

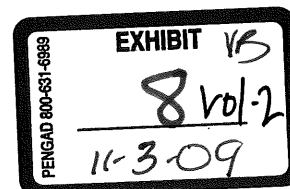
**JUDICIAL MERIT SELECTION COMMISSION**  
**Sworn Statement to be included in Transcript of Public Hearings**

**Family Court**  
**(New Candidate)**

Full Name: Dennis M. Gmerek  
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1. Why do you want to serve as a Family Court Judge? A vast majority of my professional life has dealt with those issues and situations which involve people and families going through difficult situations involving the court system, be it divorce and custody case or abuse and neglect cases. I have consistently tried to strive to help people and improve the system which they must deal with. My desire to be a judge is the natural progression of this quest to help people and families.
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 statutory 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 should be avoided in almost all situations. The only circumstances involving extreme emergencies, such as when a child/children are in imminent and substantial danger may such communications be allowed although emergency hearings would be the preferred method to handle most of these situations if at all possible. Communications involving procedural matters, as opposed to substantive matters would generally be permissible but I would still try to limit the same.
6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

A judge should not recuse himself just because one of the individuals falls into one of the above categories unless it would give the appearance of bias. I obviously would not, for quite some time, be involved with cases with employees of the Aiken Department of Social Services. I have not been in private practice for over 13 years so I don't believe I would have any problems with my former law partner appearing before me but would obviously still disclose the same.



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 believe great deference should be given to a party who requests a judge's recusal due to the appearance of bias. Unless there is some evidence that the request is being made for purposes of delay or frustrate the administration of justice, the request should be granted.
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 recuse myself from any involvement with any case after stating the reason on the record.
9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?  
Except as allowed the Rules of Conduct Cannon 4, I would decline any gifts or social hospitality.
10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?  
Any misconduct would be reported to the appropriate grievance committee.
11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be evaluated?  
I am currently on the Cumbee Center to Assist Abused Person, Inc. board of directors and a volunteer for this agency. This agency deals with victims of domestic violence and sexual assault. I would resign from the board and cease being a volunteer.
11. Do you have any business activities that you would envision remaining involved with if elected to the bench? No
12. Since family court judges do not have law clerks, how would you handle the drafting of orders?  
After hearing a case, if I did not announce a decision and open court and ask of the attorneys to draft an order pursuant to my oral order, I would prepare a memorandum of order and direct an attorney to draft an order pursuant to that order with a copy of opposing counsel.
13. If elected, what method would you use to ensure that you and your staff meet deadlines? Computer tickler system with a paper back up.
15. If elected, what specific actions or steps would you take to ensure that the guidelines of the Guardian Ad Litem statutes are followed during the pendency of a case?  
I would make sure that the affidavit as set out in SC Code of Laws §63-3-820 is in the file. I would also ensure that guardian ad litem are appointed in the appropriate cases, such as abuse and neglect, TPRs, adoptions, etc.

16. What is your philosophy on “judicial activism,” and what effect should judges have in setting or promoting public policy? Judicial activism is not permitted. The role of the judge is to interpret and apply the law.
17. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities would you plan to undertake to further this improvement of the legal system?  
I would be extremely willing to serve on any appropriate bench-bar committees or other committees approved by court administration.
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 plan to address this? No.
18. Would you give any special considerations to a *pro se* litigant in family court? While *pro se* litigants are held to the same rules of court and procedures as attorneys, I would endeavor to use “plain English” when talking to them.
19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?  
None.
20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved? This would be permitted under Canon 3 of the Rules of Judicial Conduct.
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.
24. What percentage of your legal experience (including experience as a special appointed judge or referee) concerns the following areas? If you do not have experience in one of these areas, can you suggest how you would compensate for that particular area of practice?
- Divorce and equitable distribution: When I was in private practice, approximately 75%.
  - Child custody: When I was in private practice, approximately 20%
  - Adoption: When I was in private practice, approximately 5%. I was one of the few attorneys in Aiken who dealt with international and interstate adoptions. While with DSS, I have dealt with adoptions from the agency side.
  - Abuse and neglect: Now 100%
  - Juvenile cases: I have not handled but a couple of DJJ case in private but work closely with the solicitor’s office currently where there is a common child.  
I have kept current on the statutory and case law in all areas of family court. It has been my practice for a number of years to read and, in

most cases, to copy, each advance sheet case which involves the family court.

25. What do you feel is the appropriate demeanor for a judge?  
A judge should be courteous to all who appear before him/her. A judge should avoid any appears of appearing basis towards any party in a matter. A judge should be sensitive to the emotions of the parties which appear before him/her. A judge should also maintain his/her sense of humor. A judge should be aware of how his/her body language or questions may be perceived by individuals in court.
25. 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?  
Unlike most job, being a judge is a 24/7 profession so the above rules need to apply at all times.
26. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you, especially with a criminal defendant? No. Is anger ever appropriate in dealing with attorneys or a pro se litigant? No.
27. How much money have you spent on your campaign? If the amount is over \$100, has that been reported to the House and Senate Ethics Committees? \$0.00
29. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? N/A
30. Have you sought or received the pledge of any legislator prior to this date? No.
31. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No.
32. 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
33. Have you contacted any members of the Judicial Merit Selection Commission? No.
34. 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/ Dennis M. Gmerek

Sworn to before me this 5<sup>th</sup> day of August, 2009.

Notary Public for South Carolina

My commission expires: 07-23-2010