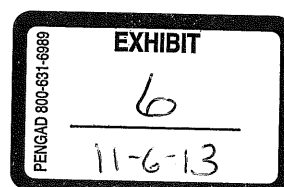


Whitney L. Hoskins, age 26
8630 Grassy Oak Trail
North Charleston, SC 29420
Home Phone: (843) 303-4178

1. My name is Whitney Hoskins.
2. On the morning of August 1, 2013, I was employed as a Deputy Clerk with the Charleston County Clerk of Court.
3. My courtroom assignment on this day was to assist the Honorable Judge Thomas Hughston in a hearing regarding the sentencing reconsideration of defendant Samuel McCauley.
4. I recall this hearing in particular because the matter of the State of S.C. vs. Samuel McCauley received a rather large amount of local attention prior to this proceeding.
5. In my capacity as a Deputy Clerk, I was required to work with multiple Judges, alternating between them every week.
6. What I observed on the morning of August 1, 2013 in Judge Hughston's courtroom, was nothing procedurally unusual from any of the other hearings conducted by other Judges in our courthouse.
7. I recall this matter being very emotionally charged, particularly from those of the friends and family members of the victim, Ms. Eleanor Caperton.
8. Judge Hughston took his place on the bench promptly, as I am certain he knew how long these weeks had been for those involved and did not want them to wait any longer.
9. The hearing began with Judge Hughston reminding all present what a tragic event this was and expressed his sympathies to all involved.
10. As he does with all parties in every case, Judge Hughston allowed each person who wished to speak on behalf of Ms. Caperton, be allotted all the time they wished to express themselves.
11. We all sat in a respectful silence, including Judge Hughston, as several representatives of Ms. Caperton elected to participate in victim impact statements to the Court.
12. Some victims read verbatim from statements prepared in advance while others spoke candidly about their pain and frustration.
13. With this being a very unfortunate incident, their speech was often labored and filled with passion.
14. Judge Hughston remained professional, respectful, and attentive as all parties, including victims, prosecutors, and the defense addressed the Court.
15. In my experience, it is common for Judge Hughston to turn his left ear towards the speakers in the gallery, as they do not use microphones and are several yards away from the bench.
16. Judge Hughston would often shut his eyes to reflect and get a mental picture of what speakers are describing.
17. Judge Hughston prefers the absence of any computers or technology on the bench with him as to give all cases the attention they deserve.
18. His behavior while listening to speakers is always contemplative and considerate, allowing them all of the time they need.
19. Upon leaving Judge Hughston's courtroom, I would find it most unusual should they feel as though their thoughts were not heard or considered.
20. While some may not always agree with his rulings, he listens to every side, thoroughly and gives every case a noticeably extraordinary amount of thought.
21. As he did on this day and every time he is on the bench, Judge Hughston provided reasons for his decisions and explains where they came from.



22. Judge Hughston did not laugh, smirk, belittle, intentionally insult, or deliberately cause any emotional distress to any person related to the victim Ms. Eleanor Caperton on the morning of August 1, 2013.
23. I did not observe Judge Hughston laughing, giggling, or taking this matter lightly at all.
24. It was evident that this hearing and this entire case weighed heavily on his heart.
25. I was also present for the plea of Samuel McCauley when Judge Hughston needed the opportunity to reflect on the matter more before he could impose a sentence.
26. I am sorry for the loss of Ms. Caperton and I understand her friends and family are dismayed with the outcome of this plea, but Judge Hughston did not once, act out of line or display any character other than professional, Judicial demeanor.

Whitney L. Hoskins
Whitney L. Hoskins

Sworn to before me this 16 day

of October, 2013

[Signature]
NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: 9/22/2014

LAW OFFICES
GIBBS & HOLMES
171 CHURCH STREET, SUITE 110
POST OFFICE BOX 938
CHARLESTON, SOUTH CAROLINA 29402-0938

ALLAN R. HOLMES
PARTNER
CERTIFIED SPECIALIST IN LABOR
AND EMPLOYMENT LAW

TELEPHONE (843) 722-0033
TELECOPIER (843) 722-0114
E-MAIL
aholmes@gibbs-holmes.com

October 16, 2013

Jane O. Shuler, Esquire
Chief Counsel
Judicial Screening Committee
104 Gressette Building
Post Office Box 142
Columbia, South Carolina 29202

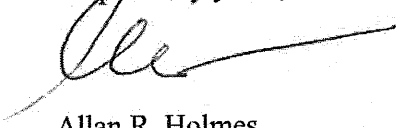
Re: The Honorable Thomas L. Hughston, Jr.

Dear Ms. Shuler:

Enclosed is my affidavit of proposed testimony for the hearing regarding Judge Hughston which I understand is currently scheduled for the afternoon of November 15, 2013. I would appreciate your acknowledging receipt of the affidavit and confirming that I will be allowed to appear as a witness at the hearing.

With kind regards, I am

Respectfully yours,



Allan R. Holmes

ARH/ah

Enclosure as stated

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

AFFIDAVIT OF ALLAN R. HOLMES, SR.,

I, Allan R. Holmes, Sr., being duly sworn, offer the following affidavit upon information and belief.

I've been a lawyer for almost 40 years. I am certified by the South Carolina Supreme Court as a Specialist in Employment and Labor Law, and my practice hasn't included any significant criminal cases for a very long time. However, I do have some experience with the legal system, and I have had the opportunity to observe and admire the judicial service of the Honorable Thomas Hughston.

Unwarranted criticism of Judge Hughston has been provided to our local newspaper by unidentified sources from "the law enforcement community" who would not "speak on the record" as well as "Charleston Thug Life" – the self-published rantings of an anonymous blogger. This is America – a free country with free speech. Here, the only people who have any need to offer up anonymous slanders are those whose ulterior motives (or crackpot reputations) would be instantly revealed by their identities. Their ravings deserve neither respect nor consideration.

The Charleston Post & Courier has reported that Judge Hughston has sentenced twice as many offenders as the two other local judges combined, and Judge Hughston doesn't try criminal cases. This means that Judge Hughston only sentences offenders who have chosen to plead guilty, and in nearly all of those cases, the sentencing is accompanied by a "plea bargain" which has the approval of the prosecutor and the defense attorney and constitutes a recommendation to the sentencing judge. That plea bargain serves as the incentive for the offender's guilty plea. It is to be expected that these types of cases will have a much higher percentage of probationary sentences than sentences which occur after a trial. In most of the cases which go to trial, the defendants have not been offered even the possibility of probation.

I should add that every plea bargain represents a decision by both the prosecutor and the defense lawyer not to take the case to trial. Our current Ninth Circuit Solicitor is well known as a no-nonsense, tough prosecutor. The public need not be concerned about whether its overall best interests are being protected in any plea arrangement to which her office has assented. However, plea bargains are a necessary component of the criminal justice system, and many cases are disposed without the need or expense of trials.

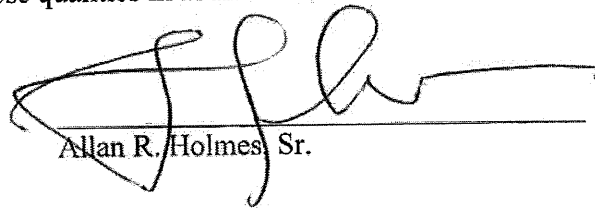
On that note, I offer the following "statistic." As I understand the law, any unlawful sentence by any circuit judge can be appealed by the State. In other words, if the prosecuting authority believes that a sentence is unlawful, the prosecuting authority can appeal that sentence. To the best of my knowledge, zero percent of the sentences meted out by Judge Hughston have been appealed by the State. This is tacit recognition that His Honor is complying fully with the law when he sentences offenders.



The founders of this country had the Star Chamber as an example of how criminal proceeding can be abused. As a result, our Constitution contains fundamental safeguards: proof beyond a reasonable doubt; right to trial by jury; and the requirement that judges enforce the Constitution so as to insure that criminal defendants are treated fairly and in accordance with law. It is a normal – and understandable – response for the relatives of any victim to want the most severe punishment for the person who caused the injury. It is not unusual for police officers to find Constitutional requirements of due process an inconvenience, or to believe that only especially severe punishment is appropriate at sentencing. However, a judge must serve as an “impartial magistrate.” By definition – and the authority of the United States Supreme Court – such a judge cannot be a member of the “competitive enterprise” of law enforcement. See *California v. Acevedo*, 500 U.S. 565 (1991).

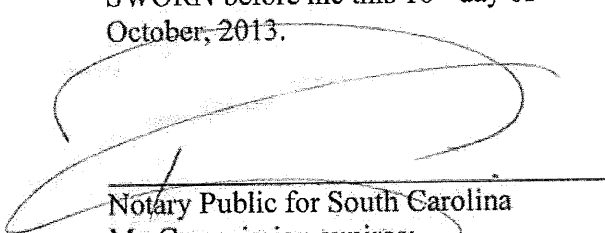
In this country, every sentencing judge must consider the same factors that Judge Hughston considers each time he sentences an offender: deterrence, incapacitation, rehabilitation, and retribution. This is the law, and those who insist that any of these factors be ignored are nothing less than advocates for lawlessness.

Judge Hughston has the respect of every lawyer I know – prosecutors, defenders, and civil trial lawyers like me. I urge the members of the Committee to consider what qualities they would want a judge to have in a case in which they were parties. Every lawyer I know would assure them that Judge Hughston has those qualities in abundance.



Allan R. Holmes, Sr.

SWORN before me this 16th day of
October, 2013.



Notary Public for South Carolina
My Commission expires:

3/27/19



Timothy O'Neill Lewis
NOTARY PUBLIC
State of South Carolina
My Commission Expires
March 27, 2019

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
IN RE:)
JUDICIAL QUALIFICATION OF THE)
HONORABLE THOMAS L. HUGHSTON, JR)

**AFFIDAVIT
OF
D. ASHLEY PENNINGTON,
NINTH CIRCUIT PUBLIC DEFENDER**

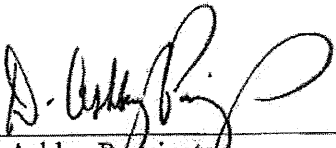
TO: The Judicial Merit Selection Commission of the South Carolina Legislature
COMES NOW the Affiant D, Ashley Pennington, Ninth Circuit Public Defender, who
hereby swears & affirms the following:

1. I have been a licensed and practicing attorney since 1980. I am in good standing with the South Carolina Bar. I presently serve as the Circuit Public Defender for Berkeley and Charleston Counties.
2. This affidavit is being sent at the request of Judge Thomas L. Hughston Jr, in response to his question: "How/why would you say that I (Judge Hughston) handle almost 1,900 guilty pleas in a year?"
3. Each week of court in Charleston, the Circuit Solicitor sets up a trial docket for one judge and a plea docket for the second judge. Over the last thirteen (13) years, Judge Hughston has been consistently assigned by the solicitor to hear the guilty plea docket. This means that Judge Hughston handles many more cases by guilty pleas than other judges who handle the trials. The criminal justice system of South Carolina relies on recruiting fine judges like Judge Hughston, who are willing to work quickly and impartially on the enormous volume of cases that must be resolved in our courts as guilty pleas.
4. The criminal courts in all jurisdictions of our state rely on the readiness of judges to work hard and to exercise their independent discretion and judgment in imposing sentence. Judge Hughston has earned the respect of the Bar. As a result, he has handled an enormous proportion of the guilty plea dockets for the last 13 years. It is always expected that some litigants are not happy with a judge's decisions. In some cases, defendants are bitterly disappointed with the length of their prison term. In other cases victims are bitterly disappointed in the fact that

the term was not greater. Judges are appointed to make these difficult decisions based on their experience and judgment; they are not there to please the litigants but to do justice based on the facts before them at that moment.

5. It is also important to understand that some Defendants spend substantial periods of imprisonment in pre-trial incarceration before coming to court. Their sentence must incorporate their time served and make it a part of their sentence. This is required by SC state law.


FURTHER AFFIANT SAYETH NOT.



D. Ashley Pennington
Ninth Circuit Public Defender

SWORN to and subscribed to before me this

25th day of October, 2013.



NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 9/7/2014

October 23, 2013

TO: JUDICIAL MERIT SELECTION COMMISSION
RE: WITNESS AFFIDAVIT FORM
IN THE MATTER OF: JUDGE THOMAS HUGHSTON
CANDIDATE FOR: CIRCUIT JUDGE

Dear Judicial Commission,

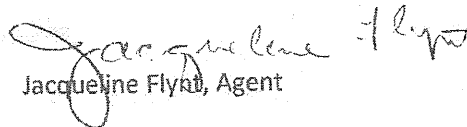
I have read the Witness Affidavit offered by Phyllis Savenkoff and other witnesses who support her view. She stated that on August 1, 2013, at a Re-sentencing Hearing, Judge Hughston was ..."unprofessional, inappropriate, unethical, and insensitive, to her and other family of Eleanor Caperton. She further stated that he was apathetic, discourteous, offensive... his facial expressions and laughter showed great lack of respect for the victim's family...".

My name is Jacqueline Flynt and I've been a Probation and Parole Agent in Charleston County for over 30 years. During that time I've supervised caseloads, worked as a Victim Services Coordinator for 15 years, and now work in our Court Office doing intakes, Presentence Investigations, and other court related work.

I was in the court room on the above date and sat behind Ms. Savenkoff and the other family who were there that day. Judge Hughston began the proceeding by explaining why the hearing was taking place and why he didn't schedule a hearing when he first reconsidered the sentence of Samuel McCauley and reduced it from twenty years to ten. Judge Hughston apologized for the distress that this caused the victim's family and advised that he did not want them to feel slighted and would be glad to hear from the family. Several family members presented statements regarding their view of the offense and the offender. It was obvious that Ms. Caperton was very loved and deeply missed.

During their statements Judge Hughston listened attentively and respectfully. He spoke to them with sympathy and courtesy. Contrary to being "inappropriate or insensitive", he gave the family all the time they needed to express themselves. He took the time to explain in great detail why he considered his first sentence of twenty years excessive and why he was changing it to service of ten years.

Judge Hughston, like all of us, has some unique mannerisms. He sometimes looks up or closes his eyes when contemplating. Sometimes he blinks rapidly. He almost always sits somewhat sideways to present his better hearing ear to the court room. I wonder if the family took these mannerisms as a personal offense. It's not uncommon for grieving family members to think the sentence should reflect their love for the deceased. No sentence is ever tough enough to restore their loss or to reflect the value of their loved one.


Jacqueline Flynt, Agent


Sworn to before me this 23 or October 2013.

Notary Public for S.C. My Commission Expires December 20, 2016.

Agent

David Wahrer
1685 Nanathala Blvd
Mt. Pleasant, SC 29464
Phone: 843 329 3871

- 1) I am employed with the SC Department of Probation, Parole and Pardon Services and serve as a Court Agent here in Charleston County for the past 12 years. (28 years total with the agency)
- 2) On the morning of August 1, 2013 I was in courtroom 4-D where I observed Judge Hughston presiding over the reconsideration hearing of defendant Samuel McCauley. I have observed Judge Hughston in the courtroom setting for several years now and on this particular day I was watching his behavior intently as this case has received considerable attention locally.
- 3) Judge Hughston came onto the bench as he always would and began the proceedings with a statement to all present that he was very much aware of how tragic this event was and that there were no winners in it. He was quite sincere and at no time did I see anything but professionalism and empathy for the victims.
- 4) Judge Hughston made sure that each person who wanted to make a statement was able to do so and he accomplished that in a respectful and attentive manner.
- 5) Throughout the entire proceedings Judge Hughston remained professional, respectful to all, and portrayed a high level of sincerity. At no time did I observe anything that could be construed otherwise. I was quite surprised to discover that anybody there could think otherwise.
- 6) In summary I would state that I do not see how he could have handled the proceedings any better than he did. I watched him closely throughout the entire session as I knew that it was a very important hearing for him. At no time was he disrespectful, rude or any other negative behavior mentioned. I make this statement with many years of experience in his courtroom observing his handling of a variety of difficult cases. I have never seen him be anything but professional and he certainly was on this day in question.

Sincerely, David Wahrer

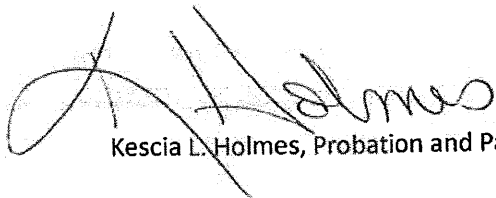

Senior Court Agent

Kescia L. Holmes
4109 Eastbury Court
North Charleston, SC 29420
Home Phone: (843)834-2920

10/22/2013

On the morning of August 1, 2013, I went into courtroom 4D for the sentencing reconsideration of Samuel McCauley. I observed Judge Hughston enter the courtroom in his normal manner and allow the defendant's attorney and the Solicitor to address the court. Judge Hughston did nothing unusual that I have not observed over the past 15 years I've worked for Probation, Parole and Pardon Service. Judge Hughston, usually sits to the side while on the bench unless he is signing paperwork. I never observed him laughing or making light of the situation. As stated previously, he allowed both attorneys to speak (which was the majority of the hearing) and then the victim's family spoke; at no time did I observe any form of disrespect, towards the victim family.

I have always observed Judge Hughston, to show empathy and professionalism towards victims and he always allows them an opportunity to address the court.

A handwritten signature in black ink, appearing to read "K. Holmes", written over a horizontal line.

Kescia L. Holmes, Probation and Parole Court Supervisor

CAPT

MATTER: State of South Carolina vs Samuel McCauley

PERSONALLY APPEARED before me Madeline M. Parker, who being first duly sworn, deposes and says as follows:

My name is Madeline M. Parker. I have worked for the Charleston County Clerk of Court as a bailiff since 1999. During that time I have served as a bailiff during several court proceedings where Judge Thomas Hughston, Jr. was the presiding Judge.

On August 1, 2013 I was assigned to Judge Hughston's courtroom for a hearing regarding the sentencing reconsideration of defendant Samuel McCauley. During the hearing, family members and friends of the victim, Ms. Eleanor Caperton, expressed their love and caring thoughts of her. Judge Hughston was at all times respectful and attentive to the victim's family, the Solicitors and the defense. After everyone spoke, Judge Hughston explained his decision and his reasons in a caring and professional manner. There was no smirking, laughter, giggling nor flippant attitude displayed by Judge Hughston. He presided in a caring and professional manner in this case as well as any other case where I have been assigned to his courtroom.

FURTHER AFFIANT SAYETH NOT.

Madeline M. Parker
Madeline M. Parker
Charleston County Bailiff

SWORN to and subscribed before me

This 21st day of October, 2013

M. Williams (L.S.)

Notary Public for SOUTH CAROLINA

My Commission Expires Oct 19, 2015

COPY

MATTER: State of South Carolina vs Samuel McCauley

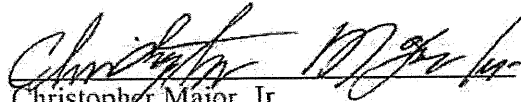
PERSONALLY APPEARED before me Christopher Major, Jr., who being first duly sworn, deposes and says as follows:

My name is Christopher Major, Jr. And I worked in courtroom 4D on the morning of August 1, 2013. What I observed in Judge Hughston's courtroom was nothing unusual from any of the other hearings conducted by other Judges in the courthouse.

I recalled this matter being very emotionally charged, particularly from those of the friends, and family members of the victim.

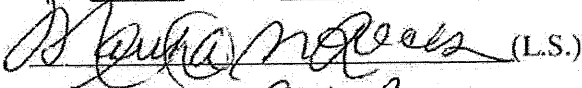
As he does with all parties in every case, Judge Hughston allows each person who desires to speak a chance. Judge Hughston remained professional, respectful, and attentive as all parties addressed the court including: the victims, prosecutors, and defense. I did not observe Judge Hughston or anyone else in the courtroom laughing, giggling, or taking this matter lightly at all! Judge Hughston did not laugh, smirk, belittle any parties nor did he intentionally or deliberately cause any emotional distress to any person related to the victim.

FURTHER AFFIANT SAYETH NOT.


Christopher Major, Jr.
Charleston County Bailiff

SWORN to and subscribed before me

This 2nd day of October, 2013

 (L.S.)

Notary Public for SOUTH CAROLINA

My Commission Expires OCT 19, 2015