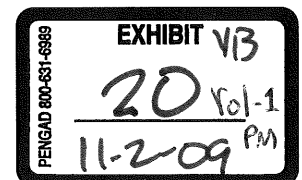


JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court
(New Candidate)

Full Name: Stephanie Pendarvis McDonald
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1. Why do you want to serve as a Circuit Court judge?
I love the law and the courtroom, and I believe that I have the temperament and the experience to effectively serve the people of South Carolina. I enjoy an intellectual challenge and would like to have the opportunity to learn more about the areas of the law in which I have not had the opportunity to practice. Since I have been a trial lawyer for fifteen years, I have seen things that work and do not work with regard to the effective administration of a courtroom and a docket, and I would like to have the chance to try to improve the experiences of litigants, lawyers, and others who come into contact with our judicial system.
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?
Not at this time, but I certainly would if I could no longer serve as a judge.
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 regarding scheduling or administrative matters are at times necessary, particularly for a Chief Administrative Judge. Still, such contacts can usually be handled efficiently by e-mail with copies to all attorneys/parties involved in a matter. Pursuant to Canon 3(B)(7), I would not allow or participate in such communications, unless the parties are engaged in an attempt to settle or mediate a matter and need the assistance of the Court to do so.
6. 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 would recuse myself from all



matters involving my former law partners. Recusal is not practical in the case of lawyer-legislators, unless there is some other bias involved, as such attorneys would never be able to find any state court judge to hear their cases.

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 probably recuse myself unless it appeared that the attorney or party was "judge-shopping" or merely seeking to delay the case. I would give the party a good bit of deference and consider such a motion "in the light most favorable to the moving party."

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 not preside over a case in which a close family member is a party or a witness. To me, presiding over such a case would implicate Canon 2 requiring that a judge avoid even the "appearance of impropriety" and Canon 3 (E)(d).

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

I would accept "ordinary social hospitality" as permitted by Canon 4(D)(5)(c). With group dinners and other such events, it would simply be easier and more appropriate for me to "pay my own way" or just split the bill. I do know that certain legal associations invite all of the judges to their events, and I believe that they cover some meals and lodging. As I think that it is important for judges to attend law-related functions and other events devoted to the improvement of the law and relationships among the members of the bar, I would accept reasonable invitations in accordance with Canon 4(D)(5)(a).

10. 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.

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

Yes. I currently sit as an attorney member of the South Carolina Commission on Judicial Conduct. If I am elected, I would no longer be eligible to serve as an attorney member of this Commission.

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?
I would initially draft my own orders, based upon the memoranda submitted by the parties and my own research as needed. In appropriate situations, I would request that the prevailing party draft an order, which I would then review for accuracy. I would also get my law clerk involved in the drafting of orders as I believe that this is a great skill for them to learn. One of my pet peeves involves lawyers who inaccurately cite law to the court or just "make things up" that are in no way supported by the record.
14. If elected, what methods would you use to ensure that you and your staff meet deadlines?
I would use a method similar to that which we use at our law office now. All correspondence is stamped and calendared as it comes in to the office, and deadlines are noted on a deadline system which provides a timeline notification ahead of the actual deadline date. The timelines/deadlines are color-coded and as I receive items, I check to ensure that they are already noted on the calendar. I generally review my calendar and deadlines for the upcoming week on the preceding Thursday or Friday, and I also flag deadlines in my e-mails as an additional safeguard. I doubt that I would have as many deadlines to handle in a judicial capacity as I have now.
15. 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. I do not believe in "legislating from the bench."
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 believe that is important for judges to speak at CLEs and to be accessible to those who practice before them. In Charleston, we have had a Bench/Bar group which meets to exchange ideas about how to improve the system, the administration of justice, and the quality of life for those engaged in what can be a very stressful profession. I also think that it is important for the judiciary to interact with young lawyers and to encourage civility in the profession, both in and out of the courtroom.
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?
Not at all. My family is very supportive, and three sets of grandparents live within a five (5) mile radius of my eleven-year old. My daughter's dad and stepmother are also very supportive, and I am fortunate to have

- a good relationship with them.
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: Obviously, this would depend on the severity of the crime, but as we have seen from recent events here in Charleston, violent repeat offenders who continually violate probation need to do some prison time. Many repeat drug offenders, however, are dangerous only to themselves, and there simply is not room in our local detention facilities or at SCDC to house them. Jailing them does not generally serve a rehabilitative purpose, and treatment or monitoring would be more appropriate. It is far more cost-effective and humane to enable such offenders to get some help in appropriate situations.
- b. Juveniles (that have been waived to the circuit court):
As with all offenders, juveniles need to be considered on a case-by-case basis, and every effort needs to be made to rehabilitate them (and this is constitutionally required) without prison time. Alternate sentences are a possibility, but if the juvenile is violent and/or has been involved in a series of escalating crimes, then some jail time would be appropriate. SCDC's Youthful Offender program may be an option in those cases that require prison time.
- c. White collar criminals:
First and foremost, white collar criminals need to provide restitution to their victims, and probation may be necessary in order to enable them to do this. I think we have a problem in our society, however, in that we allow some white collar criminals great lenience while over-punishing others for crimes which hurt only the offender.
- d. Defendants with a socially and/or economically disadvantaged background:
Again, this depends on whether the offender is charged with a violent or serious crime. These are one or two of many factors which I would want to consider when making a sentencing decision.
- e. Elderly defendants or those with some infirmity:
First, I would need to know whether or not the infirmity is a sign of diminished mental capacity and what circumstances were involved. As with each of these categories, whether the person is a danger to himself or to others would be a part of the analysis. Input from a family physician, where available, would be key, and often home monitoring or probation might be an option. SCDC's capacity to house such an offender safely would also be factor in my decision.
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?

If the interest were truly "de minimis," I might hear the case. Generally, though, I would prefer to recuse myself in such a situation.

21. Do you belong to any organizations that discriminate based on race, religion, or gender?
Yes. I am a 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.
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?
Demeanor is critical to a judge's credibility and ability to do her job. A judge should be courteous, patient, and treat everyone with dignity and respect. Clearly, a judge must maintain order in the courtroom, but this is never an excuse for rudeness or "robitis."
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?
These rules would apply twenty-four/seven, and they are important to a judge's credibility.
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?
No, although I imagine that judges, like all human beings, can get frustrated at times.
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 about \$84.00 on stationary.
27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? Not applicable.
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?
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/ Stephanie Pendarvis McDonald

Sworn to before me this 12th day of August, 2009.

Notary Public for S.C.

My Commission Expires: 04-24-2010