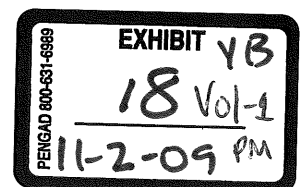


**JUDICIAL MERIT SELECTION COMMISSION**  
**Sworn Statement to be included in Transcript of Public Hearings**

**Circuit Court**  
**(New Candidate)**

Full Name: Samuel Richardson Hubbard III  
Business Address: 205 East Main Street  
Lexington, SC 29072  
Business Telephone: 803-785-8271

1. Why do you want to serve as a Circuit Court judge?  
My entire career has been in public service, and my workplace has typically been the courtroom. I have had the opportunity to interact with and appear before many of our state's Circuit Court judges. I believe a judge should have the necessary knowledge of our laws, procedures, and evidence. A judge should understand the courtroom and how the process works. Most importantly, a judge should possess the proper temperament and demeanor, treating everyone who enters the courtroom with dignity and respect. I believe I possess all of these qualities, and I would be honored to begin a new chapter in my career of public service by serving as a Circuit Court Judge for the State of South Carolina.
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 Constitutional requirements for this position regarding age, residence, and years of practice? Yes
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?  
*Ex parte* communications are not to be allowed except in the very limited circumstances provided for by Canon 3 of Rule 501 of the Judicial Code of Conduct, such as scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits. Even in these limited situations, a judge must reasonably believe that no party will gain a procedural or tactical advantage from the *ex parte* communication, and a judge must promptly notify all other parties of the substance of the *ex parte* communication and allow the other parties the opportunity to respond.
6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?  
If a judge believes he or she can not be fair, impartial, or objective on any matter or to any party, then the judge must recuse himself or herself and have no other involvement in the matter. Lawyer-legislators



should be treated like any other members of the bar. The same rules regarding recusal apply. As to former associates or co-workers, I would have to look at the totality of the circumstances. If I had any involvement in the matter before me, or if I had prosecuted the person before me, I would disclose that information and recuse myself from the case. I believe a judge must not only be concerned with actual conflicts but with the appearance of conflicts as well. Again, a judge must be fair, impartial, and objective.

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 give great deference to a party making such a request in accordance with Canon 3 of Rule 501 of the Judicial Code of Conduct. In such situations where my impartiality might reasonably be questioned, I would recuse myself.

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 disclose the information to all of the parties on the record and determine if the interest of my spouse or relative was more than a de minimis interest that could be substantially affected by the proceeding. If I determined that the interest of my spouse or relative could be substantially affected by the proceeding, I would certainly recuse myself. If the interest of my spouse or relative was considered de minimis, I would most likely recuse myself in order to avoid the appearance of impropriety.

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

I would strictly adhere to the standards set forth in the Code of Judicial Conduct. Section 4.D(5) sets forth the exceptions, such as gifts from a friend or relative for a special occasion like a birthday or anniversary, or ordinary social hospitality. Although my wife and I would continue to have normal social relationships, I would be careful to insure that the social hospitality extended to us is acceptable under the Code.

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

I would be guided by Canon 3.D of Rule 501 of the Code of Judicial Conduct. If I received information indicating a substantial likelihood that another judge had committed a violation of the Code of Judicial Conduct, or a lawyer had committed a violation of the Rules of Professional Conduct, I would be obliged to take appropriate action. That action could include direct communication with the judge or lawyer who has committed the violation and reporting the violation to the appropriate authority. Likewise, if I had knowledge that the violation by

the judge or lawyer raised a substantial question as to the judge's or lawyer's honesty, trustworthiness, or fitness, I would inform the appropriate authority.

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

No.

12. Do you have any business activities that you would envision remaining involved with if elected to the bench? No.

13. If elected, how would you handle the drafting of orders?

In instances where both parties are represented by attorneys, I would have the prevailing attorney draft the order consistent with my ruling from the bench. I would require the prevailing attorney to provide a copy to the opposing attorney before submitting the order to me. I would review the draft and make any changes I felt were appropriate. If there was a disagreement as to the drafted order, I would either make the changes I felt were appropriate, or schedule a meeting with the attorneys to resolve the matter. In instances where only one side is represented by an attorney, I would draft the order myself.

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

I believe there is no substitute for hard work. A judge does not cease to be a judge after 5:00pm or on weekends. I would expect more of myself than I would of my staff or other attorneys. In addition to hard work, I would use a computerized calendar system and take advantage of available docketing systems to meet all deadlines.

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

I believe a judge should interpret and apply the law as it is written, following applicable precedents when available. Judges should leave the task of promoting public policy to the legislative and executive branches of our government.

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

I have had the opportunity to lecture to lawyers on a variety of subjects.

As a judge, I would enjoy the opportunity to lecture to lawyers and judges at seminars and law related functions. I would also enjoy the opportunity to speak to local schools about our system of justice.

I am currently on Lexington County's Jail Overcrowding Committee. This committee includes one of our resident judges, the public defender, representatives from the jail and sheriff's department, and representatives from the probation office and the clerk of court's office.

Our work has been recognized at both the state and national level for our work in reducing the jail population. If possible, I would like to

continue my efforts on this committee.

I would enjoy the opportunity to participate in programs that offer an alternative to traditional prosecution, such as Drug Court, and I will continue to advocate the need for these programs.

17. 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 address this?

Fortunately, I have been blessed with a wife who has dedicated her life to public service. Ann has always understood the stresses and demands of my current job, and she has never failed to support and encourage me. She supports me in my endeavor to become a judge, and I have no doubt she will continue to be a constant source of support and encouragement.

18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.

a. Repeat offenders:

Generally, I believe repeat offenders should be treated more harshly than first time offenders. Actions should have consequences. I would want to hear the particulars of both the crime with which the defendant is charged and the defendant's prior crimes, but I would also want to hear any relevant information about the defendant and any victims.

b. Juveniles (that have been waived to the circuit court):

Juveniles are only waived up on serious, violent offenses. Although I would certainly consider the age of the defendant, I would also consider the nature of the offense and the affect the crime had on the victims.

c. White collar criminals:

Although "white collar" crimes are not violent offenses, the impact of these crimes can be devastating on victims. I would want to hear all of the relevant facts and circumstances surrounding the crime, but I would also consider the impact the crime had on the victims.

d. Defendants with a socially and/or economically disadvantaged background:

Although I would certainly consider the background of a defendant, I do not believe a defendant's background should excuse criminal behavior. I would want to consider all the facts and circumstances before sentencing.

e. Elderly defendants or those with some infirmity:

I believe the elderly and the infirm should receive consideration in sentencing. Sentencing the elderly and the infirm in the same manner as other defendants could have the unintended effect of being unduly harsh. However, the extent of any mitigation would depend on the crime committed and the facts of the case.

19. Are you involved in any active investments from which you derive

additional income that might impair your appearance of impartiality?  
No.

20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?  
Even though the Code of Judicial Conduct allows a judge to hear matters where a judge or relative has a *de minimis* interest after fully disclosing the matter and where no objections are raised, I would most likely recuse myself from the matter in order to avoid the appearance of impropriety.
21. Do you belong to any organizations that discriminate based on race, religion, or gender? No.
22. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes.
23. What do you feel is the appropriate demeanor for a judge?  
More than anyone else in the legal system, a judge is a public representative of our system of justice. A judge should always treat those who enter a courtroom with courtesy, respect, civility, and dignity. Although a judge must maintain order and decorum in the courtroom, a judge should be patient and kind. A judge should not only have a sense of decorum, but a sense of humor. I believe a judge should exhibit these traits and this demeanor outside of the courtroom as well.
24. 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?  
Again, the traits and demeanor described above should apply to a judge at all times. A judge does not cease to be a judge when court breaks. Therefore, a judge never ceases to be a representative of our system of justice.
25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or pro se litigants?  
Although anger is a human emotion, it has no place in the courtroom. A judge must always be above the fray and maintain the integrity of the court. This is true regardless whether a judge is dealing with a member of the public, a criminal defendant, an attorney, or a pro se litigant. Again, a judge should remain in control of his or her emotions, both in the courtroom and outside of the courtroom. A judge should never forget that he or she is a representative of our system of justice.
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?  
None.
27. If you are a sitting judge, have you used judicial letterhead or the

services of your staff while campaigning for this office?

N/A

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? No.  
Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No.
31. Have you contacted any members of the Judicial Merit Selection Commission? No.
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/ Samuel R. Hubbard III

Sworn to before me this 12<sup>th</sup> day of August, 2009.

Notary Public for S.C.

My Commission Expires: 12-13-2012