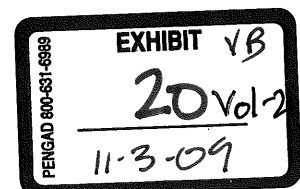


**JUDICIAL MERIT SELECTION COMMISSION**  
**Sworn Statement to be included in Transcript of Public Hearings**

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

Full Name: Gwendlyne Young Smalls  
Business Address: Post Office Box 30  
Winnsboro, South Carolina 29180  
Business Telephone: (803) 635-6200

1. Why do you want to serve as a Family Court Judge?  
I want to serve as a Family Court Judge because the judgeship would allow me to utilize my legal skills in a neutral capacity in an area of the law that impacts the core of the lives of the men, women and children who appear before the Court. The role of the Family Court Judge in deciding important issues of abuse and neglect, child support, equitable distribution, custody, and other family law issues is critical to our judicial system and the judgeship would afford me the opportunity to give back to our community by becoming a member of the Court. I have enjoyed the nearly twenty (20) years of practice as an advocate and view the Family Court judgeship as a new and challenging way to make a positive difference in the lives of others.
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, ideally I would like to retire serving on the bench and would welcome the opportunity to serve while in the retired capacity.
4. Have you met the statutory requirements for this position regarding age, residence, and years of practice?  
Yes. I am 46 years old, a resident of Richland County, State of South Carolina and have been practicing law for nearly twenty (20) years.
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?  
My philosophy regarding *ex parte* communications is that they should be avoided to the extent possible. There are, however, circumstances under which *ex parte* communications may be tolerated; for instance, if the communication does not address substantive matters or issues on the merits, the communication is not likely unethical. For example, if there is an exigent scheduling problem with a witness during a trial, and an attorney needs to notify the court, such an *ex parte* communication would not be inappropriate if limited to the scheduling issue without reference to the substance or merits of the case. However, in an abundance of caution, attorneys should always



attempt to notify opposing counsel before communicating with the court.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

My philosophy on recusal is that a judge should comply with the Canons of Judicial Conduct and recuse herself or himself in any circumstance where the judge's impartiality could reasonably be called into question. These circumstances include economic interest in the proceeding, bias or prejudice concerning a party or attorney, and where a close familial relationship exists with a party or lawyer. In situations where lawyer-legislators, former associates or law partners are to appear before me, I would employ the same analysis that I would in any other situation to determine whether recusal is appropriate. I would disclose my relationship/knowledge of the attorney and entertain a motion for recusal, if any. However, unless I have been involved in the matter personally, or know of a reason why I cannot be impartial or am automatically disqualified for one of the reasons set forth in the Rules, I would not be inclined to grant a motion for recusal based only on the fact that the party is a lawyer-legislator, former associate or law partner.

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 grant the motion if my impartiality might reasonably be questioned, regardless of whether or not I believed I could be impartial. The reasonable appearance of impropriety is sufficient to grant a motion for recusal.

8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

If I am aware that my spouse or close relative has a financial interest in the proceeding, I would be required to recuse myself and would do so sua sponte. If there is social involvement of my spouse or close relative with one of the parties, I would fully disclose the relationship to the parties and either obtain the consent of all parties or entertain a motion for recusal. If the extent of the social involvement is such that my impartiality might reasonably be questioned, I would grant the motion.

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

The standards that I would set for myself regarding the acceptance of gifts or social hospitality would be in compliance with the Rules set forth in the Code of Judicial Conduct. I would seek to avoid any

appearance that the Code has been violated. Accordingly, I would not accept gifts from anyone except incident to public testimonials, books, tapes and other materials supplied on a complimentary basis for official improvement of law, the legal system or the administration of justice; incident to business, profession or to her separate activity of a spouse or other family member residing in the household, provided the gift could not reasonably be perceived as intended to influence the judge in the performance of judicial duties. In accordance with the Code, I would accept invitations of ordinary social hospitality and gifts from a relative or friend, for a special occasion, such as birthday or wedding, provided the gift is fairly commensurate with the occasion and relationship. If there was any doubt about the propriety of the gift or invitation, I would err on the side of caution and not accept the invitation or gift.

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

If the misconduct is such that it raises a substantial question as to that lawyer's or judge's honesty, trustworthiness or fitness, I would report the misconduct to the proper agency for investigation and resolution subject to the limitations set forth in the Code of Professional Responsibility pertaining to the disclosure of confidential information relating to representation of a client.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be evaluated? No

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

13. Since family court judges do not have law clerks, how would you handle the drafting of orders?

I would have counsel appearing before the Court draft proposed orders. In instances where litigants or defendants are pro se, I would draft the order. I have been a solo practitioner for approximately fourteen (14) years, and I often have been charged with the responsibility of preparing orders in various courts without the assistance of support. My background and experience in drafting orders has prepared me for the responsibility of doing so as a Family Court Judge without the support of a law clerk.

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

I would utilize a computer program that has a tickler system as well as maintain a hard copy of notes from each hearing with a calendar. In addition, I would have the secretary maintain a hard copy of deadlines on a desk calendar with at least a ten (10) day warning reminder.

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 take steps to insure that guardian ad litem are adequately supervised by setting deadlines for the completion of fact investigations and the submission of reports during the pendency of a case to insure that the GAL is personally involved to the extent necessary to insure a meaningful report in compliance with the applicable statutes and case law.

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

My philosophy on "judicial activism" is that a judge should conduct all extra-judicial activities in a manner such that there is no reasonable doubt cast upon the judge's capacity to act in an impartial manner in his or her role as a judge. Any such activities should not demean the judicial office, nor should they interfere with the proper performance of judicial duties. In setting or promoting public policy, judges should only participate in those organizations devoted to the improvement of the law, the legal system or the administration of justice as long as the participation cannot reasonably be perceived as coercive and is not essentially a fund-raising mechanism.

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 plan to speak, lecture and participate in other judicial activities concerning the law, particularly bar associations and law school functions to the extent that time permits.

18. 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?

I do not feel that the pressure of serving as a judge will unduly strain any of my personal relationships. Having practiced as a litigator for nearly twenty (20) years, I have handled the pressure of litigation and the stress and it has not unduly strained my personal relationships. I do not anticipate that the judgeship will unduly strain those relationships either. I do anticipate that personal friendships with attorneys who practice in the Family Court may become strained because the nature of those relationships may necessarily change. I would address this by limiting those relationships in a way that is not offensive, but will avoid the appearance of any bias or impropriety.

19. Would you give any special considerations to a *pro se* litigant in family court?

I would warn the litigant of the dangers of self-representation and would advise him to seek counsel. However, if the litigant chooses to

proceed, he would be expected to adhere to the rules and procedures just as litigants who are represented by counsel. I will consider, however, the litigant's pro se status in reviewing the pleadings and requests for relief and their presentation in open court, giving the appropriate consideration to the fact that they are not represented by counsel.

20. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?  
No

21. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?

Because it is *de minimis*, I am not automatically disqualified, however, I would fully disclose the *de minimis* financial interest to all the parties involved, and entertain a motion. If a motion was made I would carefully review all of the facts of the situation before determining whether to grant the motion, including the question of whether there is a reasonable appearance of bias or impropriety.

22. Do you belong to any organizations that discriminate based on race, religion, or gender? No

23. 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?

Of the approximately 60% of my practice currently devoted to family law, the areas of concentration are allocated as follows:

a. Divorce and equitable distribution: 45%

b. Child custody: 25%

c. Adoption: 5%

d. Abuse and neglect: 5%

e. Juvenile cases: 20%

25. What do you feel is the appropriate demeanor for a judge?

I feel that a judge should be patient, respectful and fair toward all of the parties involved. A judge should be courteous and dignified at all times. A judge should be open-minded and possess the ability to relate well to others and should be able to control his or her courtroom without resorting to behavior unbecoming to a judge, such as the use of derogatory language or personal insults to counsel or litigants.

26. 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?

I feel that the rules enunciated in question twenty-five (25) apply seven (7) days a week, twenty-four (24) hours a day. A judge is a

full-time occupation. The demeanor exhibited on and off the bench should be examined to insure that the integrity of the judiciary is respected, and public confidence is maintained. A judge should strive to establish and maintain the highest standards of conduct so that the integrity of the judiciary will be preserved.

27. 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? Is anger ever appropriate in dealing with attorneys or a pro se litigant?

While I anticipate that circumstances may make me angry, I do not feel it is ever appropriate to exhibit such anger in an inappropriate or belittling manner. A judge should not, by words or conduct express any gesture that could reasonably be perceived as prejudicial. A judge can be deliberate and firm while conducting business of the Court without exhibiting inappropriate anger or rudeness. My position would be the same as it relates to attorneys or pro se litigants.

28. 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? None
29. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? Not Applicable
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? 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/ Gwendlyne Y. Smalls

Sworn to before me this 21<sup>st</sup> day of August, 2009.

Notary Public for South Carolina

My commission expires: 03-05-2014