank you. We
18 appreciate it. Would you kindly respond to
19 Ms. Hendrick's counsel?

20 JUDGE BRIGMAN: Certainly.

21 MS. HENDRICKS: Good afternoon,
22 Mr. Chairman, members of the Commission, Judge
23 Brigman.

24 EXAMINATION

25 BY MS. HENDRICKS:

1 Q. Judge Brigman, you have the sworn
2 statement before you provided with detailed answers
3 to over 30 questions regarding judicial conduct,
4 statutory qualifications, office administration and
5 temperament. You also submitted an amendment to
6 that statement. Do you have any further amendments
7 at this time?

8 A. No. The letters regarding my spending
9 are attached so no, I do not.

10 MS. HENDRICKS: Thank you. At this
11 time, Mr. Chairman, I would like -- I would ask that
12 Judge Brigman's sworn statement be entered as an
13 exhibit into the hearing record.

14 SENATOR MARTIN: Without objection, it
15 will be done.

16 (EXH. 5, Judicial Merit Selection
17 Commission Sworn Statement for The
18 Honorable Cely Anne Brigman, dated
19 February 12, 2015, was marked for
20 identification.)

21 MS. HENDRICKS: Thank you.

22 Q. Judge Brigman, can you state your name
23 for the record -- excuse me. Could you state for
24 the record the city and circuit in which you reside?

25 A. I reside in Darlington, which is in the

1 Fourth Judicial Circuit.

2 MS. HENDRICKS: On a procedural matter,
3 I note for the record that based on the testimony
4 contained in the candidate's PDQ, which has been
5 included in the record with the candidate's consent,
6 Judge Brigman meets the statutory qualifications for
7 this position regarding age, residence and years of
8 practice.

9 Q. Judge Brigman, can you explain to the
10 Commission how you feel your legal and professional
11 experience thus far will assist you to be an
12 effective judge?

13 A. Well, first of all, I've been out
14 practicing for going on, unfortunately, almost 30
15 years, which doesn't seem that long. The last 10 or
16 12 or so which have been exclusively in family
17 court. Additionally, I have spent the last ten
18 years, as Senator Malloy said, as the chief
19 magistrate for Darlington County. So I feel like my
20 family court experience as a trial lawyer combined
21 with my judicial experience from serving on the
22 bench makes me a great candidate for that position.

23 Q. And as a prospective family court judge
24 what do you consider your greatest strengths and
25 weaknesses?

1 A. I think my greatest strength is learned
2 from both of my jobs as an attorney and a
3 magistrate, and that is to recognize that people who
4 appear in front of you are normally going through
5 some sort of crisis or they have some issue that
6 they want to be heard. And when I say heard, I mean
7 as a judge you need not to only listen but to hear
8 what they have to say. They want someone who is
9 going to listen and decide fairly. So I think that
10 is one of my strongest assets.

11 Q. And with regard to strengths and
12 weaknesses, what strengths and weaknesses of the
13 present Family Court system -- what do you view
14 those strengths and weaknesses as and what changes
15 would you like to see in the present Family Court
16 system?

17 A. The Family Court system?

18 Q. The present, yes.

19 A. Probably backlog would be an issue that
20 needs to be addressed. I've learned a lot about
21 handling backlog or handling dockets through my work
22 at the magistrate's office. I have had the benefit
23 of practicing in front of some very good, very
24 creative family court judges in my years of
25 practice. One thing that one judge in particular

1 does is just makes himself available for attorneys
2 who need to work a case in, or during chambers week
3 coming in and trying to work with attorneys to get
4 cases moving, get things settled, have pretrial
5 conferences. So those are just some ideas that I
6 would probably bring initially.

7 Q. Thank you. Judge Brigman, how do you
8 believe a judge should respond to the following
9 situation? An unrepresented mother is seeking
10 custody of her children in a contested divorce case.
11 Her husband's attorney is raising objections to
12 every statement she makes. She clearly is unable to
13 effectively represent -- excuse me, present her
14 case. Yet, she insists she cannot afford an
15 attorney. You want to ensure that she gets a fair
16 hearing. What could or should you do in that
17 situation?

18 A. I believe I could appoint her an
19 attorney. Did you say she can't afford one?

20 Q. I did.

21 A. I think I can appoint her an attorney,
22 find an attorney to come represent her. Certainly
23 if she wants to go forward without doing that you
24 just have to be patient and go forward and make sure
25 that what happens is fair for her and the best

1 interests of the child, obviously.

2 Q. Thank you, Judge Brigman. And to what
3 extent do you believe a judge should or should not
4 defer to the actions of the Legislature?

5 A. In the sense that the laws of the
6 Legislature enacts I should apply those as they are
7 meant to be applied. I don't think it's up to me to
8 make new law when there's a statute on point or case
9 law on point.

10 In cases where the law is not
11 specifically clear, I would do my best to interpret
12 what is there and apply it in a way that I think
13 that maybe the Legislature intended. I don't think
14 it's my job to legislate.

15 Q. Thank you, Judge Brigman. As a part of
16 the survey, you received nine comments. I will note
17 for the record that many of them were very positive,
18 describing you as an exceptional judge, right kind
19 of temperament, dedicated family court lawyer and
20 excellent candidate. Only one comment was negative
21 concerning potential bias as a judge. Please
22 respond by sharing with the Committee how you would
23 conduct yourself as a family court judge regarding
24 bias and judicial temperament.

25 A. When you and I discussed that comment,

1 it really kind of hurt my feelings because I -- I
2 try very hard in the magistrate's court to not be
3 biased and to be aware of my conduct and how I
4 present myself to the public, because you don't ever
5 know what people see and how your behavior comes
6 across. So that comment makes me even more aware or
7 heightens my sense of responsibility that I need to
8 be very careful about my actions.

9 And as far as temperament I've always
10 tried to have what I consider to be appropriate
11 temperament. I don't think there's necessarily a
12 place for anger on the bench. I think certainly a
13 judge has the necessity to be firm at times when
14 it's needed but, like I said earlier, I think
15 compassion, ability to listen and to treat people
16 like I would want them to be treated -- like I would
17 want to be treated.

18 MS. HENDRICKS: Thank you, Judge
19 Brigman. Mr. Chair, I have a few housekeeping
20 issues.

21 Q. Judge Brigman, have you ever -- excuse
22 me. Have you sought or received the pledge of any
23 legislator prior to this date?

24 A. I have not.

25 Q. Have you sought or had even offered a

1 conditional prejudice of support of any legislator
2 pending the outcome of your screening?

3 A. I have not.

4 Q. Have you asked either of the parties to
5 contact the General Assembly on your behalf?

6 A. I have not.

7 Q. Are you aware of anyone attempting to
8 intervene in any part of the process on your behalf?

9 A. I have not.

10 Q. Have you contacted any members of the
11 Commission?

12 A. I have not.

13 Q. Do you understand that you are
14 prohibited from seeking a pledge of commitment until
15 24 (sic) hours after the formal release of the
16 Commission's report?

17 A. I understand that, yes.

18 Q. And have you reviewed the Commission's
19 guidelines on pledging?

20 A. Yes.

21 Q. And as a follow-up, are you aware the
22 penalties -- excuse me. Are you aware the penalties
23 for violating the pledging rules, that is, it is a
24 misdemeanor and upon conviction -- upon conviction
25 the violator must be fined not more than \$1,000 or

1 imprisonment not more than 90 days?

2 A. Yes, I am aware of that.

3 Q. I know that the Pee Dee Citizens
4 Committee found Ms. Brigman qualified in the
5 evaluated criterion of constitutional
6 qualifications, physical health and mental
7 stability, and well qualified in the evaluative
8 criteria of ethical fitness, professional and
9 academic ability, character reputation, experience
10 and judicial temperament. The Committee further
11 stated in its summary Judge Brigman consistently
12 received very high praise from her peers and from
13 members of the bench regarding her preparedness for
14 court, her legal knowledge and her temperament. I
15 further note for the record that any act -- excuse
16 me, any concerns raised during the investigation
17 regarding the candidate were incorporated into the
18 questioning of the candidate today.

19 Mr. Chair, I have no further questions.

20 SENATOR MARTIN: All right. Thank you
21 very much. Any questions by members of the
22 Committee?

23 (No response.)

24 SENATOR MARTIN: All right. Well, Judge
25 Brigman, I want to thank you very much for your

1 being here today and for your cooperation with our
2 staff throughout this process. As you know, the
3 record will remain open until the report is
4 published. You may be called back if the need
5 should arise, I don't anticipate that would happen.
6 And, of course, remind you once again of the 48-hour
7 rule.

8 Should anyone inquire of you as to --
9 and I'm sure someone may, want to advocate in your
10 behalf, members of the Legislature, you need to
11 remind them of the 48-hour rule.

12 JUDGE BRIGMAN: Yes, sir.

13 SENATOR MARTIN: Thank you, again, for
14 your willingness to serve and what you've already
15 done is serve the people from South Carolina.

16 JUDGE BRIGMAN: Thank you. Y'all have a
17 good afternoon.

18 (Candidate excused.)

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(No response.)

(Witness excused.)

(A recess transpired.)

SENATOR MARTIN: Welcome, Justice Pleicones. We're here -- we're back on the record. We're here today to screen Supreme Court Chief Justice position, the Honorable Costas -- Costa M. Pleicones. Will you raise your hand to take the oath?

JUSTICE PLEICONES: Yes, sir.

THE HONORABLE COSTA M. PLEICONES
being first duly sworn by the Chairman, testified as

1 follows:

2 EXAMINATION

3 BY SENATOR MARTIN:

4 Q. All right, sir. Have you had the
5 opportunity to review your Personal Data
6 Questionnaire?

7 A. I have. I haven't looked at it in a
8 while, but I have.

9 Q. Made any changes or any --

10 A. No, sir.

11 Q. Do you have any objection to us making
12 it part of your sworn testimony?

13 A. None whatsoever.

14 SENATOR MARTIN: All right. It will be
15 done at this point in the transcript.

16 (EXH. 8, Judicial Merit Selection
17 Commission Personal Data Questionnaire
18 for The Honorable Costa M. Pleicones,
19 dated February 25, 2015, was marked for
20 identification.)

21 BY SENATOR MARTIN:

22 Q. The Judicial Merit Selection Commission
23 has thoroughly investigated your qualifications for
24 the bench. Our inquiry has focused on nine
25 evaluative criteria and has included a ballot box

1 survey, thorough study of your application
2 materials, verification of your compliance with the
3 State ethics laws, search of newspaper articles in
4 which your name appears, study of previous
5 screenings, and a check for conflict of economic
6 conflict of interest. We received one affidavit in
7 opposition to your election, one witness is present
8 to testify, Dr. Marie Faltas.

9 Do you have a brief opening statement
10 you would like to make at this time?

11 A. May I have the opportunity to respond to
12 Dr. Faltas?

13 Q. You will have.

14 A. I will? Okay. Then, really, I have
15 nothing to say other than I'm here and prepared to
16 answer your questions.

17 SENATOR MARTIN: Well, thank you very
18 much and with that I'll turn you over to our able
19 counsel, Ms. Dean.

20 MS. DEAN: Thank you, Mr. Chairman,
21 members of the Commission. I have a procedural
22 matter to take up first with this candidate.

23 EXAMINATION

24 BY MS. DEAN:

25 Q. Justice Pleicones, you have before you

1 the sworn statement you provided with detailed
2 answers to over 30 questions regarding judicial
3 conduct, statutory qualifications, office
4 administration and temperament. Are there any
5 amendments you would like to make at this time to
6 your sworn statement?

7 A. None that I can think of, no. Thanks.

8 MS. DEAN: At this time, Mr. Chairman, I
9 would like to ask that Justice Pleicones' sworn
10 statement be entered as an exhibit to the hearing
11 record.

12 SENATOR MARTIN: Without objection, it
13 will be done at this time.

14 (EXH. 9, Judicial Merit Selection
15 Commission Sworn Statement for The
16 Honorable Costa M. Pleicones, dated
17 February 25, 2015, was marked for
18 identification.)

19 MS. DEAN: Thank you.

20 Q. Justice Pleicones, based on your present
21 plans, discuss the length of time you intend to
22 serve as the chief justice if you were nominated by
23 the Commission and elected into this position by the
24 members of the General Assembly.

25 A. Well, I think that's pretty much

1 prescribed by law, isn't it? I reach the age of
2 presumed senility in about a year and I will be
3 forced to retire at the end of the year in which I
4 turn 72, which is 2016.

5 Q. Thank you, Justice Pleicones. Pursuant
6 to Article 5 Section 4 of the Constitution of this
7 state, the chief justice of the Supreme Court is the
8 administrative head of the unified judicial system.
9 Please explain what you believe to be the proper
10 role for the chief justice to play in administrating
11 the Court system.

12 A. Well, I assist the role as CEO,
13 essentially. The administration of the budget,
14 administration of hiring personnel, of hiring the
15 day-to-day operations of the Court, administrative
16 orders and the like and all the matters I put down
17 in the answer to the question.

18 Q. Thank you, sir. Justice Pleicones, do
19 you feel that the relatively short time that you
20 will be able to serve as chief justice will hinder
21 your ability to effectively administer the State's
22 court system in any way?

23 A. I do not. Certainly I would have
24 preferred it to be a little longer, but it's not and
25 that's not the way things developed. But I have a

1 lot of plans and, quite frankly, Chief Justice Toal
2 has been very cordial in helping me prepare for this
3 position and we're kind of moving along to effect
4 some changes that I would like to see happen during
5 my tenure, one of which affects the Bar exam without
6 going into great detail. No, I don't think it will
7 at all.

8 Q. All right. Thank you, sir. Justice
9 Pleicones, you are well-known for your use of
10 dissenting opinions to defer -- to differ with the
11 decisions of your colleagues as well as concurring
12 opinions to differ with particular points of law and
13 majority opinions. In your last hearing you
14 described in detail for the Commission your thoughts
15 on the appropriate use of these tools. As chief
16 justice, would your use of concurrence and dissent
17 need to be reconsidered?

18 A. No. Let me just say this. Is the
19 question addressed to consensus or to court
20 collegiality? Because I perceive a -- more from
21 observers' interest in the consensus. Lack of
22 unanimity to me does not indicate or speak any
23 personal disharmony. If you -- the one thing that
24 we have in common on the Court, we've got five
25 different backgrounds, five diverse backgrounds.

1 But the one thing that we have in common is we're
2 all liberal arts graduates and we all are imbued
3 with a sense of critical thinking and I think that
4 that critical thinking leads to a robust debate.

5 And let me just point out that I would
6 say the overwhelming majority, and I would quantify
7 it in terms of 90-plus percent, of every decision
8 that comes out of the Supreme Court are 5-0
9 decisions. 3-2 decisions are now becoming a lot
10 more common than 4-1. I can't quantify for you the
11 number of cases that have come up with a different
12 result that resulted in a different opinion from the
13 onset of deliberations to the final product. That's
14 why we have a fairly lengthy run up, longer than I
15 would like in some cases, to the decision-making
16 process.

17 But, you know, every case is important,
18 every case is difficult. And I think that if they
19 weren't difficult they wouldn't be in front of us
20 and I think that that leads to diversity of opinion
21 and I don't see a necessity. Here's where I differ
22 with my friend Alex Sanders who once said that there
23 should never be a dissent on an appellate court. I
24 completely and totally disagree with that. You can
25 elect five clones, five people with similar

1 backgrounds, and let them always come up with the
2 same decision. And I think that that would be a
3 disservice of the people of this state. You elect
4 five different people to each speak on their own
5 point of view on a particular case. And once a
6 decision is made, I think that you will note --
7 let's say some of those 4-1 decisions, they come up
8 with petitions for rehearing. Then there's,
9 generally speaking, 5-0 not to rehear them because
10 once it's done it's done.

11 But in terms of consensus, there is
12 consensus of cordiality on our court, I will tell
13 you that. And I point to an example in another
14 court, Scalia and Ruth Bader Ginsburg seem awkward
15 together, but generally on the polar opposites in
16 their opinions as with Justice Breyer and Justice
17 Scalia.

18 No, I would not use the chief justice
19 position as a bully pulpit to try to seek unanimity
20 on the Court. What happens, happens.

21 Q. Thank you, sir. Justice Pleicones, you
22 became aware during the conversation with staff that
23 a SLED review of the court records includes a
24 summons and complaint filed in Federal District
25 Court by Ms. Regina Hunter. The records indicate

1 that the matter was returned to Ms. Hunter for lack
2 of proper form and service, and you indicated that
3 you have not been served in the matter. Is that
4 still the case?

5 A. Yeah. I don't know who Regina Hunter
6 is.

7 MS. DEAN: I would note that the
8 Midlands Citizens Committee reported that Justice
9 Pleicones is qualified and evaluated for a series of
10 constitutional qualifications. The Committee found
11 Justice Pleicones to be well qualified in remaining
12 evaluative criteria of physical health, mental
13 stability, ethical fitness, professional and
14 academic ability, character reputation, experience
15 and judicial temperament. The Committee stated in
16 its summary the institution of Chief Justice of the
17 South Carolina Supreme Court will be well served by
18 the election of Justice Pleicones.

19 JUSTICE PLEICONES: I agree with that.

20 MS. DEAN: I'll just note for the record
21 that any concerns raised during the investigation
22 regarding the candidate were incorporated into the
23 questioning of the candidate today. Mr. Chairman,
24 following questions by the Commission, I would ask
25 that we move to the complaint.

1 SENATOR MARTIN: All right. If you
2 would just have a seat. And I'm going to ask
3 Dr. Faltas to come forward. Thank you, sir.

4 THE COURT REPORTER: Will you spell your
5 last name, please?

6 MS. JORDAN: It's F-A-L-T-A-S.

7 SENATOR MARTIN: Do you have an exhibit,
8 Dr. Faltas?

9 DR. FALTAS: Well, actually, I wanted to
10 show you this replica of a Coptic icon of the
11 Blessed Virgin Mary and child. And on several
12 occasions I had taken it to court with me for
13 religious reasons and also because, frankly, most
14 South Carolina judges don't have good education
15 about the rest of the world and have never seen
16 Coptic art. So on a couple of occasions I had shown
17 it to the presiding judge and, lo and behold,
18 what -- should I -- should I go ahead and be
19 affirmed first? I need to be affirmed for religious
20 reasons. I do not swear.

21 SENATOR MARTIN: Okay. We'll take care
22 of you. Is the green light on in front of you
23 there? Can you push that green --

24 DR. FALTAS: It is on. Should I push
25 it?

1 SENATOR MARTIN: There we go. All
2 right.

3 DR. FALTAS: May I sit?

4 SENATOR MARTIN: Yes, please.

5 DR. FALTAS: Thank you.

6 SENATOR MARTIN: We'll go ahead and do
7 your affirmation of your oath.

8 DR. MARIE ASSAD FALTAS

9 being first duly affirmed by the Chairman, testified
10 as follows:

11 DR. FALTAS: And when you asked about
12 exhibits, I had e-mailed several documents and I had
13 also -- two of the staff pointed out that the dates
14 of many, many orders. But --

15 SENATOR MARTIN: Let me begin by just
16 reminding you to -- I think you talked with our
17 staff counsel, they briefed you on how we would like
18 to proceed, that we want the allegations as to your
19 complaint to be very specific and relevant to the
20 criteria on which we evaluate the candidacy of the
21 particular candidate. It should relate to character
22 and fitness, it's not -- you need not bring up any
23 reference to any litigation that may have been
24 underway or in the past or present, because that's
25 not why we're here. So if you just speak to

1 character and fitness of Justice Pleicones and we
2 will proceed to the counsel's questions.

3 MS. DEAN: Thank you.

4 EXAMINATION

5 BY MS. DEAN:

6 Q. Dr. Faltas, you filed a complaint
7 against Justice Pleicones. In this complaint you
8 allege that Justice Pleicones, by failing to write
9 separately in the Supreme Court -- in Supreme Court
10 orders, he denied you equal justice based on your
11 allegation of discrimination based on being an
12 immigrant. As the Chair had already mentioned,
13 please focus your comments regarding the complaint
14 to the judicial merit screenings evaluative criteria
15 which is ethical fitness, character ability,
16 temperament, reputation as those characteristics
17 apply to Justice Pleicones. And please be mindful
18 not to relitigate an issue but just solely focus on
19 the evaluative criteria.

20 A. I specifically explained that it's two
21 items, not just one. One is the discriminatory
22 tendency against the immigrants, frankly against
23 people who do not matter and now immigrants do not
24 matter and, second, it's the unwillingness to hold
25 prosecutorial misconduct to task.

1 And I don't know how you expect me to do
2 that without reference to the case where I was
3 knowingly forcibly prosecuted. I defended myself
4 ably pro se and, thank God, the false charges
5 against me were resolved in my favor and suddenly I
6 am the bad guy. So I don't know how I -- I know
7 Justice Pleicones is a Greek orthodox, I'm also
8 orthodox, sometimes we went to the same church so I
9 have no malice in my heart against him. I very much
10 appreciate that he does write in dissent.

11 But if you are not -- and I have no
12 doubt that he did not initiate this campaign against
13 me. But if you're not part of the solution, then
14 you're part of the problem. And recently I -- I
15 had -- I e-mailed the staff the study from the
16 University of Wisconsin, the University of Indiana
17 and the State of -- Ohio State University
18 researchers, and Justice Pleicones testified that
19 the five justices have a liberal art background.
20 I'm a scientist, I'm a medical doctor and I also
21 hold an MPH from Chapel Hill. I used to be fond of
22 Chapel Hill but I no longer am for two reasons.
23 One, the 20-year cheating scandal that came up and,
24 two, the fact that someone went and shot three
25 immigrants in Chapel Hill.

1 So this is not stuff that I'm imagining.
2 This is stuff that I have been seeing and have been
3 trying to bring to the attention and I have been
4 vilified as frivolous, paranoid, blah, blah, blah.
5 How could I have been frivolous if I had won all my
6 cases? How is it possible other than the fact that
7 I'm an immigrant that the same Justice Pleicones,
8 who wrote *Stead v. Barnes*, in which a man who had
9 been convicted of kidnapping in Georgia and then was
10 convicted of murder in South Carolina and Justice
11 Pleicones wrote the majority, and I think it was a
12 3-2 opinion, and he was critical of Chief Justice
13 Toal who was on the dissent that the conviction
14 should be reversed because he was denied the right
15 to self-representation. Of course, I have no
16 problem if I had done and represented myself pro se
17 and started screaming or behaving badly or anything,
18 but the trial judge is not the potted plant --

19 Q. And, Dr. Faltas, just to stop you for a
20 second. If you could focus your comments on Justice
21 Pleicones --

22 A. Yes.

23 Q. -- that would be very helpful.

24 A. Yes. He signed the orders ex-ante,
25 denying me the right to self-representation. But he

1 wrote the majority opinion of -- v. Barnes which
2 also listed the denial of self-representation
3 structure of -- meaning you don't need to go beyond
4 it, you don't look at anything once you see it.
5 It's automatic reversal.

6 The other thing I was talking about is
7 the study and I was about to tell you that I'm a
8 scientist and my MPH is in radiology and
9 biostatistics. And there are several important
10 studies that I think should be required reading for
11 every judge sitting or aspiring and --

12 Q. Dr. Faltas, I certainly understand, but
13 if we could focus on Justice Pleicones' character
14 and the evaluative criteria.

15 A. Well, if you had a judicial candidate
16 who came and said I hate blacks and used the N word
17 and I will rule against any black or something like
18 that, would that person be suitable to sit for -- as
19 a judge? Obviously not. The only difference is
20 immigrants, and the only difference is that all
21 those orders that make no sense against me were not
22 published and they weren't even given a number.

23 When Chief Justice Toal testified about
24 two years ago, she was very proud of everything
25 being on the Internet except the cases of Dr. Marie

1 Assad Faltas. What's the difference? The
2 difference is that Dr. Marie Assad Faltas is an
3 immigrant, not a citizen and cannot vote.

4 And I was about to tell you that that
5 study found statistical evidence that immigrants get
6 sentenced more harshly in federal courts, it did not
7 look at state courts but it stands to reason that
8 that's the case in state courts, too. So it's not
9 just African-Americans who are discriminated
10 against.

11 And then we recently saw -- and it's not
12 just aberrations. In Charleston, South Carolina, in
13 Maryland, in New York -- in all those places where
14 police shoot unarmed people. And the thing about
15 all those police workers, they work with
16 prosecutors. And in my case, I counted 353
17 objectively proven perjuries. Not they say/I say,
18 but objectively proven. For example, my first
19 accuser pretended that she was employed and I was
20 blocking her in from going to work. Lo and behold,
21 she had another lawsuit at the same time and she had
22 testified that she was unemployed at that time.

23 SENATOR MARTIN: Dr. Faltas, I'm going
24 to have to cut you off there. I hate -- Counsel has
25 tried to bring you back in of speaking of Justice

1 Pleicones specifically. We do not have time to
2 listen to you.

3 DR. FALTAS: All that was brought to his
4 attention in pleadings that I filed with the State
5 Supreme Court. When you bring to the attention of a
6 sitting justice that there is prosecutorial
7 misconduct, objectively proven, bringing in not
8 probable cause, not maybe I did it, but bring in
9 somebody and instructing them to lie 353 times. And
10 you take that evidence -- transcripts, public
11 documents and bring it before a justice, and instead
12 he brands you as frivolous or paranoid or
13 malicious --

14 SENATOR MARTIN: That was the holding of
15 the entire court, was it not?

16 DR. FALTAS: But he prides himself --

17 SENATOR MARTIN: No, no, no. Can you
18 answer the question? Was it a holding of the entire
19 Court --

20 DR. FALTAS: It was not per curiam. It
21 was signed by --

22 SENATOR MARTIN: Just by Justice
23 Pleicones?

24 DR. FALTAS: No, no, no. I didn't say
25 that. I'm saying Justice Beatty eventually recused

1 himself, but these were not per curiam orders. They
2 were orders signed by Justice Pleicones as well as
3 the other three and -- and he testified that he --

4 SENATOR MALLOY: Mr. Chair.

5 DR. FALTAS: He needs the dissent order.

6 SENATOR MALLOY: I understand what she
7 was saying it was not a per curiam opinion, but the
8 author of the opinion was not Justice Pleicones my
9 understanding; is that correct?

10 SENATOR MARTIN: That's what I
11 understood you to say.

12 SENATOR MALLOY: Who was the author of
13 the opinion you're talking about? I understand
14 everybody signed it. Who was the author?

15 DR. FALTAS: I don't know.

16 SENATOR MALLOY: Who was --

17 DR. FALTAS: There were several orders.
18 It showed them signed initially by all five and then
19 Justice Beatty recused himself so they were signed
20 by the other four.

21 And what I'm saying is Justice Pleicones
22 specifically finds a need to dissent when something
23 offends his conscious or his sense of justice. So
24 why does it not offend his sense of justice that I,
25 as an immigrant, out of all people get denied my

1 right to self-representation? Why does it not
2 offend his conscious that I show 353 objective
3 proven perjuries and no one does anything about it?

4 SENATOR MARTIN: Well --

5 DR. FALTAS: That's -- that's why I
6 think that is --

7 SENATOR MARTIN: That's the essence of
8 your testimony today?

9 DR. FALTAS: Yes, but you never let me
10 finish the other -- talk about the other study. And
11 the other study was by University of Georgia --

12 SENATOR MARTIN: What does that have to
13 do with the Justice's fitness or character?

14 DR. FALTAS: That he co-signed the order
15 denying me the right of self-representation knowing
16 that there was a study signed -- cited by the U.S.
17 Supreme Court that people who represent themselves
18 in criminal matters get better results than people
19 who are represented by lawyers. So all of this was
20 complicit with a war against me to get me falsely
21 convicted. And one day so that when I represent
22 myself I win, they just upped and said, okay,
23 Dr. Faltas out of all creation cannot represent
24 herself and let the Sixth Amendment to the
25 Constitution of the United States go to trash and --

1 and --

2 SENATOR MALLOY: Mr. Chair?

3 SENATOR MARTIN: Senator.

4 SENATOR MALLOY: Can I try to help to
5 summarize, Dr. Faltas?

6 DR. FALTAS: Yes, sir.

7 SENATOR MALLOY: So am I hearing you
8 correctly, and with all due respect, what you're
9 saying is that the fact that Justice Pleicones did
10 not affirmatively respond but he somewhat acquiesced
11 by concurring with the other justices in this order,
12 then that's your complaint that he -- that he signed
13 on with the other judges?

14 DR. FALTAS: Orders, not one.

15 SENATOR MALLOY: Orders. Orders.

16 DR. FALTAS: Orders.

17 SENATOR MALLOY: And the basis of your
18 complaint is that he did not affirmatively respond
19 and step out and say that he should have in some
20 kind of way made a dissenting motion, you know,
21 filed a dissent in the order and, therefore, you
22 don't feel like he was, I guess...

23 DR. FALTAS: Yeah. Last time I wanted
24 to testify against Chief Justice Toal but you all
25 decided not to hear me. Or Justice Kittredge or

1 Justice Hearn comes and is a candidate in six months
2 or so and if God willing I'm alive I will submit the
3 same complaint. The order that was signed by each
4 one of them, each one is responsible for it.

5 SENATOR MALLOY: I see.

6 DR. FALTAS: So it's not just Justice
7 Pleicones. It's everybody on that court --

8 SENATOR MALLOY: And that's my point is
9 that your -- the basis of your complaint is that
10 it's against all members of the Court that have
11 signed on to this order and that they've not made an
12 affirmative response on your behalf, then that would
13 render them --

14 DR. FALTAS: Of course.

15 SENATOR MALLOY: -- not qualified.

16 DR. FALTAS: Of course. Of course. But
17 this -- this order is a travesty.

18 SENATOR MALLOY: I understand. Thank
19 you.

20 DR. FALTAS: This -- I feel that once we
21 immigrants have our civil rights in -- they will be
22 looked back the same way that Judge Hayes had to sit
23 and vacate the conviction by his uncle. These are
24 travesties.

25 SENATOR MALLOY: Thank you for your

1 testimony. I understand exactly what her point is.

2 SENATOR MARTIN: All right. And I think
3 we've heard Dr. Faltas for future -- the complaint
4 is the similar complaint against all the justices of
5 the Court; is that correct?

6 DR. FALTAS: Yeah, except possibly
7 Justice Beatty because he recused himself. But --
8 but I say that's the quietest solution washing his
9 hands --

10 SENATOR MARTIN: Okay.

11 DR. FALTAS: But -- but I think there
12 should be more courage than this and it's also an
13 issue of how South Carolina courts are run.

14 SENATOR MARTIN: Thank you very much.
15 Justice? You may respond.

16 JUSTICE PLEICONES: Well, just very
17 briefly, Mr. Chairman. I begin by expressing my
18 regret that any litigant in our system feels
19 victimized by the system or discriminated against
20 for any reason. I see the essence of Dr. Faltas'
21 complaint against me and the other members of the
22 Court essentially is that I am intentionally
23 anti-immigrant, xenophobic and inconsistent with my
24 application of the law regarding
25 self-representation.

1 Dr. Faltas is an incredibly intelligent
2 person, there is no question about that, and she
3 genuinely believes everything that she has testified
4 to. I have enormous respect for her gifts, her
5 intelligence and her education. I do -- I hope I'm
6 not the only one here who detects the irony in a
7 charged level against the son -- the grandson of
8 four Greek immigrants, two of whom left Asia Minor
9 about a hundred years ago to escape religious and
10 ethnic persecution under the Ottoman Empire and all
11 four of whom sought a better life and found it in
12 South Carolina and Greenville and Charleston
13 respectively.

14 I guess I deny categorically the
15 allegations against me. And as far as foreigners,
16 anti-foreigner, as Dr. Faltas pointed out she's come
17 to our orthodox communion and I go to church every
18 Sunday and the services are conducted half in Greek.
19 A lot of foreigners in that service.

20 And the only other thing I'll say, and
21 the lawyers here probably may understand this a bit
22 better and I don't mean to say that the rest of you
23 don't, but the Faretta right to self-representation
24 is not absolute and is subject to certain
25 restrictions. And I guess the other thing I would

1 do is just stand on my 24-year until now
2 unquestioned record of fairness as a member of the
3 Judiciary, and you may wish to consider that in
4 juxtaposition to Dr. Faltas' complaint.

5 SENATOR MARTIN: Thank you very much.
6 Other questions, Counsel?

7 MS. DEAN: No, sir, Mr. Chairman.

8 SENATOR MARTIN: All right. Any
9 questions by the chair members of the Commission?

10 SENATOR MALLOY: Mr. Chair. Mr. Chair,
11 I have one question for the soon to be chief.

12 SENATOR MARTIN: Yeah, go ahead.

13 SENATOR MALLOY: Chief, I'm just looking
14 at and reviewing a lot of information documentation
15 as it relates to judicial pay. And as I know that
16 you've been a proponent of the Court system that we
17 have for many years, and the Chief Justice's pay is
18 around \$151,000. And everything coming down from
19 the solicitors and other judges and public defenders
20 and, of course, your court and the Court of Appeals
21 and Family Court, they all come off of that. South
22 Carolina continues to be probably one of the lowest
23 in the country.

24 And I didn't know if you wanted to have
25 an opportunity to address any plans that you may

1 have of -- or wishes that you would have in your
2 last years to end up leaving the Court with, you
3 know, an increase as we continue to rely heavily
4 upon the Court system as our business climate is
5 increasing, we have more complex cases, more lawyers
6 in the system. If you wanted to have the
7 opportunity to respond to that convoluted question,
8 analysis, whatever, I want to give you the
9 opportunity.

10 JUSTICE PLEICONES: Well, thank you,
11 Senator. To the extent that it would import a great
12 deal of self-interest, you know, obviously who would
13 not be in favor of a -- of a pay raise? I do
14 believe that our hard working judges -- first of
15 all, let me say the people that get into this
16 profession for the money shouldn't be doing it; all
17 right? I once had a friend who said that the only
18 requirements to be a judge in South Carolina should
19 be over the age of 40 and take a pay cut. And I
20 think that most -- in fact, I know all of us on the
21 Supreme Court have.

22 But to the extent that we should reward
23 those hard working people -- and particularly the
24 family court judges and the circuit court judges who
25 do the bulk of the work, yes, I think a pay increase

1 would be, you know, in order and I would commend it
2 to the General Assembly. I also understand that
3 there are scarce resources and there are other
4 matters that come to your attention for the scarce
5 dollars that we do, in fact, have. But, yes, I
6 believe that Chief Justice Toal would like to leave
7 that as her legacy, and I think that she is actively
8 making efforts to see to it that the judicial
9 family -- now, Chief Justice Toal doesn't need the
10 money, I can tell you that right now. I mean, I've
11 known her for 50 years but, in any event, to the
12 extent that there are hard working trial judges pay
13 is indexed to that of the Chief Justice, yes, I
14 would hope that the General Assembly could see its
15 way clear to allocate some of those scarce resources
16 to that matter.

17 SENATOR MARTIN: Thank you very much,
18 Justice Pleicones. We thank you --

19 JUSTICE PLEICONES: Thank you,
20 Mr. Chairman.

21 SENATOR MARTIN: -- for your outstanding
22 service. And this will conclude our portion -- this
23 portion of the screening process. And, of course,
24 you know all the admonitions about the screening --
25 I mean, the screening report 48-hour rule.

1 JUSTICE PLEICONES: And I'm taking
2 nothing for granted.

3 SENATOR MARTIN: That's right. There
4 you go.

5 DR. FALTAS: Mr. Chairman, I need --

6 SENATOR MARTIN: I appreciate your
7 cooperation with our staff and for your willingness
8 to serve in this important past.

9 JUSTICE PLEICONES: Thank you.

10 DR. FALTAS: I need just 30 seconds.

11 SENATOR MARTIN: No, ma'am. You're
12 through. Thank you.

13 (Candidate and witness excused.)

14 SENATOR MARTIN: All right. With that,
15 y'all -- that completes this portion of our process.
16 You want executive session -- brief executive
17 session to consider ourselves? Brief executive
18 session without objection.

19 (Off-the-record executive session.)

20 SENATOR MARTIN: We'll go back on the
21 record and we'll go to Family Court, Fourth Judicial
22 Circuit, candidates to be screened. We can
23 vote for candidates.

24 SENATOR MALLOY: Mr. Chairman, before
25 you announce those I had made a comment during --

1 that the Honorable Cely Anne Brigman had contributed
2 to my campaign. I've got information that the
3 Honorable Bryan Braddock also contributed to my
4 campaign in previous years as well as his law firm.
5 I just wanted to make sure we put that on the
6 record.

7 SENATOR MARTIN: All right. So what
8 we'll need to do -- I guess we'll need to put on the
9 record with a show of hands we can vote qualified
10 and nominated up to , and there are only .
11 And, of course, you don't have to vote, you don't
12 have to vote qualified and nominated on but one, I
13 guess, but you've got -- you don't have to.

14 SENATOR MALLOY: Mr. Chair, I would move
15 that we qualify and nominate all Family Court
16 judges.

17 SENATOR MARTIN: All right. Motion?

18 MR. WILCOX: Second.

19 SENATOR MARTIN: Second. Any
20 discussion?

21 (No response.)

22 SENATOR MARTIN: Hearing none, those in
23 favor please say aye.

24 (At this time the members audibly say
25 aye.)

1 SENATOR MARTIN: Votes no?

2 (No response.)

3 SENATOR MARTIN: Appears to be unanimous
4 on the record. With our two proxies, Representative
5 Clemmons and Mr. Strom will vote aye per
6 Representative Bannister.

7 All right. Next is the Chief Justice of
8 the State Supreme Court. Your motion?

9 SENATOR MALLOY: So moved.

10 SENATOR MARTIN: Motion to qualify and
11 nominate for the Honorable Costa M. Pleicones.
12 Second?

13 MS. WALL: Second.

14 SENATOR MARTIN: Any other discussion?

15 (No response.)

16 SENATOR MARTIN: If not, we'll move
17 immediately into the vote. All those in favor
18 please say aye.

19 (At this time the members audibly say
20 aye.)

21 SENATOR MARTIN: Any vote no?

22 (No response.)

23 SENATOR MARTIN: The ayes have it.
24 Appears to be unanimous. And same vote for the two
25 absent members for Costa Pleicones. Any other

1 matters to come before the Commission?

2 SENATOR MALLOY: Mr. Chair, I would like
3 to commend Ms. Brogdon on her debut. She did a
4 great job and thanks for bringing the snacks. Also
5 thanks to the staff for making sure that we have
6 adequate and good screening candidates in this
7 process having represented us.

8 SENATOR MARTIN: Barring no -- nothing
9 that I'm not aware of, we'll meet again in the Fall
10 for the Fall screening and hope everybody has a
11 delightful summer and get all that summer legal work
12 taken care of.

13 All right. With that, we'll stand in
14 adjournment.

15 (The preceding was concluded at 4:45
16 p.m.)

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CERTIFICATE OF REPORTER

I, Lori S. Mortge, Certified Court Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 4th day of May, 2015 at West Columbia, Lexington County, South Carolina.



Lori S. Mortge, CCR

Lori S. Mortge
Certified Court
Reporter, CCR
My Commission expires
December 13, 2016

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