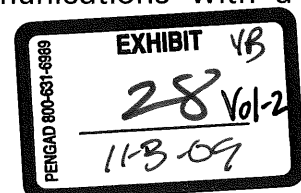


JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Family Court
(New Candidate)

Full Name: Harry L. Phillips, Jr. – “Don”
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1. Why do you want to serve as a Family Court Judge?
I have practiced in the Family Court for the majority of my legal career, almost exclusively for the past eight years. As a Family Court Judge, I would be able to continue in governmental service and would continue to interact with people from all walks of life, rich and poor, urban and rural. As an attorney for the Department of Social Services, and as a former counsel for defendant parents accused of abuse and neglect by the Department of Social Services, I would bring unique qualifications to the bench. I have worked with numerous parents, children, guardians, service providers, doctors, nurses, counselors, teachers, law enforcement personnel and caseworkers on a weekly basis and with the goal of protecting children. I have helped to put together a plan and services to allow the family to remain intact and free of the problems which led to our involvement. If this was not possible, or if the plan failed, I have been able to further a permanent plan for the children, be it adoption or continued stay in foster care or with relatives. I have been open, frank and fair with opposing counsel and with pro se litigants, and have been respectful of all persons regardless of their station in life. I understand the decisions and law involved in the dissolution of a marriage, and the role of a Family Court Judge in the protection of vulnerable adults. I firmly believe that my legal experiences since graduation from law school have provided me with the skills to be an able and successful Family Court Judge. I strongly wish to finish my career on the Family Court bench, and be able to apply the lessons I have learned throughout my practice.
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 with a



judge should be avoided. There are a limited number of exceptions allowed for scheduling and administrative purposes, and for certain emergencies regarding protection of children and issuance of restraining orders.

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 must recuse himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned. Failure to recuse oneself in cases involving a former associate or partner would certainly call into question the judge's impartiality. I would not necessarily recuse myself from a case involving a lawyer-legislator, unless there was a reason to question my impartiality.
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. The appearance of impartiality is paramount.
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 announce to the parties the existence of the financial or social relationship of the spouse/relative, and recuse myself.
9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality? Under canon 4, a judge shall not accept a gift, bequest, favor or loan from anyone, except in a limited number of circumstances, such as an invitation to a bar related function or an activity devoted to the improvement of the law, or "ordinary social hospitality" or a gift from a friend or relative for a wedding, birthday or anniversary, if the gift is fairly commensurate with the occasion or relationship. No gift would be accepted that would give the appearance of impartiality for any matter that might come before me.
10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge? Immediate action would be required, to include immediate reporting to the appropriate authority.
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? As a general rule, I would have the prevailing party draft the Order in accordance with my instructions, then circulate the Order to all parties, including pro se litigants and guardians, and then submit it to me for my review and signature. There are instances where I would draft the Order, and these typically

- would include bench warrants, protection from domestic abuse orders, and any other order that requires immediate filing.
14. If elected, what method would you use to ensure that you and your staff meet deadlines? I would use a computer calendaring system, and there are several which are easy to use and readily available and adaptable for both private practice and government practice.
 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 appoint duly qualified guardians, whether they are appointed in private custody actions or in abuse and neglect cases. I would also require timely submission of written reports, and would personally review them and interview the guardians to make sure that the guardians are in compliance with their duties. I would also make sure that the parties are cooperative with the guardians and that the guardians are granted access to the children and records that are necessary for their mandated duties.
 16. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy? I am a strong believer in the separation of powers. I therefore believe it is the judge's responsibility to apply the law to the facts as proven in Court. The legislature is responsible for setting forth the laws to be applied.
 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 gladly participate in any judicial associations or conferences dedicated to the improvement of the law. I would also like to continue with participation in state and local bar associations, to include speaking opportunities.
 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 think service as a judge would place an undue burden on my personal relationships. I have a very supportive wife and children, and we have a strong support network of friends and church members. We have already adjusted to the demands of governmental employment and the situations and stress of my involvement with abuse and neglect cases. Of my four children, two are now in high school and are fairly independent, and they have been helpful with the younger two children.
 19. Would you give any special considerations to a *pro se* litigant in family court? No. However with that being said, *pro se* litigants are entitled to the same level of participation in the case and respect as represented parties. In certain types of cases heard in Family Court (for example abuse and neglect actions brought by SCDSS) *pro se*

- litigants are to be afforded the opportunity to be screened for appointment of pro bono 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? No.
 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?
 - a. Divorce and equitable distribution: 10%
 - b. Child custody: 10%
 - c. Adoption: 5%
 - d. Abuse and neglect: 70%
 - e. Juvenile cases: 5%
 25. What do you feel is the appropriate demeanor for a judge?
A judge should be fair and open minded, and be willing to patiently listen to all parties before him/her. A judge must also maintain order and control in the courtroom, and must act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
 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? These rules would apply seven days a week, twenty-four hours a day.
 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?
It is not appropriate to be angry with a member of the public appearing before you, whether it be a criminal defendant, pro se litigant, or attorney. Again, a judge must act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
 28. How much money have you spent on your campaign? \$50.00 If the amount is over \$100, has that been reported to the House and Senate Ethics Committees?

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? 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/ Harry L. Phillips, Jr.

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

Notary Public for South Carolina

My commission expires: 11-08-2010