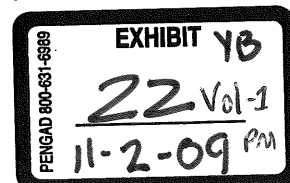


JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings
Circuit Court
(New Candidate)

Full Name: Maite D. Murphy
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Summerville, SC 29483
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1. Why do you want to serve as a Circuit Court judge? I believe that I can have a positive impact on our legal system by serving as a Circuit Court Judge. My career to date has afforded me the opportunity to have extensive trial experience which has placed me in a unique position to learn not only from other lawyers, but from judges, juries and victims of crimes or circumstances. I think that it is extremely important that every person that walks out of a courtroom, whether they like the outcome of the case or not, feel that the court was diligent, efficient and fair. I believe I can bring those qualities to the circuit court bench.
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? If appointed to the circuit court I would plan to serve in the judiciary for the remainder of my career, barring any unforeseen circumstances.
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 improper and should not be allowed except in circumstances allowed and outlined in the Rules Governing the Judiciary. These exceptions include circumstances for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits provided that: the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the *ex parte* communication; and, that the judge makes provision promptly to notify all other parties of the substance of the communication and allows the other party an opportunity to respond. A judge may also obtain the advice of a disinterested expert on the law if the judge gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond. A judge may also consult with court personnel that aid the judge in carrying out his or her's adjudicative responsibilities or with other judges. A judge may also meet separately with the parties and their counsel in an effort to mediate or settle matters before the court if all parties consent to said



meeting. Any other ex parte communications may happen only if expressly authorized by law.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you? I would disqualify myself in any proceeding where my impartiality might reasonably be questioned. I would recuse myself if I had any personal biases or knowledge regarding the evidentiary facts of the proceeding or had an interest in the proceeding. Both of my current law partners are within the third degree of relationship and I would therefore not hear any matters that they had pending before the court. In regards to former associates or lawyer-legislators, I would disclose the relationship on the record for the parties to consider relevant to the issue of disqualification and allow the parties to consider outside of my presence whether or not they would waive disqualification. Said agreement would need to be fully placed on the record. The fact that a person is a lawyer– legislator would not automatically require recusal. If that were the case, no member of the legislature would be able to practice law. All precautions should be taken to ensure that there is not a true conflict of interest or an appearance of bias or prejudice for or against either party. Parties should be satisfied that the court is fair and impartial.
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? If there was an expression of bias or prejudice that was perceived by the parties, even though I believed I could be fair and impartial, I would give deference to a motion for my recusal. This decision would be based upon the fact that said expression of bias could potentially cast a reasonable doubt on my capacity to act impartially in the proceeding.
8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative? If there is an appearance of impropriety because of financial or social involvement of my spouse or close relative, then that appearance applies to me as well. I would apply the same standard as if that appearance was due to my involvement in a situation.
9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality? Ordinary social hospitality is acceptable, but a judge must not accept gifts from lawyers or their firms if they are likely to come before that judge. Such gifts would raise an appearance of impropriety. Gifts from relatives or friends are acceptable so long as the gift is commensurate with the occasion and the relationship.
10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge? I would report such misconduct to 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? I resigned all such positions upon my appointment as a Magistrate Court judge.
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? That would depend on the type of order. The court has a duty to take reasonable measures for prompt disposition of matters. There are circumstances in which it would be permissible for the court to request that a party submit proposed findings of fact and conclusions of law, so long as the other party is aware of the request and afforded an opportunity to respond to the proposed order. There are many circumstances, such as bond reduction hearings, where parties have form orders that upon review by both parties, they can submit to the court for approval. Should the matter be something of a complex nature, I would draft the order myself.
14. If elected, what methods would you use to ensure that you and your staff meet deadlines? I would ensure effective communication with my staff so that they understood what was expected and required of their service.
15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy? Judicial activism is improper. The role of the judiciary is to at all times comply with and apply the applicable law, not to make law, based upon his or her own personal beliefs or agendas.
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 would participate in efforts through the bar association or other organizations which are dedicated to the improvement of the law. I believe in being an active participant and giving time to my community.
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? I do not feel as serving as a judge would strain my personal relationships with my family. I currently serve as a part time Judge and continue to be a partner in a busy law firm. I have been able to manage both successfully. I am fortunate to be able to accomplish this by having full support of my family in this endeavor.
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: I believe that repeat offenders need to be closely evaluated and each type of offender should be considered on a case by case basis. Violent repeat offenders should receive harsher penalties as they pose a threat to the safety of our community. Crimes which have

been classified as violent, most serious offenses are just that. Those that commit said crimes should be not be treated lightly. There are circumstances where a judge could consider alternative sentencing options for different types of repeat offenders. For example, if you have a soccer mom that got addicted to pain killers after foot surgery and had a relapse, the court should consider treatment options that may be available to rehabilitate. The court should always be mindful that sentencing serves a the purpose of punishment as well as a deterrent to other offenders.

b. Juveniles (that have been waived to the circuit court): For a juvenile to be waived to circuit court they must have been charged with a crime which allows such waiver statutorily. Said crimes are not petty offenses, but serious in nature and should be treated as such. Although the court should consider any mitigating circumstances presented at sentencing, age alone should not be the determining factor of the type of sentence imposed.

c. White collar criminals: White collar criminals can have just as a devastating effect on a family as any other type of criminal. The court should consider victim impact testimony and potential restitution issues in sentencing as well as appropriate punishment and deterrent factors for the community.

d. Defendants with a socially and/or economically disadvantaged background: It is very common for Defendants that come before the court to come from socially and/or economically disadvantaged backgrounds. Many such defendants may be high school drop outs and as such, do not have significant employment opportunities to be able to support their families. This situation is widely used as an excuse to deal drugs for profit or commit crimes involving theft. The court has the option to impose requirements as a part of a sentence that the offenders get a GED for example. This can be done whether the sentence is one that calls for incarceration or probation. The court must be cognizant of all mitigating and aggravating circumstances in each case when fashioning an appropriate sentence.

e. Elderly defendants or those with some infirmity: An elderly or infirm defendant that sexually abuses a child or commits an armed robbery poses the same danger to the community as a younger or healthy defendant and should be treated accordingly. The court should consider the type of infirmity involved and how that affects not only the department of corrections ability to house and treat such infirmity, but also how said infirmity would limit the defendants ability to be a further danger to the community and what sentencing and treatment options are available that would be fair and just.

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? Yes, a *de minimis* interest denotes an insignificant interest that could not raise a reasonable question as to a judge's impartiality.
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? A judge should always be courteous, respectful, patient and dignified to all litigants, jurors, lawyers, and anyone with whom the judge deals with in their official capacity.
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? Yes. Judges at all times should act in a manner that promotes the public confidence in the integrity and impartiality of the judiciary.
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? A judge must not express emotions, to include anger, in all proceedings. The court shall require order and decorum at all times. The court is charged with remaining impartial and to not manifest any form of conduct or reaction to include body language that would suggest an appearance of judicial bias.
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 not expended any money on my campaign.
27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? No.
28. Have you sought or received the pledge of any legislator prior to this date? No.
29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No.
30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? 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/ Maite D. Murphy

Sworn to before me this 10th day of August, 2009.

Notary Public for S.C.

My Commission Expires: 01-24-2011