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JUDICIAL MERIT SELECTION COMMITTEE

EVALUATION OF CANDIDATES

BY COMMITTEE MEMBERS

PUBLIC HEARINGS ON JUDICIAL QUALIFICATIONS

TUESDAY, NOVEMBER 5, 2013

GRESSETTE BUILDING

ROOM 105

COLUMBIA, SOUTH CAROLINA

COMMENCING AT 9:24 A.M.

REPORTED BY: TRACY E. BROWN
Certified Shorthand Reporter (CA)

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1 MEMBERS IN ATTENDANCE:
2 SENATOR LARRY A. MARTIN, CHAIRMAN
3 REPRESENTATIVE ALAN D. CLEMMONS, VICE-CHAIRMAN
4 JOSEPH PRESTON "PETE" STROM, JR.
5 H. DONALD SELLERS
6 REPRESENTATIVE BRUCE W. BANNISTER
7 SENATOR GERALD MALLOY
8 REPRESENTATIVE DAVID J. MACK, II
9 SENATOR GEORGE E. "CHIP" CAMPSER, III
10 JOHN DAVIS HARRELL, ESQUIRE
11 KRISTEN C. BELL, ESQUIRE
12 COUNSEL PRESENT:
13 JANE O. SHULER, CHIEF COUNSEL
14 PATRICK G. DENNIS
15 E. KATHERINE WELLS
16 J. J. GENTRY
17 STEVE DAVIDSON
18 EMMA DEAN

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(INDEX AT REAR OF TRANSCRIPT)

1 SEN. MARTIN: Let's bring the meeting to order.

2 Welcome, everyone. I apologize for running a
3 little bit late. Those of us coming in from the Upstate
4 had a massive parking lot to contend with on I-26 this
5 morning. It went very, very slow.

6 The Judicial Merit Selection Commission is called
7 pursuant to Chapter 9 of Title 2, South Carolina Code of
8 Laws requiring the review of candidates for judicial
9 office.

10 The function of the Commission is not to choose
11 between candidates, but rather to declare whether or not
12 candidates you offer for the position on the bench, in our
13 judgment, are qualified to fulfill the positions they
14 seek.

15 The inquiry we undertake is a thorough one,
16 centered around the Commission's nine evaluative criteria,
17 involves a complete personal and professional background
18 check on each candidate. These public hearings are
19 convened for the purpose of screening candidates.

20 Today, we will screen one vacancy for the South
21 Carolina Supreme Court, four vacancies on the Family
22 Court, one vacancy on the Circuit Court, and then finally,
23 one retired judge.

24 It's my understanding we'll probably meet until
25 late this evening, and then we'll plan to meet again in

1 the morning until we finish tomorrow sometime, hopefully,
2 around lunchtime.

3 Are there any questions or comments from any
4 member of the Commission?

5 I understand, at this time, we're going to need
6 to go into executive session. And I apologize to the
7 audience for that, but we need to go into executive
8 session to hear from staff on some issues that relate to
9 the executive session matters.

10 But before we do that, are there any questions or
11 comments from any member of the Commission about our
12 schedule or about how we're going to proceed?

13 Hearing none, at this time we will go into
14 executive session without objection. And this shouldn't
15 take -- how long do you think it should take, Jane?

16 MS. SHULER: Fifteen, twenty minutes.

17 SEN. MARTIN: Fifteen, twenty minutes and then
18 we'll proceed and get started.

19 (The members went into executive session.)

20 - - - - -

21 (The members came out of executive session.)

22 SEN. MARTIN: The Commission is back to order.

23 Based on the list compiled by staff, the
24 following fall of 2013 candidates seeking reelection are
25 candidates who are not personally appearing before the

1 Commission, whose personal data questionnaires require
2 technical amendments that do not affect the candidates'
3 eligibility.

4 Proposed candidates that would fall into that
5 category with the amendments to the PDQ would be: The
6 Honorable Jocelyn Cate; The Honorable Ralph King "Tripp"
7 Anderson, III; The Honorable Thomas W. Cooper, Jr.; The
8 Honorable Howard P. King; The Honorable Donna S. Strom.

9 I ask at this time that the PDQs and the sworn
10 statements for all the candidates in this category as well
11 as the amendments for the PDQs for Judge Cate, Judge
12 Anderson, Judge Cooper, Judge King, and Judge Strom be
13 entered as exhibits into the record.

14 Is there any objection to that?

15 MR. STROM, JR.: Mr. Chairman, before you get
16 into that, I would like the record to reflect that I am
17 recusing myself from voting on any matter involving my
18 wife.

19 SEN. MARTIN: All right. The record will so
20 reflect.

21 Are there any objections to these exhibits being
22 entered into the hearing record?

23 Hearing none, the PDQ, the sworn statements for
24 all the candidates that would not personally appear, as
25 well as the amendments for the above candidates, will be

1 entered into the record at this time.

2 (Exhibits 1 - 20 were marked for
3 identification and attached hereto.)

4 SEN. MARTIN: Further, based upon staff summaries
5 for the fall of 2013 candidates seeking reelection and the
6 provisions of the SC Code 21940, I would request that we
7 provide that the following candidates -- unless there is a
8 request made by six members of the Commission for a public
9 hearing, that the following candidates not appear, that
10 they have already subjected themselves to all of the
11 questioning, filled out all the personal data
12 questionnaires, responded to all staff questioning and
13 concerns that anyone would raise.

14 There have been no complaints and no comments
15 from the public that would raise or give rise to a
16 question of these particular candidates coming before the
17 Commission concerning that candidate's election to the
18 judicial seat in which he or she serves, and I'll read you
19 the list.

20 The list would be: The Honorable Ralph King
21 "Tripp" Anderson; The Honorable Thomas A. Russo.

22 Circuit judge, family court: The Honorable
23 Michael S. Holt; the Honorable W. Thomas Sprott, Jr.; the
24 Honorable Jocelyn B. Cate; The Honorable Ronald R. Norton.

25 And then the retired judges in this category

1 would be: The Honorable Jane D. Fender; The Honorable
2 Thomas W. Cooper, Jr; The Honorable Howard P. King; the
3 Honorable James A. Spruill, III; and The Honorable Peter
4 R. Nuessle; The Honorable Donna S. Strom.

5 These would be -- would not have to appear before
6 the Commission, having already completed all the
7 information that all the candidates are required to.

8 All right. We're going to defer on one just so
9 anybody that knows he's on the list, we need some -- one
10 little bit of information. And then we'll take The
11 Honorable Larry B. Hyman, Jr. later in the afternoon if
12 there is a need for him to personally appear to respond to
13 any questions.

14 Is there any objection to these individuals not
15 personally appearing?

16 SEN. MALLOY: Mr. Chairman?

17 SEN. MARTIN: Yes, sir.

18 SEN. MALLOY: I would like to be recorded as
19 voting against the motion to waive for personal
20 appearances. I believe that all judges should be required
21 to appear for part of the public hearing.

22 SEN. MARTIN: All right. Any other comments?

23 Hearing no further comment and not at least six
24 members of the Commission requesting that these candidates
25 appear, then they will be not required to appear

1 personally, having already completed all the staff and
2 other Commission questioning that -- the test and
3 everything else that they've done in connection with this
4 process.

5 They've actually appeared before the Commission
6 in the sense that they -- a lot of the questions that
7 would be asked, would be questions they have already
8 answered to this Commission. We have that information, so
9 there is nothing to personally question them about.

10 SEN. MALLOY: Mr. Chairman?

11 SEN. MARTIN: Yes, sir.

12 SEN. MALLOY: With that comment, I would just
13 want to add to -- just, I had a newspaper article that
14 there is perception in the community. And also for those
15 that do not make official complaints, a lot of folks may
16 not be familiar with the process. And so the basis of my
17 thoughts are that they at least have their name
18 called --

19 SEN. MARTIN: Sure.

20 SEN. MALLOY: -- from the audience that they will
21 not -- not let him get -- the staff does a good job of

22 SEN. MARTIN: Of course.

23 SEN. MALLOY. -- doing it. But if they are able
24 to -- if someone saw the bulletin in the newspaper, they
25 want to come in and appear and sit in the audience and say

1 that I want to -- I want to speak to one of the judges,
2 that they would be afforded that opportunity if their name
3 is called.

4 SEN. MARTIN: All right.

5 SEN. MALLOY: Thank you.

6 (Exhibits 21 - 24 were marked for
7 identification and attached hereto.)

8 SEN. MARTIN: Everybody understand where we are?
9 All right. We'll proceed.

10 Miss Shuler has a comment at this point.

11 MS. SHULER: As a housekeeping matter, I would
12 like to offer and have made exhibits for the record the
13 following documents; citizens' committee report for the
14 fall 2013 from the Lowcountry, the Midlands, Pee Dee,
15 Piedmont, and Upstate Citizens' Committee.

16 SEN. MARTIN: All right. Are there any
17 objections?

18 Hearing none, I ask at this time that the
19 Lowcountry, Midlands, Pee Dee, Piedmont, and Upstate
20 Citizens' Committee Reports for the fall 2013 screening
21 schedule be marked as exhibits and entered into the public
22 record.

23 (Exhibits 25 - 29 were marked for
24 identification and attached hereto.)

25 SEN. MARTIN: All right. That gets us to the

1 first candidate. We're on the South Carolina Supreme
2 Court, the Chief Justice position. Patrick Dennis is our
3 staff attorney and we have Justice Pleicones.

4 Welcome.

5 JUSTICE PLEICONES: Thank you.

6 SEN. MARTIN: Good to see you.

7 JUSTICE PLEICONES: Good to see you.

8 SEN. MARTIN: Would you please raise your right
9 hand and take the oath.

10 JUSTICE PLEICONES,
11 having been first duly sworn
12 testified as follows:

13 EXAMINATION

14 BY SEN. MARTIN:

15 Q. Thank you. You had the opportunity to review
16 your personal data questionnaire?

17 A. Many times.

18 Q. All right. Is everything correct? Anything need
19 to be changed?

20 A. It is correct.

21 Q. Do you object to our making this summary and any
22 amendment, if asked for, part of the record of your sworn
23 testimony?

24 A. Not at all.

25 SEN. MARTIN: At this point, it will be done in

1 the transcript.

2 (Exhibit 30 was marked for
3 identification and attached hereto.)

4 BY SEN. MARTIN:

5 Q. The Judicial Merit Selection Commission, Justice,
6 has thoroughly investigated your qualifications for the
7 bench.

8 Our Commission has focused on the nine evaluative
9 criteria. It has included; a ballot box survey, thorough
10 study of your application materials, verification of your
11 compliance with the state ethics' laws, search of
12 newspaper articles in which your name appears, and a check
13 for economic conflict of interests.

14 We have received no affidavits in opposition to
15 your election, and no witness are present to testify.

16 Do you have a brief opening statement that you'd
17 like to make at this time?

18 A. Nothing other than I'm glad to be here.

19 Q. Justice Pleicones, it's a real pleasure to have
20 you today, and we appreciate your service to the state.

21 Would you please answer Counsel Dennis'
22 questions?

23 A. Certainly.

24 BY MR. DENNIS:

25 Q. Good morning, Justice Pleicones.

1 You also have before you a sworn statement which
2 you provided detailed answers to over 30 questions
3 regarding judicial conduct, statutory qualifications,
4 office administration, and temperament.

5 Are there any amendments you would like to make
6 to that statement at this time?

7 A. Let me take a look at the sworn statement.

8 No, sir.

9 MR. DENNIS: Thank you. At this time,
10 Mr. Chairman, I would ask that Justice Pleicones' sworn
11 statement be entered as an exhibit into the record.

12 SEN. MARTIN: Any objection?

13 Hearing none, the sworn statement and amendment,
14 if any, will be entered into the record at this time.

15 (Exhibit 31 was marked for
16 identification and attached hereto.)

17 BY MR. DENNIS:

18 Q. Justice Pleicones, after serving on the South
19 Carolina supreme court for 13 years, why do you now want
20 to serve as its Chief Justice?

21 A. Well, interesting question and an appropriate
22 one. For the last -- because I am qualified for the job.
23 I can bring something to this job, and I think a fresh
24 perspective is beneficial to any leadership position from
25 time to time.

1 For the past 45 years, I have been preparing
2 myself consciously or unconsciously for this position. I
3 have done everything that one can do in the legal system.

4 I have been a prosecutor in the army. I have
5 been a defender. I have been a municipal judge. I have
6 been the county attorney for the largest county in the
7 state. I have been a circuit judge. I have defended the
8 biggest corporations in this state, and I have represented
9 the humblest individuals.

10 So what I am saying is, I am prepared for this
11 mission, and I look forward to serving as your Chief
12 Justice for the next two years and five months.

13 Q. Thank you, Justice.

14 Can you explain one or two brief accomplishments
15 that you feel you've completed during your tenure as a
16 Justice?

17 A. One or two accomplishments?

18 Q. Accomplishments, yes, sir.

19 A. Well, I think I have exhibited over a period of
20 over 22 years, and 13 in particular, I have a track record
21 that's clearly capable of observation. I think that I am
22 a model of judicial restraint, if that is considered to be
23 a specific accomplishment.

24 I think that I am frequently cited as being a --
25 you know, writing separately, and I do that, I write

1 separately on a great number of occasions. And I do point
2 out that quite a few of my dissents have become the
3 majority of opinions of the court in subsequent years. So
4 I consider that an accomplishment as well.

5 In terms of specific feats that I have
6 accomplished, I can't really point or direct to anything
7 other than my conduct as a Justice in the written opinions
8 that I've rendered, simply because the Chief Justice is
9 the person who accomplishes things.

10 I will say one thing, let me just tell you this:
11 There is, in the 7th circuit, 7th judicial circuit, a case
12 management order that I devised, along with Roger Couch
13 and Trey Gowdy, who was then the solicitor, which I think
14 has become the model for handling criminal cases in this
15 state.

16 It is the one that is currently in existence and
17 the one that Solicitor Gowdy -- then Solicitor Gowdy, now
18 Congressman Gowdy -- actually seated authority or power of
19 the solicitor, which resulted in the accomplishment of a
20 fairly streamlined docket.

21 And Roger Couch, Derham Cole, Mark Hayes, and all
22 of those judges over there continue to administer and
23 through that aegis of that order. And I am the one who
24 devised it along with those two people.

25 Q. Justice, if you were to become Chief Justice, are

1 there some specific goals that you would like to
2 accomplish in that position?

3 A. Yes. Rule 16 -- as I've stated in my answers to
4 the five questions that were posed by this Commission, one
5 of the things that I find disquieting is our -- sometimes
6 a lack of expedition in the processing of cases. I would
7 make it a point of emphasis in my administration to --
8 because I believe that the core mission of our court is
9 the thorough and timely processing of the cases that are
10 brought before us by people.

11 Some specific methods by which we can do that, we
12 currently have an internal rule, Rule 216, which requires
13 us to give 40 days' notice to the attorneys prior to the
14 argument of a case. And that's a good thing for the
15 attorneys because you don't want to have more significant
16 lead time than that because attorneys' schedules are very
17 fulsome, and you don't want to have too much lead time for
18 conflicts and that sort of thing.

19 But what we also do internally is, we don't
20 assign those cases to chambers until that 40 days. I
21 think a longer lead time would give us a better
22 perspective on the timely disposition of cases.

23 Also, one specific thing that I think we could
24 do, and lawyers on this Commission are familiar with this,
25 is perhaps a Rule 4 equivalent.

1 In other words, the decision is made because
2 frequently a consensus is had as to the result of the
3 case, but the nuances, the specific points of law to be
4 discussed are not agreed upon. So if you have three or
5 four people who decide a case a specific way and yet
6 you're not concerned or, you know, with unanimity with
7 regard to the actual opinion, you can simply say,
8 affirmed, reversed, formal opinion to follow.

9 And that's a thought. That's an idea that
10 perhaps needs to be discussed collaboratively with the
11 remaining members of the court.

12 Q. Justice, can you discuss with the Commission,
13 briefly, your opinion as to what the appropriate demeanor
14 for a Chief Justice would be.

15 A. Well, I think the appropriate demeanor of a Chief
16 Justice is the appropriate demeanor for the Chair of this
17 Commission or anybody in life, and that is to be
18 respectful and accord dignity and respect to anybody to
19 whom you come into contact.

20 Q. Can you explain what you believe to be the proper
21 role the Chief Justice's play in administering the unified
22 court system.

23 A. Well, the Chief Justice is in effect the CEO.
24 And the -- and the court administrator is the chief
25 operating officer, in my judgment. And the Chief

1 Justice's position is one of leadership by example.

2 Certain points of emphasis, one of which would be
3 in my administration, the emphasis on the expedition of
4 cases. Not expedition for the sake of expedition, but
5 timeliness to be a model for the citizens to look up to
6 and simply be a -- to exercise the functions of a leader.

7 The Chief Justice has got to work with the
8 general assembly on matters of shared interest such as
9 rules. You got to work with the general assembly on
10 matters of shared interest such as the budget. And -- but
11 you don't have to micromanage.

12 And the buck stops with the Chief Justice who
13 must take responsibility for every action taken by court
14 administration and in the system generally.

15 So it's simply a method of -- a focus on
16 leadership by example, and that's what I would do.

17 Q. Thank you, sir.

18 In addition to administering the unified court
19 system, it's also the Chief Justices' responsibility to
20 plan for the budgetary needs of the court system. What do
21 you see as the most immediate budgetary need of the South
22 Carolina court system, and how would you try to address
23 those?

24 A. I think that there is a far too heavy dependence
25 on fines and fees in the budgetary process. I would like

1 to begin a dialog with the general assembly since the
2 general assembly controls the purse strings, and it's
3 their function to allocate money.

4 I would like to begin a dialog of a more stable
5 and lasting and sustainable funding mechanism. What that
6 would be, I don't know. Some have proposed a percentage
7 which would require perhaps a constitutionally-based
8 amendment.

9 But the inadequacies of the -- the lack of
10 sustainability of the fine and fee system, which has
11 become onerous and has become an access to justice problem
12 for many people, is something that I would like to
13 address.

14 The onus that we place on -- because of budgetary
15 restraint, on lawyers to act without compensation is
16 something that I would like to address as well.

17 Q. Outside of those budgetary concerns, what else do
18 you see as a significant challenge facing the South
19 Carolina court system, and what steps would you take to
20 meet those challenges?

21 A. Well, some that I've outlined. The core mission
22 of the court system is, again, the thorough and timely
23 processing of cases, and the big challenge that we have is
24 just that. Our court has recently adopted the Langford
25 decision, which completely and totally seeks to revamp the

1 conduct of criminal -- processing of criminal cases.

2 I did not agree with that opinion, but it is the
3 opinion of the four Justices of our court, so it has been
4 my opinion as well. So we're going to have a find a
5 method of effective case management in order to dispose of
6 these cases.

7 And again, the Spartanburg -- not the seventh
8 circuit -- but the Spartanburg model within the seventh
9 circuit is a good model to go by. And there is going to
10 have to be some working with the solicitors, the public
11 defenders, and the private practitioners in order to
12 determine what is an appropriate method for dealing with
13 this kind of thing.

14 There are other overlays of the system that bear
15 on the processing of cases and that is, DSS within the
16 family court system, the law enforcement, then you have
17 the special problems.

18 It is one thing to impose specific personnel
19 requirements on people, that is, more judges and then to
20 find the space to accommodate these judges. And the
21 counties then face a crunch with regard to their
22 allocation of space, and where do they get the money from?

23 So we have got some significant problems, not
24 insurmountable. And again, we are simply going to have to
25 try harder, I think is the bottom line.

1 Q. Shifting gears just a little bit, Justice, could
2 you please discuss how you believe you fostered a sense of
3 collegiality on the court among the four other Justices.

4 A. How I personally have fostered a sense of
5 collegiality on the court?

6 Q. Yes, sir.

7 A. Oh, I think that there is no -- there has never
8 been in my 13 years on that court, a moment of ranker or
9 anger displayed at anybody on that court, and I think that
10 I have never done that. I know that I have never done
11 that.

12 Collegiality is not fostered by lockstep of
13 court. And I understand the reason for the question.
14 It's because I write -- those who are familiar with the
15 opinions of the court, understand that I frequently write
16 separately. I believe that I was elected by this general
17 assembly to conscientiously voice my opinion with regard
18 to the processing of cases and not simply to go along to
19 get along and I do not.

20 That does not mean that I have ever had a
21 disputatious moment with any member of the court on a
22 personal level. We have disputed our decisions with
23 regard to the disposition of cases. I believe that I
24 have, again, led by example.

25 Q. Along those, sort of, same lines, Justice, do you

1 believe that there is an appropriate tone for an appellate
2 opinion, and what is that tone?

3 A. Well, the appropriate tone for the appellate
4 opinion is those written by Constable Cowen over the last
5 13 years, which exhibit no vitriol. The appropriate thing
6 is not what happens in the United States Supreme Court
7 where those people go at each other with meat axes.

8 My tone is to be respectful of the opinion of the
9 other person if I disagree with it and to indicate my
10 difference or disputation with that particular opinion in
11 a respectful manner.

12 Frequently, I will write an opinion that I will
13 then tear up, tone down. And there is no place for
14 rudeness in writing. There is no place for rudeness in
15 person.

16 Q. Justice Pleicones, as you know, the Commission
17 has begun to survey ballot -- or receiving ballot box
18 surveys. And in this particular race, you received 1,149
19 ballot box surveys. Of those, exactly 140 people took the
20 time to write specific comments.

21 I would note for the record that the vast
22 majority of these comments were positive; however, there
23 were two themes that were raised in those very few
24 comments that were negative. I'm going to lay both themes
25 out and ask you to react to them.

1 First is a lack of ability or at least experience
2 needed to administer for the court system. And second is
3 one we've already spoken of some this morning, and that
4 is, a perception that you may be a bit contrarian as
5 evidenced by your frequent dissent.

6 Could you react to each of those for the
7 Commission.

8 A. Well, in turn, I will again react to the second
9 first. The contrarian tone, I think is -- there are
10 others who would disagree with that, and I would be one of
11 them. I don't write separately for the purpose of writing
12 separately. Again, I write separately because this
13 general assembly elected me to voice my opinion as to what
14 the law is and I do that.

15 With regard to my inability to administer
16 the court system, I am perplexed as to how someone could
17 formulate that opinion who is unfamiliar with the internal
18 workings of the system. I say that because I have been
19 there for 13 years, I have been in the system for 22
20 years, and I understand what the system entails.

21 So I know virtually everything about it, with the
22 exception that the Chief Justice controls the budgetary
23 process within the court system itself and collaborates
24 with the executive committee of the court, which is
25 composed, in large part, of the court administrator, the

1 finance director, the clerks of court, and that kind of
2 thing. So I am unfamiliar with the exact process of
3 formulating the budget, but I do know what the budget
4 says, and I know how much is in it.

5 And last night, once again, I read the
6 September 13th report of the court, and I'm intimately
7 familiar with the budget components. And that would be
8 probably the only thing about which that criticism might
9 been valid.

10 I have been a military commander administering a
11 unit with more than 100 individuals with a complete staff
12 of attorneys. I was the commander of the 12th JAG LSO,
13 which is all of the military lawyers, that is, Army
14 lawyers in North and South Carolina, and I had a staff
15 composed of the typical military staff.

16 I administered that for a period of three years
17 with no complaints and always got the highest ratings. I
18 have -- was on the executive committee of my law firm,
19 albeit a 14-person law firm at the time, and did a pretty
20 good job of administering that particular system as well.

21 Currently, as I said in my answers to these
22 questions, I administer a staff of three. So I know how
23 to administer the big picture, and I know how to
24 administer the small picture. And again, I'm somewhat
25 perplexed at that particular criticism.

1 Q. Thank you, Justice. I am going to have a few,
2 sort of, housekeeping questions for you please.

3 Have you sought or received the pledge of any
4 legislator prior to today?

5 A. No.

6 Q. Have you sought or have you been offered a
7 conditional pledge of support of any legislator pending
8 the outcome of your screening?

9 A. No.

10 Q. Have you asked any third parties to contact
11 members of the general assembly on your behalf?

12 A. No. Do you want a qualification on that?

13 Q. Yes, sir.

14 A. Many third parties have asked me what they can
15 do, and I have told them that these rules preclude me from
16 asking them to do anything.

17 And I have also -- I'm not being flippant --
18 referred them to the First Amendment of the United States
19 Constitution and the corresponding provision in the South
20 Carolina Constitution and have told them, you know, that I
21 can't ask you to do anything. If it ever comes up, you
22 cannot ask for a pledge, and I don't want to know anything
23 about this, I don't want you to be doing this. So I have
24 discouraged it.

25 Q. Thank you, sir.

1 Are you aware of anyone attempting to intervene
2 in any way on any part of this process on your behalf?

3 A. Intervene in any part of this process on my
4 behalf?

5 Does that mean -- is that follow on to the last
6 question?

7 Q. It is a follow-up to the last question, yes, sir.

8 A. Intervene in any way on my behalf.

9 I hosted a small reception in Spartanburg at the
10 Piedmont Club. And a friend of mine used his membership
11 at the Piedmont Club to set the thing up, and I then used
12 my reciprocal partnership with the Palmetto Club to pay
13 for it. That's it.

14 Q. Thank you, sir.

15 Have you contacted any members of this
16 Commission?

17 A. As I said in my, you know, answers to these
18 questions, I wrote a letter to every member of the general
19 assembly and since six members of the general assembly are
20 on this Commission, I assumed that I contacted them all.

21 Also, the letters of recommendation must be sent
22 directly to Chairman Martin. And so, yes, somebody has
23 contacted them on my behalf.

24 If the answer is, have I asked anybody to do it
25 or have I done it, no.

1 And I think Senator Campsen would tell you that I
2 nearly tripped over myself running away from him in Myrtle
3 Beach last month or in September when I said, hey. And I
4 saw him, I bumped into him, and ran away from him.
5 Senator Malloy as well.

6 SEN. CAMPSSEN: That happens often. I didn't even
7 notice you.

8 BY MR. DENNIS:

9 Q. Do you understand, sir, that you are prohibited
10 from seeking a pledge or commitment until 48 hours after
11 the formal release of the Commission's report?

12 A. I do, indeed.

13 Q. Have you reviewed the Commission's guidelines on
14 pledging?

15 A. Yes.

16 Q. And as a follow-up, you are aware of the penalty
17 for violating the pledging rule is that, it is a
18 misdemeanor and upon the conviction, the violation -- the
19 violator must be fined not more than \$1,000 and imprisoned
20 not more than 90 days?

21 A. And I have so told people who have called me to
22 ask.

23 MR. DENNIS: Thank you, sir.

24 I would note for the record that the Midlands
25 Citizens Committee reported that Justice Pleicones is

1 qualified in the evaluative criteria of constitutional
2 qualification.

3 The Committee found Justice Pleicones
4 well-qualified on the remaining evaluative criteria of;
5 physical health, mental stability, ethical fitness,
6 professional and academic ability, character, reputation,
7 experience, and judicial temperament.

8 And Your -- I almost said, Your Honor. I'm
9 sorry, Chairman -- Mr. Chairman. That's all that I've
10 got.

11 All concerns raised during the investigation were
12 included in my questioning of Justice Pleicones.

13 SEN. MARTIN: Well, thank you very much. Good
14 job.

15 Any questions or comments from the members of the
16 Commission?

17 MR. STROM, JR.: I have one.

18 JUSTICE PLEICONES: Yes.

19 BY MR. STROM, JR.:

20 Q. Justice Pleicones, we lost a real lion in our
21 community, Steve Larson, last week. And of course, he's
22 been involved in this minimally, fully-funded lawsuit
23 that's been going on almost 20 years and has been in the
24 supreme court for an extended period of time --

25 A. Five and a half years.

1 Q. Yeah. Can you help us understand that process
2 and not necessarily comment on the case itself. But I
3 know that the issue deals with the tax exempt status of
4 some, I guess, businesses -- the tax exempt issue was also
5 out there -- or the constitutionality of some tax
6 exemptions that the court ruled on but that was also
7 extended.

8 Can you help us understand why it's taken so long
9 for this case kind of -- for this case to be heard and
10 decided?

11 A. No.

12 Q. Okay.

13 A. I can tell you that it's a deliberative process.
14 But beyond that, I don't want to get into the inner
15 workings of the court.

16 I think, Mr. Strom, that I have addressed my
17 concern about the timely processing of cases. That
18 continues to be a concern with me. And it will be a point
19 of emphasis with me as Chief Justice, sir.

20 But beyond that, I do not want to get into the
21 inner workings of the court.

22 MR. STROM, JR.: Thank you, sir.

23 SEN. MARTIN: Anyone else?

24 SEN. MALLOY: I think that -- Mr. Chairman?

25 SEN. MARTIN: Senator Malloy.

1 BY SEN. MALLOY:

2 I think I want to chime in as well, and I realize
3 that it may not be a question. I wanted to write my
4 question that was similar to Mr. Strom's down. It may
5 have been somewhat addressed it in your discussion with
6 Rule 4, but I wanted to make sure I write my question
7 down, so I could ask each candidate the same thing. And
8 my question is along the same lines, so I want to frame it
9 so I can ask both parties.

10 What steps would you take or are being taken to
11 ensure that written opinions which provide direction to
12 litigants, people like us, as well as direction to our
13 state, as to the laws that are rendered within a certain
14 time frame so that we aren't faced with the old maximum of
15 justice delayed is justice denied, which is the same
16 thing?

17 Because for example, the question that Mr. Strom
18 is -- is asking is that -- and in particular, some things
19 become somewhat obsolete during that time period.

20 And, obviously, you've also addressed the fact
21 that you're not going to talk to the workings of the
22 court, but I think you addressed it a little bit in your
23 address on Rule 4. And so my question is more so
24 rhetorical at this point in time, since you already
25 answered it for him and the answer was no.

1 A. Well, you know, the answer is no-but. As I
2 pointed out, the -- I think that a (sic) adjunct or a --
3 excuse me -- a corollary to Rule 4 orders in the appellate
4 courts may be a good answer, you know? It may not be a
5 good answer.

6 I will say this: That I intend to be a
7 collaborative Chief Justice. And this is something I have
8 not discussed with the other members of the court. But I
9 think that the Rule 4 thing might be a good thing, and
10 that is a primary, you know, tool for the expeditious
11 processing of cases.

12 Rule 216, I pointed that out, that's an internal
13 process. That's a rule of our court, an appellate rule,
14 the 40-day lead time. I think that we could benefit from
15 greater lead time.

16 I noticed in the proposed budget this year that
17 there is a budget request for more staff attorneys. Staff
18 attorneys in the supreme court perform a very valuable
19 function. And there are some here who are alumni of that
20 particular job.

21 One of those is vetting the petitions for
22 certiorari from the court of appeals, which is another
23 enormous problem in your system, a huge slow down. And I
24 would -- I have methods in mind for more expeditiously
25 vetting the court of appeals of petitions for cert.

1 So speed not for the sake of speed, but
2 timeliness for the sake of timeliness and for the benefit
3 of the bench and bar is a point of emphasis that would
4 highlight my administration.

5 Q. I am also a big fan of our selection process and
6 South Carolina in our courts and general assembly. I did
7 attend a conference at one point in time on the
8 independence of the judiciary. And I think that one of
9 the things that you were addressing was a more stable
10 source of funding for the court.

11 My question to you is that -- if you have given
12 any thought or consideration as to your support or
13 thoughts on a percentage of the South Carolina budget
14 being a stable source for the court administrations.

15 For example, if we have an overall budget of
16 however many billion dollars, would a certain percentage
17 be appropriate for the court system so that, again, you
18 can limit the interlacement that you would have with the
19 general assembly?

20 A. Great question, Senator. And it may be that a
21 certain percentage would be appropriate.

22 Currently, the budget of the court, 61 million,
23 and that is -- roughly equates to 1 percent of the general
24 fund budget.

25 Now, whether that's a good idea, I don't know.

1 And that's, again, why I would like to begin the dialog
2 with the general assembly on a more stable level of
3 funding.

4 What it has to do with judicial independence, I
5 don't notice any real lack of judicial independence on our
6 court quite frankly as a result of the funding method.
7 You know, maybe I'm wrong, but --

8 Q. I would address that saying that it's not that
9 we're saying that there is a lack of judicial
10 independence, but some states have public elections --

11 A. Exactly.

12 Q. -- and their -- the judges make the same comments
13 that there's no lack of independence. And so I think that
14 what the -- the question presented was saying, is that it
15 would end of having a right line between the body over
16 here and the court system, but with our three branches of
17 government --

18 A. Uh-huh.

19 Q. -- because we're not -- we are -- we don't close
20 our eyes when it comes time for funding.

21 A. Sure.

22 Q. A lot of folks are not necessarily
23 well-acquainted with the budgetary process, not all the
24 lawyers.

25 Just listening to my -- my fellow legislators

1 whenever they are talking about budgetary matters, I have
2 heard them say, you know -- you know, I don't know if I am
3 going to support the court's budget because of
4 such-and-such a thing. And so basically I don't
5 necessarily enjoy seeing the court's over here jockeying
6 for funds with everyone else.

7 A. I understand. I agree.

8 Q. That's why I would say, is there a percentage
9 formula that you would consider?

10 A. Yes. And as I say, currently, it roughly equates
11 to one percent. I don't know if that's the appropriate
12 number or not.

13 I will say this: Our friends in popular election
14 states -- I'm on record, you have been in forum in the
15 past which I have articulated my complete support for this
16 method of judicial election.

17 My daughter is a lawyer both in North Carolina
18 and South Carolina and, on a monthly basis, sends me some
19 horror story about a public election in North Carolina.

20 Win or lose in this system, this is the best of a
21 lot of bad. To paraphrase Churchill, it's the worst
22 possible system except for all the other ones.

23 SEN. MARTIN: All right. Anyone else?

24 Well, Justice Pleicones, we thank you so much.

25 JUSTICE PLEICONES: Thank you, sir.

1 SEN. MARTIN: This concludes this portion of the
2 screening process. As you know, the record will remain
3 open until the report is published. You may be called
4 back at such time if the need arises.

5 I will remind you of the 48-hour rule, and I'm
6 going to ask you to be mindful of that as well. And
7 anyone that inquires with you about whether or not they
8 may advocate for you as you've described earlier in the
9 event you're screened out, remind them as well of that
10 48-hour rule.

11 JUSTICE PLEICONES: Sure.

12 SEN. MARTIN: Again, thank you for your service.

13 JUSTICE PLEICONES: Thank you.

14 (Pause in proceedings.)

15 SEN. MARTIN: Welcome, Chief Justice.

16 CHIEF JUSTICE TOAL: Thank you, Mr. Chairman.
17 Good morning.

18 SEN. MARTIN: Delighted to have you with us.

19 Would you please raise your right hand and repeat
20 after me.

21 CHIEF JUSTICE TOAL,
22 having been first duly sworn
23 testified as follows:

24 EXAMINATION

25 BY SEN. MARTIN:

1 Q. Thank you very much.

2 The Judicial Merit Selection Commission has
3 thoroughly investigated your qualifications for the bench.

4 Our inquiry has focused on nine evaluative
5 criteria and has included; a ballot box survey, a thorough
6 study of your application materials, verification of your
7 compliance with state ethics' laws, search of newspaper
8 articles in which your name appears, study of previous
9 screenings, check of conflicts of interest.

10 We had one complaint and a subsequent
11 supplemental complaint filed against you by Dr. Marie
12 Faltas. The Commission has dismissed the complaints
13 pursuant to SE Code Section 21930(a) and Commission Rule
14 13 as her complaints failed to state allegations relating
15 to your character, competency, or ethics.

16 Chief Justice Toal, do you have a brief opening
17 statement you would like to make at this time?

18 A. Thank you, Mr. Chairman. It's been a great
19 privilege to have been a member of the supreme court for
20 25 years. And in the almost 13 years I have been Chief
21 now, it has been a great privilege to build on the
22 considerable achievements under the Chiefs with whom I
23 have served and moved the court system forward.

24 I hope that in the next two years if I am given
25 the opportunity, that I will be able to put the capstone

1 on a good many projects that are still pending that will
2 modernize the court systems of South Carolina. And I look
3 forward to your questions and discussing these issues with
4 you further. Thank you, sir.

5 SEN. MARTIN: Thank you. Will you please answer
6 Counsel Shuler's questions for us.

7 MS. SHULER: Mr. Chairman, members of the
8 Commission, I have a few procedural matters to take care
9 of with this candidate.

10 BY MS. SHULER:

11 Q. Chief Justice Toal, you have before you the sworn
12 statement you've provided with detailed answers to over 30
13 questions regarding judicial conduct, statutory
14 qualifications, office administration, and temperament.

15 Are there any amendments that you would like to
16 make at this time to your sworn statement?

17 A. As I have explained to you, the only amendment I
18 have are some additional continuing legal educational
19 classes that I have taught. We have that available,
20 Ms. Shuler, and my office will provide that this
21 afternoon.

22 MS. SHULER: Thank you, Chief Justice.

23 And at that time, I will offer that as part of
24 the record.

25 At this time, Mr. Chairman, I would ask that the

1 Chief Justice's sworn statement be entered as an exhibit
2 into the hearing record.

3 SEN. MARTIN: Is there any objection?

4 Hearing none, the sworn statement and any
5 amendment, if applicable, will be entered into the record
6 at that time.

7 (Exhibits 32 and 33 were marked for
8 identification and attached hereto.)

9 BY MS. SHULER:

10 Q. Chief Justice?

11 A. Yes, ma'am.

12 Q. After serving 25 years on the supreme court,
13 including 13 years of Chief Justice, why do you want to
14 continue serving as a Chief Justice for what will be
15 approximately two more years?

16 A. Hang on for a minute, Miss Shuler, while I find
17 the sheet that discusses that very question.

18 In the additional two years, I would like to
19 cover the following projects that are in process and
20 nearing conclusion.

21 First of all, the supervision and construction
22 and deployment of the statewide electronic filing system
23 is an issue that's very familiar to the legislative
24 members of this Committee, and I assume to you other lay
25 members as well.

1 The general assembly three years ago made an
2 investment in electronic filing which will be the capstone
3 of the internet-based automation system for the management
4 of court records in South Carolina. The system is now
5 complete.

6 The appellate case management system is being
7 deployed now. The capstone will be to allow electronic
8 filing of pleadings and other court documents. And at
9 that point, not only would that revolutionize the way
10 lawyers and other litigants, per se, can interact with
11 the court system, but it would open up the complete court
12 record to very easy access by the public of South
13 Carolina.

14 You've invested \$5 million in the creation of the
15 electronic filing system. We bid and awarded it to Tybera
16 Corporation, and we are well underway with the design of
17 the software for that system.

18 We will begin deploying that system with a pilot
19 in Greenville which was the site, as you may recall, of
20 our case management system pilot to begin with.

21 We will then go to four of -- to three other
22 counties; Charleston, Richland, and Clarendon, to get
23 experience in a small but very well-run county. And when
24 those pilots are completed, we will completely deploy.

25 We hope that that entire effort can be

1 accomplished within the next 18 months. So that is the
2 first of the projects that I would like to pursue to
3 conclusion.

4 When I began automation at the beginning of my
5 term as Chief Justice, very few businesses or governmental
6 entities used an Internet-based system to manage records
7 of a business nature or of a public nature. It was a very
8 new technology. In fact, only education was really using
9 the Internet.

10 Now, of course, flash forward 13 years, the
11 landscape has changed so dramatically in terms of
12 automation.

13 We are regarded as one of the leaders in the
14 United States of the development of an Internet-based
15 system. It was done almost entirely with federal grants.
16 So the State of South Carolina is now reaping the benefit
17 of these grants.

18 The electronic filing system, with a small fee
19 charge for the use of it, will generate enough revenue to
20 completely support this entire system of technology
21 without the need for further general appropriations or
22 fee-based appropriations to run the court's IT system. A
23 good model of the use I think of federal funding to then
24 generate something that can sustain itself and then
25 generate revenue for the government entity involved.

1 Modernizing the court reporter system is another
2 big project, Ms. Shuler and my members of the Committee.
3 One of the biggest problems with backlog when you get to
4 the appellate level in South Carolina, is the lengthy
5 period of time it takes to generate court reporter
6 transcripts. The average is nine months for South
7 Carolina. And in some cases, it takes a lot longer than
8 that. We don't have people going into court reporting now
9 as they did when I first began practice. They go into
10 other fields of endeavor.

11 Many states are now experimenting with using
12 digital technology in the courtroom to produce a digital
13 record. Voice recognition technology is so advanced now
14 and continues to be every year if this is going to be
15 possible for us.

16 And Utah which has gone totally to a digital
17 system with a small cadre of court reporters for the death
18 penalties and the very important cases. Utah reduced
19 their average time for receipt of a transcript from
20 11 months to 18 days when they finally deployed under the
21 leadership of Christy Durham, then the Chief of Utah,
22 deployed digital.

23 We have experimented last year with a pilot
24 funded by the judicial department in Dorchester County and
25 it has worked very well. I have in the budget this year a

1 request for funding for digital recordkeeping in 11 more
2 counties.

3 If that becomes the case -- and this can be done
4 without -- we are certainly not going to eliminate
5 the court reporter positions we've got now. We need them
6 but we need a lot more. We delay hearings a lot of time,
7 delay transcripts at the supreme court level because of
8 this big glitch in getting the record. So that is another
9 thing.

10 Implementing the business court docket on a
11 statewide basis. As you know, the business court docket
12 that I developed a couple of years ago with basically
13 orders of the Chief Justice -- this is something that
14 didn't cost me anything -- is a different way of making
15 our process work, a different way of looking at our
16 process.

17 But it gives beginning to end management for
18 complex business-to-business disputes. It has been a
19 resounding success in Charleston, Richland, and Greenville
20 where it has been piloted. I want to take that system
21 statewide before I leave as Chief if I am given the
22 opportunity.

23 Modernizing the management of the general
24 session's docket is of course a controversial topic in the
25 light of our decision in Langford. Although I feel that

1 we are so close now to the agreement that the senate
2 judiciary committee under your leadership, Mr. Chairman,
3 asked us to try to achieve with the solicitors, that I
4 believe we are going to be able to offer a series of
5 orders that will get us on the road towards managing the
6 general session's docket in a more efficient way. That is
7 another thing that I would very much like to accomplish.

8 Increasing the use of therapeutic courts. Drug
9 courts, criminal domestic violence courts, elder courts
10 and veterans courts as alternative or diversionary
11 treatment programs for criminal offenses that are mainly
12 driven by addiction or mental health issues is something I
13 want to see expanded.

14 As you know, these programs are strictly under
15 the control of the solicitor because they're alternative
16 sentencing or diversion programs. But when they work,
17 they really make a powerful difference. And I want to --
18 the elder courts and the veterans courts will be the next
19 step forward, and I very much want to see that
20 accomplished.

21 And finally, while I am continuing to supervise
22 the renovation of the Calhoun Building and the Supreme
23 Court building, as you know, those of you who are
24 legislative members, much of the renovation in Calhoun
25 that is taking place right now as well as in the Supreme

1 Court is basically maintenance deferred and not able to be
2 afforded by the chronic underfunding of general services.

3 I have therefore set aside money every year. I
4 report it to the ways and means and finance committee. I
5 appear in front of JDRC and other funds and have gotten
6 overtime permission to use this savings money. I just
7 hold back money. I don't spend everything you all
8 appropriate. I carry it forward and then I use it for
9 capital projects.

10 We are in the middle of the waterproofing of the
11 Calhoun building basement and some repairs to the roof,
12 and we will reorient the entrance to that building as well
13 as place our clerks' operation down there in a completely
14 renovated setting that I've just about split the cost half
15 and half with general services to achieve. I would like
16 to see those programs to conclusion.

17 So that, Madam Counsel, is kind of a thumbnail
18 sketch of the programs that I think could benefit if I
19 were allowed to give them focused attention for the few
20 years.

21 Q. Well, I think you really touched on this in your
22 remarks, are there any -- could you share one or two brief
23 accomplishments that you feel you have completed during
24 your tenure as Chief Justice.

25 A. As you know, automation has been the signature

1 piece, and we have really achieved something no other
2 state in the union. You can be very proud of what we've
3 done with automation of court records. Using an
4 Internet-based system is so much less expensive to develop
5 and maintain than big mainframe, computer-type systems.

6 We are asked on a weekly basis by the
7 Massachusetts, the California, some of the biggest states
8 in the union to come to South Carolina and see how we have
9 designed and accomplished this.

10 Most states will automate the big metropolitan
11 areas, take the low-hanging fruit and leave the rural
12 areas to just kind of fend for themselves. We took
13 exactly the opposite approach. We started in magistrate's
14 court in the most rural areas of South Carolina and built
15 upwards. And that's why the appellate case management is
16 the final thing we did, not the first thing we did.

17 I think that's a huge accomplishment, and I don't
18 claim credit for it all by myself. I manage to employ
19 some really fine people within court administration, but
20 very importantly within the information technology
21 department of the court who in effect are a small software
22 company.

23 And we have partnered with Clemson University in
24 developing a disaster recovery backup with Clemson. And
25 now that's been so successful that Clemson is reaching out

1 and going to be the backup for a good many other entities
2 in state government.

3 So again, showing a synergy of partnerships
4 between branches of state government that moves us all
5 forward in a more effective way financially.

6 I think the management of the finances of
7 the court under my hand has been steady, transparent, and
8 a real partnership with the legislative and executive
9 branches.

10 So those would be kind of some thumbnails, Jane
11 of -- because there has been a lot that's changed in the
12 13 years I've been Chief, and there have been a lot of
13 good people responsible for it. I am just proud to be the
14 one that gets to lead it.

15 Q. Thank you, Chief Justice.

16 Based on your present plans, discuss the length
17 of time you intend to serve as a Chief Justice if you are
18 nominated by the Commission and elected to this position
19 by members of the general assembly.

20 A. Well, my 72nd birthday will be in -- August the
21 11th, two years hence. I would retire that December. And
22 I have made that very firm commitment under oath to you
23 and heartfelt to my husband and my family, and I don't
24 intend to vary from it.

25 Q. All right. Chief Justice Toal, although you

1 addressed this in your sworn affidavit, could you please
2 explain to the members of the Commission what you think is
3 the appropriate demeanor for a Chief Justice.

4 A. I think compassion is at the basis of any judge's
5 approach to the awesome responsibility of wearing the
6 black robe.

7 As Chief, I think you must be firm when called
8 upon and even stern at times, but never operate out of
9 anger. I think the way you conduct yourself 24/7 is a
10 great responsibility of being a judge at any level in
11 South Carolina and certainly as its Chief.

12 Q. Thank you. Chief Justice Toal, pursuant to
13 Article 4, Section 4 of the constitution of this state,
14 the Chief Justice of the Supreme Court is the
15 administrative head of the unified judicial system.
16 Explain what you believe to be the proper role for the
17 Chief Justice to play in administering the court system.

18 A. As you know, that question was developed to some
19 extent in the papers that I have filed.

20 States take different approaches to the Chief's
21 role in the operation of the court system and in the
22 business process of the court.

23 In South Carolina, our constitution -- and the
24 West Commission was clear about this -- anticipates what
25 is called a strong Chief, a Chief that operates as the CEO

1 of the system from a business process standpoint, as well
2 as the presiding officer of the Supreme Court itself, an
3 institution which collaboratively decides matters.

4 So the Chief on the one hand as the presiding
5 officer is -- the Chief's vote counts the same as the
6 every other vote. But the Chief certainly has a
7 responsibility for bringing the court together and moving
8 the court forward as a collaborative decision maker.

9 On the business process side, the Chief in this
10 state has heavy responsibilities of not only budgetary and
11 financial management and planning and presentation to the
12 executive and legislative, but also very heavy
13 responsibilities to manage the assignment of judges, the
14 docketing of cases, the organization of dockets by county
15 and by jurisdiction, the assignment of judges. I sign
16 orders ever week that reach down to the magistrate's level
17 if they're conflicts or recusals or things of that nature.

18 We have approximately 125 to 130 statewide
19 judges. We have approximately 350 summary court judges
20 and another -- about that same number -- municipal judges.
21 I interact with all parts of that system as any Chief in
22 South Carolina does.

23 That also includes personnel management. It
24 includes listening to their joys and their triumphs and
25 their challenges, and I take a very hands-on attitude. I

1 know the judges of this state very, very well, and I
2 interact in a very direct way with them.

3 Q. Chief Justice Toal, describe your managerial
4 style, focusing on what you perceive to be your strengths
5 and weaknesses as a manager and a leader.

6 A. Well, as I said in the filing I gave you, my
7 managerial style has been by a directorate of six
8 directors who handle the major branches of the judicial
9 department court administration, IT, disciplinary, finance
10 and personnel, chief staff attorney, and the clerks of the
11 two appellate courts.

12 They form a management team. They meet every
13 month. They are staffed by my executive assistant. I
14 then interact with them together and individually many,
15 many times a week as we move forward with short-term
16 issues as well as long-term planning.

17 We do a planning document every year that's
18 familiar to many of you that's submitted to the general
19 assembly, and we spend a lot of time on it.

20 The use of Malcolm Baldrige principles came in as
21 a use of a management technique before I became Chief, and
22 we really embraced using that kind of framework to guide
23 us in the business process of the court.

24 Now, having said that, I know that my biggest
25 failing is that I try to do it all by myself, and I don't

1 delegate as much as I should. And frankly, some of that
2 is probably my personality.

3 But a good deal of it is also the fact that for
4 much of my term as Chief Justice, state finances have been
5 in perilous circumstance, so I have tried to minimize the
6 expenditure of money on administrative or assistant to the
7 Chief-type personnel and really tried to take a very
8 direct involvement in management myself.

9 Q. Thank you, Chief Justice.

10 You just touched on this. You are responsible
11 for overseeing the budgetary priorities of the court.
12 What do you believe are the most significant budgetary
13 priorities for the court system in the immediate future,
14 and how would you attempt to meet those needs?

15 A. I have explained to you some of the things that
16 are driven by backlog issues, some of which don't cost
17 money that have to do with visioning a different way of
18 running dockets.

19 But court reporting, the complete deployment of
20 electronic filing, some of the other management by use of
21 technology things are really very important parts of the
22 budgetary process. And with the completion of the federal
23 funds.

24 And over time, we've received \$57 million dollars
25 in federal funds to build our technology system. That is

1 the least expensive build of a state automation system in
2 South Carolina. And so we are very proud of what we were
3 able to bring to the state. But also the stewardship we
4 gave to the use of those funds. But now comes, how do you
5 manage that and keep it going and keep the counties' cost
6 down, that of course is electronic filing.

7 Beyond that, we're going to need some more
8 judges. And I would be the first to explain to you, the
9 general assembly has been very generous in the last two
10 years with the creation of six additional family court
11 judges and three additional circuit court judges, much
12 needed.

13 There is a limit to what we can absorb at one
14 time and I frankly think there is a limit to what you
15 elect at one time. So you can't solve the whole thing at
16 one setting. But I will continue to report as I have
17 throughout my time as Chief on what this new addition of
18 judicial personnel brings to us by way of impact on the
19 trial dockets.

20 I still think family court is a very, very needy
21 part of our docket where individuals whose lives are
22 sometimes governed for a long time by temporary orders
23 really don't feel they are being heard or being able to
24 tell their story because of the limitation on judge
25 personnel.

1 But another -- one other dimension that is going
2 to play out in budget, these are -- although general crime
3 statistics are down in South Carolina, there is an
4 enormous increase in violent crime, and we've really got
5 to do some thinking that will involve partnerships with
6 other branches and other entities of state government and
7 the court system as to what we can do to attack the very
8 violent crime.

9 What do we do about the laws with regard to
10 bonds? How do we conduct bond hearings when you have
11 folks who have re-offended? How do we deal with the
12 probation system and how it plays into this and the
13 juvenile system?

14 And I suspect some of that is -- as well as
15 corrections, is going to involve additional funding. That
16 will also play itself out with solicitors and public
17 defenders and clerks of court.

18 So when I answer your question, Madam Chief
19 Counsel, I am pointing out to you that the financial
20 implications are not just resting within the judicial
21 department as such, but my advice and thoughts on having
22 sought as we look at this broader picture of the delivery
23 of justice and public safety in South Carolina.

24 And I very much hope I am given the opportunity
25 to be given a chance to participate in those very

1 important discussions within the next two crucial years to
2 decide issues of public safety in this state.

3 Q. Chief Justice Toal, when the advance sheets are
4 reviewed, it appears that they contain many pending cases.
5 Please discuss what kind of backlog the Supreme Court has
6 and how that backlog is really being addressed.

7 A. We do have a backlog. We do and the court of
8 appeals does. Part of the backlog is the transcript issue
9 that I've discussed with you.

10 Part of the backlog is the need for additional
11 staff attorneys, and I've asked for some additional
12 positions for the court of appeals and for us.

13 Part of the backlog will, I think, be able to be
14 managed better and cases moved more quickly to conclusion
15 by the final implementation of the appellate case
16 management system. Frankly, until we started on
17 automation of our records at the appellate level,
18 the court of appeals and us, we had things that had fallen
19 through the cracks just as was the case when we automated
20 circuit court and family court. And so all of these
21 things will play a part.

22 Are there also internal self-examinations that
23 both the courts need to be about to look at how we, as
24 judges, handle our cases, of course. That's always a
25 legitimate question. And all of that I think is part of

1 the process that we've engaged in with some intensity in
2 the last two years and really beginning before. My
3 partnership with that began with Chief Judge Hearn and has
4 continued with Chief Judge Hugh.

5 But both appellate courts are working mightily at
6 this time to try to reduce the backlog of cases that come
7 to the court of appeals, the processing of the search to
8 the court of appeals at our level, and the internal
9 processing by the judges of the cases.

10 Q. Chief Justice Toal, please discuss how you would
11 foster collegiality on the Supreme Court and through
12 the court system in general.

13 A. Well, I feel that that's been one of my greatest
14 accomplishments. We do operate very much as a family, as
15 only a small judiciary like South Carolina can do. Unlike
16 some states where there are thousands of judges, we have a
17 small judiciary in this state, and we feel keenly the
18 responsibility to assist each other and uphold each other
19 in what can be a very lonely business and a very lonely
20 job.

21 I have tried to be a good steward and a good
22 example there on my own court as well in some very
23 personal contact on a very regular basis with judges
24 throughout the system.

25 For our own court, I think our collegiality has

1 been wonderful and of great comfort to all five of us. I
2 believe that speaking with one voice is an important part
3 of that when it can be done in good conscience.

4 Chief Justice John Marshall was the first Chief
5 Justice of the United States. And during his term as
6 Chief Justice there were no dissents until right at the
7 end of his term of office. And that was very much by
8 design.

9 Marshall said, this is a new young court in a new
10 young country and institutionally for it to speak with one
11 voice is important to the respect that its rulings receive
12 and the understanding that the people and the litigants
13 have of those rulings.

14 I believe when it can be done in good conscience
15 that because these decisions are not decisions of one
16 person, but by a constitution and common sense, the
17 decisions of five people, that collegiality helps us speak
18 in a way that's understood and in a way that is
19 constitutional. So I try awfully hard to do that as well.

20 Q. Chief Justice Toal, what is the appropriate tone
21 of an appellate opinion?

22 A. Oh, gosh, should be very respectful and certainly
23 should be scholarly. It should be respectful not only of
24 other views on the court, but it should particularly be
25 respectful of the litigants.

1 We feel keenly sometimes that a trial is an
2 imperfect cauldron of exchange of ideas in an attempt to
3 resolve disputes. And mistakes are made. They are made
4 by the lawyers involved, they are made by the litigants in
5 their testimony, they are made by the judges. They are
6 not disabling mistakes but no trial is perfect.

7 And when we review these trials, I think it is
8 awfully important for us to speak in a tone of respect,
9 rather than in a tone that causes -- that undermines
10 confidence of the litigants in the process.

11 Q. Chief Justice Toal, in your opinion when is it
12 appropriate to author a dissenting opinion?

13 A. I think it should be after very careful
14 examination of conscious, as to whether there is some way
15 to exchange views in such fashion that the middle road can
16 be reached.

17 But sometimes there are times when, as a matter
18 of conscience, a judge feels that she must dissent. Those
19 dissents should be respectful, directed in a laser-like
20 way towards the problem that is -- that seeks exposition,
21 and they should encourage the writer of the majority
22 opinion to exchange back and forth.

23 And that sometimes takes a lot of time, but the
24 product is a good one even when the dissent remains
25 because it achieves more guidance for the bench and the

1 bar as to why the disagreement and exactly what is meant
2 on both sides.

3 Q. Chief Justice Toal, the Commission received 1,018
4 ballot box surveys regarding you, with 107 additional
5 written comments. The ballot box survey for example,
6 contained the following positive comments:

7 Justice Toal brings an exceptional blend of
8 intelligence, fairness, common sense and compassion that
9 is needed to serve as Chief Justice. She has the
10 political skills that enables her to perfectly deal with
11 the legislature while protecting and preserving the
12 important balance of powers required by the constitution.

13 However, 40 of those 107 written comments
14 expressed some concerns which can be basically grouped
15 into five categories.

16 One concern is that you can be insulting,
17 demeaning during oral arguments toward attorneys and hold
18 grudges against them.

19 I would note that in the ballot box survey, 917
20 people responded to a question regarding evaluative
21 criteria of judicial temperament. In this evaluative
22 criteria, 572 respondents found you well-qualified; 235
23 found you qualified; 110 found you unqualified; and 101
24 had no opinions.

25 What response would you offer to these concerns

1 regarding your judicial temperament and demeanor towards
2 attorneys who appear before you?

3 A. Well, the first thing I would say is that I'm not
4 perfect. And to the extent anyone feels that I have ever
5 tried to demean them, I am sad for that and hope I'm not
6 misunderstood. But I can assure you that my role and my
7 attitude towards those who appear before me is respectful,
8 very much so.

9 Now, one of the things we know is that in my
10 business, there are winners and there are those who are
11 not on the winning side. And sometimes folks that aren't
12 on the winning side feel very keenly their loss in a court
13 proceeding.

14 I do ask a lot of questions. Frankly all members
15 of our court ask a lot of questions and some of them are
16 focused on very specifically on what we see as the
17 possible plus points and the weaknesses in our arguments.

18 To those who may very closely hold a certain
19 position that doesn't seem to be playing out in the
20 arguments, they may feel that those arguments or those
21 questions are demeaning and I'm sorry for that, and I
22 think that's something that I need to keep in mind and all
23 judges do.

24 Q. Thank you, Chief Justice.

25 Another concern indicated that you were

1 considered to be political. What response would you offer
2 this concern?

3 A. Well, I can't do anything to gauge what folks
4 think about that. But I think my record speaks for itself
5 in over 1,250 opinions, and I think you could search them
6 strongly, and I don't believe you would see anything
7 political about what I've written. I think you will find
8 decisions that are hopefully thoughtfully researched and
9 clearly written. And I stand by the record that I have
10 established in that regard.

11 I certainly think in terms of my interaction with
12 the other two branches of government, it has been
13 productive, honest, pleasant. And I think that might give
14 the lie to the idea that there is anything political
15 because the general assembly and the executive branch, the
16 politics have come and gone many times during my term on
17 the court as Chief, so I don't think there's any favoring
18 or playing to one political crowd in my record.

19 Q. Chief Justice Toal, an additional theme regards
20 your behavior in your personal life related to driving
21 incidents. Noting the two driving incidents, we covered
22 one in your prior screening. You also disclosed on your
23 PDQ a driving and hit and run incident in 2007 at the
24 Columbia Metropolitan Airport.

25 A. I did.

1 Q. Please explain to the Commission the
2 circumstances and outcome regarding that matter.

3 A. Yes, ma'am. I had gone to the Columbia airport
4 about midday to pick up a family vehicle that one of my
5 children had left at the airport. And I backed into a car
6 when I was moving this car.

7 I got out and examined my car and the other car,
8 and I didn't see any damage. I was rushing to law school
9 to speak to a law school class, so I got in my car and
10 went on.

11 When I got back to my office, I was contacted by
12 the airport police saying that the other car felt there
13 was some damage.

14 I immediately went out to the airport and gave
15 all my insurance information and was issued a ticket under
16 the amount of fine that is reportable to the judicial --
17 to judicial standards. I paid that fine. And my
18 insurance company paid the entire damage of -- for the
19 car.

20 Q. Thank you, Chief Justice.

21 Another concern indicated that your opinions are
22 result-driven or based upon the parties involved. What
23 response would you offer to this?

24 A. I would say that's absolutely not the case. And
25 again, I think if you don't win, you may feel that way.

1 And I have been on the court a long time and
2 folks have prevailed and folks have not prevailed in
3 opinions that I have written. But I think the best way to
4 evaluate that is for members of the Committee -- which I'm
5 sure they will do -- to read my opinions.

6 And I think you will see that they are honest
7 attempts by a judge who loves the law and finds the
8 answers she thinks is the correct answer to the dispute
9 that is placed before me.

10 Q. Lastly Chief Justice, the last theme indicated
11 that some respondents felt it was inappropriate for you to
12 publicly indicate that you would not seek reelection and
13 then choose to run. What response would you offer to this
14 concern?

15 A. Well, two. First of all, I know that I publicly
16 indicated. I had discussed that with my court and with my
17 friends. But you don't make that final decision until
18 this generally assembly and the screening committee opens
19 filing.

20 Before filing opened, I talked to a lot of folks
21 and was persuaded that two more years would give me a
22 chance to complete the projects that are very important.
23 And I agonized over that decision, I discussed it with my
24 court, but came to the view that this would be in the best
25 interest of the court system.

1 So I make no apologies for that. And I say that
2 very respectfully. I believe that these projects can be
3 completed. I don't say that I am the only person that can
4 solve all the problems of the court, but I do think I am
5 uniquely positioned at this point in time to bring to a
6 successful conclusion some very important projects that
7 we've all worked on for the betterment of justice.

8 Q. Thank you, Chief Justice.

9 Since your last screening, are you aware that
10 your SLED report reflected the following lawsuits filed
11 against you: Twenty-one lawsuits in the United States
12 district courts District of South Carolina that were
13 either civil right or habeas corpus, and they were all
14 dismissed without service of process on you.

15 In addition, you had two state court lawsuits
16 filed against you in Richland County. One suit was filed
17 in 2013 by inmate Anthony Cook. And the case is pending,
18 but you have not been served with a complaint.

19 The second suit was filed in 2010 by inmate
20 Lawrence Crawford in which you were served, but the case
21 was subsequently dismissed.

22 Is this your understanding of the lawsuits
23 reflected in your SLED report?

24 A. It is.

25 Q. Some housekeeping issues, Chief Justice.

1 Have you sought or received a pledge of any
2 legislator prior to this day?

3 A. No, ma'am.

4 Q. Have you sought or have you been offered a
5 conditional pledge of support of any legislator pending
6 the outcome of your screening?

7 A. No, ma'am.

8 Q. Have you asked any third parties to contact
9 members of the general assembly on your behalf?

10 A. I have talked to third parties who are friends of
11 mine, but I have not asked any direct contact with
12 legislators.

13 Q. Are you aware of anyone attempting to intervene
14 in any part of the process on your behalf?

15 A. I am not.

16 Q. Have you contacted any members of the Commission?

17 A. I have not.

18 Q. Do you understand that you are prohibited from
19 seeking a pledge or commitment until 48 hours after the
20 formal release of the Commission's report?

21 A. I am.

22 Q. Have you reviewed the Commission's guidelines on
23 pledging?

24 A. Yes, ma'am.

25 Q. Are you aware of the penalties for violating the

1 pledging rules, that is, it could be a misdemeanor, and
2 upon conviction, the violation -- the violator might be
3 fined not more than \$1,000 or imprisoned not more than
4 90 days?

5 A. I am aware.

6 MS. SHULER: I would note that the Midlands
7 Citizens Committee reported that Chief Justice Toal was
8 qualified in the evaluative criteria of constitutional
9 qualifications.

10 The Committee found Chief Justice Toal to be
11 well-qualified in the remaining evaluative criteria of;
12 physical health, mental stability, ethical fitness,
13 professional academic abilities, character, reputation,
14 experience, and judicial temperament.

15 Committee stated, quote, Chief Justice Toal is a
16 dynamo with huge intellect and clear vision of the future
17 for the South Carolina court system. She was -- she is
18 responsible for many innovations and has plans for more.
19 She has been and continues to be a force for positive
20 change in our court system.

21 The Committee stated in its summary, she is
22 eminently qualified for the position she now holds.

23 I would just note for the record that any
24 concerns raised during the investigation regarding this
25 candidate were incorporated into the questioning of this

1 candidate today.

2 Mr. Chairman, I have no further questions.

3 SEN. MARTIN: Representative Clemmons has
4 questions or comments.

5 REP. CLEMMONS: Thank you, Mr. Chairman.

6 BY REP. CLEMMONS:

7 Q. Chief Justice, thank you so much for being with
8 us today. I feel that the tables are turned with you
9 there and us sitting at the head of the table.

10 First of all, let me thank you for your years of
11 service, both in the legislature and on the bench. You've
12 have made South Carolina proud many times of its high
13 standards, and we are grateful for that.

14 I do have a question though. It's been widely
15 reported and widely repeated that a member of your bench
16 recently made a public comment regarding the seat change
17 that just recently occurred with regard to the criminal
18 docket administration in South Carolina.

19 And the comment was something to the effect of
20 that there are majority of justices that are anticipating
21 and are prepared to undo any legislation that should pass
22 to your court regarding court administration.

23 Would you care to comment to that comment in
24 terms of administration of your court?

25 A. I don't think it's the view of anybody on the

1 Supreme Court of South Carolina that we have prejudged
2 anything by way of legislation that may come forth with
3 respect to the management of the general session's docket
4 or with respect to anything else that the general assembly
5 is engaged in by way of passing legislation.

6 I am aware of the controversy of course, Mr. Vice
7 Chairman, and I can only tell you that I believe the court
8 would treat any legislative enactment with the same
9 fairness and objectivity that I expect of every decision
10 we make, and I will assure you that is my pledge. But I
11 believe my brothers and sisters -- sister on the court
12 would join me in saying just that.

13 REP. CLEMMONS: Thank you, Chief Justice.

14 SEN. MARTIN: Any other questions, comments?

15 MR. STROM, JR.: Mr. Chairman?

16 SEN. MARTIN: Mr. Strom.

17 MR. STROM, JR.: Thank you also for your service
18 to the state.

19 We lost a very good friend and lion in the bar,
20 Steve Morrison, this past week and that brought to light
21 among other members of the bar, this case that's been
22 pending before the Supreme Court for an exceptionally long
23 period of time.

24 And I would like your thoughts on that, but
25 before I get into that, as I was doing this -- having this

1 conversation with Justice Pleicones, my friend Senator
2 Malloy wrote a more specific question that probably is
3 more appropriate to ask. I'm going to yield to him and
4 let him ask the question and I'd appreciate your response.
5 Thank you.

6 SEN. MARTIN: Senator Malloy.

7 SEN. MALLOY: Mr. Chair, out of fairness to all
8 the members, I wrote down the question that we asked
9 Justice Pleicones and also wanted to ask Chief Justice
10 Toal the same question.

11 BY SEN. MALLOY:

12 Q. And the question is: What steps would you take
13 or are being taken to ensure that written opinions which
14 provide direction to litigants, as well as direction to
15 the state, as to law rendered within a certain time frame
16 so that we aren't faced with the old maximum that; justice
17 delayed is justice denied?

18 A. I think that is a very legitimate question for
19 you too and for the entire Committee to ask. I want to
20 answer it in a way that does not recuse me from the
21 longstanding case that you are referring to. So let me
22 just say it this way if I might.

23 We have some cases that come to our court that
24 dramatically bring into play the interrelationship between
25 the branches of government and what the proper roles by

1 way of separation of the powers are amongst the various
2 branches of government. Some cases take an awfully long
3 time to try to speak with anything like one voice.

4 And the more important and the higher the stakes
5 are about the basic structure of government and what a
6 court's proper role should be and what the general
7 assembly's proper role should be, by way of not only
8 making the law but making policy, the more difficult it
9 becomes to arrive at a decision that speaks with fairness
10 and clarity to those kinds of issues.

11 So we are struggling and I don't mind admitting
12 that. But again, without going too far about any one
13 case, the appellate case management system, Senator
14 Malloy, has really brought to the forum as never before, a
15 focus on how to move cases forward in our court in terms
16 of individual circulation, as well as the process of
17 moving forward to a completed opinion.

18 We are having a lot of internal discussion about
19 that, and we will be having a lot of discussion with our
20 brothers and sisters on the court of appeals about that
21 issue. It's a very legitimate question to which we hope
22 to have an answer within a fairly constrained period of
23 time.

24 Q. And my question was general. And so I would ask
25 another question as it relates to the discussion that --

1 we had some discussion about the Marshall court. And so I
2 think in light of my young time in practicing law in
3 recent times, there's been quite of number of dissent
4 probably in this court more so than any time in -- over
5 the last ten -- ten years.

6 And so my question in light of what you made
7 comments about a Marshall court is the number of dissents
8 of occurrences hurting the clarity of state law as it
9 relates to South Carolina, and how is it something that a
10 Chief Justice would try to do to getting unanimity as
11 Marshall was discussing?

12 A. Well, again, I think this is a very legitimate
13 question because it goes to the heart of what an appellate
14 body is about. An appellate body is not like an
15 individual judgeship. An appellate body speaks
16 collaboratively and collectively.

17 Having said that, I think that's something we
18 continue to examine. It's certainly the case that the
19 more voices that are heard, the longer it takes. And so
20 that's one of the things that we need to think about; how
21 important is that viewpoint balanced against the need for
22 a decision?

23 And a decision that speaks as clearly as it can
24 or at least lines up the opposing points of view in a
25 laser-like way. And we struggle with that. But I don't

1 believe the court's production has overly suffered. But
2 it's a good thing for us to keep in mind.

3 Q. And I think that we had that discussion because
4 there was some during the last time we talked about the
5 number of -- we talked about some dissents.

6 The last question I would have is the same
7 question that we posed to the last candidate as well was
8 that the stable source of funding in the interface with
9 the -- with the general assembly as it relates to budget.

10 And I equated it somewhat to the independence of
11 the judiciary. You know, that we have been around and
12 looked at what happened in public elections. We like our
13 system. The independence of the judiciary is very
14 critical. I think that stable funding is a part of
15 independence of the judiciary without saying anything
16 about this particular court.

17 And so the question becomes then a thought
18 process on a percentage of the budget in the general
19 assembly being there to fund the judiciary.

20 A. Well, of course, Senator, you and I have talked
21 about this very thing a lot, as I have with many of the
22 rest of you. We almost lost our court system four years
23 ago. The cuts were so massive, and they were across the
24 board, they didn't pay attention to the fact that the
25 third branch of government is almost entirely

1 personnel-driven to the tune of about 82 percent.

2 So the cuts that we suffered for two years
3 running, six and a half million dollars per year almost
4 caused us to lose the court system. And the only way I
5 survived was that I put back money every year. I burned
6 through every bit of that money in two years just to keep
7 the court system running.

8 And then we had a big debate in the general
9 assembly on what we do on a going-forward basis. And your
10 idea is there a percentage of the general revenues that
11 could be set aside for the judiciary, is that the way to
12 do it? Should we up the filing fees, is that the way to
13 do it?

14 When I became Chief, the court system cost about
15 \$46 and a half million dollars to run, and it was almost
16 entirely general appropriations revenue.

17 Flash forward to this year, it cost about
18 \$67 million to run the court system. About 69 percent of
19 it is general revenue money, but a good 30-plus percent is
20 fines and fees, a very fluctuating system of revenue.

21 For example, if you don't have the money to put
22 the troopers out there, you don't get in the fines. And
23 the judicial department is a number of good many entities
24 in state government that's dependent on that source of
25 revenue.

1 So is judicial independence threatened when
2 funding is not stable, well, of course. The general
3 assembly responded though, and it's been very interesting
4 to note what happened. We began to talk for the first
5 time in a general assembly that is mostly non-lawyers,
6 unlike the old days. We began to hear voices of
7 non-lawyers say that the judicial branch is different,
8 separation of powers. Judicial independence began to be
9 discussed.

10 I'll never forget, Senator Campsen, your speech
11 on the Florida senate during one of our funding
12 discussions and you're just one of many. I remember Anton
13 Gunn on the house side, not a lawyer. The same message
14 you delivered that year on the senate side.

15 So I think we are beginning to look and see that
16 a court system and public safety and security and societal
17 order is different and does take a different approach, and
18 I am very heartened by that. I don't know that a
19 percentage is the best way to go only because the general
20 revenue has fluctuated so. But we've got to find stable
21 funding for the court system.

22 SEN. MARTIN: All right. Any other questions or
23 comments?

24 Well, Justice Toal, it has been a pleasure to
25 have you before the Commission today. Again, thank you

1 for your service to South Carolina.

2 For so many years, we had the privilege of
3 serving together in the State House a few years ago, and
4 that's much further ago than we want to admit.

5 CHIEF JUSTICE TOAL: Wait. Larry and I won't
6 reveal our age, but --

7 SEN. MARTIN: No.

8 CHIEF JUSTICE TOAL: -- we started at the
9 beginning of time.

10 SEN. MARTIN: And I was a mere child.

11 CHIEF JUSTICE TOAL: Me too.

12 SEN. MARTIN: That's right. That's right.

13 But we do thank you for all that you've done for
14 our state throughout your career.

15 This concludes this portion of our screening
16 process, and I'll only reiterate what Chief Counsel Shuler
17 mentioned about the 48-hour rule, we do that for the
18 record.

19 And anyone that inquires with you about whether
20 or not they may advocate for you in the event that you are
21 screened out, remind them of that rule.

22 We thank you again for your service and
23 appreciate you being here today.

24 CHIEF JUSTICE TOAL: Thank you, Mr. Chairman.

25 Thanks members of the Committee.

1 SEN. MARTIN: We'll take just a brief break.

2 (Recess taken.)

3 SEN. MARTIN: We're going to go ahead and get
4 started.

5 I was reminded before we proceed to the next
6 candidate that I need to state for the record, that all
7 the records of candidates will be left open until such
8 time as they are closed prior to the report being
9 compiled. And candidates can be called back if there is a
10 need to.

11 I didn't state that for Justice Toal, but I will
12 do so for the record, and she of course, knows that.

13 The next candidate to appear before the Screening
14 Commission is Coreen B. Khoury, family court, sixth
15 judicial circuit.

16 Would you come forward please.

17 MS. KHOURY: Yes, sir. Good afternoon.

18 SEN. MARTIN: Good afternoon. Would you please
19 raise your right hand and take the oath.

20 COREEN B. KHOURY,

21 having been first duly sworn

22 testified as follows:

23 EXAMINATION

24 BY SEN. MARTIN:

25 Q. Thank you very much.

1 Have you had the opportunity to review your
2 personal data questionnaire?

3 A. Yes, sir. It's here in front of me.

4 Q. All right. Is it correct? Anything need to be
5 changed?

6 A. No, sir.

7 Q. Do you object to our making this summary and any
8 amendments, if applicable, part of the record of your
9 sworn testimony?

10 A. No, sir.

11 SEN. MARTIN: It will be done at this point in
12 the transcript.

13 (Exhibit 34 was marked for
14 identification and attached hereto.)

15 BY SEN. MARTIN:

16 Q. The Judicial Merit Selection Commission has
17 thoroughly investigated your qualifications for the bench.

18 Our inquiry has focused on nine evaluative
19 criteria and has included; a ballot box survey, a thorough
20 study of your application materials, verification of your
21 compliance with the state ethics' law, search of newspaper
22 articles for anything in which your name may appear, study
23 of previous screenings, check for economic conflict of
24 interest.

25 We have received no affidavits filed in

1 opposition to your election. No witnesses are here to
2 testify.

3 I see you have someone with you. Would you like
4 to introduce --

5 A. I do. I have my husband here. His name is Jeff
6 Hammond --

7 Q. Welcome.

8 A. -- for support.

9 SEN. MARTIN: We're delighted to have you.

10 MR. HAMMOND: Thank you.

11 BY SEN. MARTIN:

12 Q. Do you have a brief opening statement you would
13 like to make at this time?

14 A. I'm just glad to be here, and I appreciate all
15 the work you guys do on this Committee and ready to get
16 started.

17 Q. All right. Would you answer Mr. Gentry's
18 questions?

19 A. Yes, sir.

20 MR. GENTRY: Mr. Chairman and members of the
21 Commission, I have a few procedural matters to take care
22 of with this candidate.

23 BY MR. GENTRY:

24 Q. Judge Khoury, you have before you the sworn
25 statement you provided with detailed answers to over 30

1 questions regarding judicial conduct, statutory
2 qualifications, office administration, and temperament.

3 Are there any additional amendments you would
4 like to make at this time to your sworn statement?

5 A. No, there is not.

6 MR. GENTRY: At this time, Mr. Chairman, I would
7 like to ask that Judge Khoury's sworn statement be entered
8 as an exhibit into the hearing record.

9 SEN. MARTIN: Is there any objection?

10 Hearing none, the sworn statement and any
11 amendments will be entered into the record at this time.

12 (Exhibit 35 was marked for
13 identification and attached hereto.)

14 BY MR. GENTRY:

15 Q. Judge Khoury, please state for the record the
16 city and circuit in which you reside.

17 A. I live in Lancaster which is a 6th judicial
18 circuit.

19 MR. GENTRY: One final procedural matter.

20 I note for the record that based on the testimony
21 contained in the candidate's PDQ, which has been included
22 with the candidate's consent, Judge Khoury meets the
23 statutory requirements of this position regarding age,
24 residence, and years of practice.

25 BY MR. GENTRY:

1 Q. Judge Khoury, why do you want to serve as a
2 family court judge?

3 A. I have been a family court practitioner now for
4 28 years, so I feel that I have had the opportunity to be
5 involved with just about every kind of fact situation, any
6 kind of issues that come up in family court.

7 I believe now that I'm at a point where I believe
8 our bench would benefit from having seasoned family court
9 practitioners, and I would like to be able to offer my
10 services to be allowed to do so.

11 Q. Can you explain to the Commission how you feel
12 your legal and professional experience thus far will
13 assist you in being an effective judge.

14 A. Like I said, I have, in fact, been a family court
15 practitioner for over 28 years. I have seen most fact
16 situations. I have been involved in most situations.
17 Being a family court lawyer, I have also had the
18 opportunity to sit across the desk from people who are in
19 crisis and dealing with all ranges of emotion.

20 And in addition to that, I have also had the
21 opportunity to practice in front of numerous family court
22 judges who have done what I believe to be some of the best
23 policy, some of the best practices. So I feel that I have
24 had the experience that would qualify me for this
25 position.

1 Q. Are there any areas, including subjective areas
2 of the law, that you would need to additionally prepare
3 for in order to serve as a judge, and how would you go
4 about that preparation?

5 A. One of the areas that I probably do not
6 participate in a great deal is our juvenile justice
7 system. I do work as a drug court judge. So I am
8 familiar with the procedure, I am familiar with the
9 process. But I have never really done much as a
10 practitioner in that area.

11 So I do feel like I would require some additional
12 studies in that area as well as just courtroom management,
13 how to do those kind of things. And I believe through CLE
14 processes and judicial conferences, I would hopefully gain
15 that experience.

16 Q. Although you addressed this in your sworn
17 statement, can you please explain to the members of the
18 Commission what you think is the appropriate demeanor for
19 a judge.

20 A. I think a judge needs to set the demeanor or set
21 the mood for the courtroom. I think a judge needs to be
22 courteous to all participants. I also believe a judge
23 needs to be firm.

24 So there is a balance that you need to be able to
25 reach to make sure people feel comfortable enough in the

1 courtroom, that people are courteous in the courtroom, but
2 the folks also understand that it is a courtroom and that
3 certain behavior is to be expected.

4 Q. What suggestions would you offer for improving
5 the backlog of cases in family court?

6 A. Our circuit is pretty -- we're lucky. We don't
7 really have a big backlog. But we have instituted the
8 365-day rule, where all of our cases have to be heard or
9 handled within 365 days.

10 We also have instigated the ABC docket where we
11 have cases that go on as A's, but we also schedule B and C
12 cases behind that, so just continue that practice because
13 it appears to be working in our circuit.

14 Q. Judge Khoury, the Commission received 150 ballot
15 box surveys regarding you with 15 additional comments.
16 One comment indicated there may be some concern about
17 conflicts created by your marriage to the clerk of court
18 for Lancaster County.

19 What response would you offer to this concern?

20 A. My husband has been the clerk of court in
21 Lancaster County now for 13 years. I have practiced in
22 the family courts there for 28 years. So far, nobody has
23 raised any conflict or had any issues.

24 But of course if that would be raised as a
25 concern, I would do what I needed to do to make sure the

1 integrity of the court was protected. Anybody that had a
2 conflict that I thought was legitimate, I would definitely
3 recuse myself and not hear whatever that case might be.

4 Q. Thank you, Judge.

5 Have you sought or received the pledge of any
6 legislator prior to this date?

7 A. No, sir.

8 Q. Have you sought or have you been offered a
9 conditional pledge of support of any legislator pending
10 the outcome of your screening?

11 A. No, sir.

12 Q. Have you asked any third parties to contact
13 members of the general assembly on your behalf?

14 A. I have not.

15 Q. Are you aware of anyone attempting to intervene
16 in any part of the process on your behalf?

17 A. I am not aware.

18 Q. Have you contacted any members of this
19 Commission?

20 A. No, sir.

21 Q. Do you understand that you are prohibited from
22 seeking a pledge or commitment until 48 hours after the
23 formal release of the Commission's report?

24 A. Yes, sir.

25 Q. Have you reviewed the Commission's guidelines on

1 pledging?

2 A. I have.

3 Q. As a follow-up, are you aware of the penalties
4 for violating the pledging rules, that is, it is a
5 misdemeanor, and upon conviction, the violator must be
6 fined not more than \$1,000 or imprisoned not more than
7 90 days?

8 A. I am.

9 MR. GENTRY: I would note that the Piedmont
10 Citizens Committee found Judge Khoury qualified in the
11 evaluative criteria of constitutional qualifications.

12 The Committee found her well-qualified in
13 evaluative criteria of; ethical fitness, professional and
14 academic ability, character, reputation, physical health,
15 mental stability, experience, and judicial temperament.

16 The Committee stated in summary, that the Judge
17 is universally regarded as a person of high integrity,
18 ethics, and character.

19 Likewise, the Committee considered her to be
20 well-qualified in the areas of professional ability,
21 reputation, and experience due to her 28 years of
22 extensive practice in handling virtually every type of
23 family court matter.

24 I would just note for the record that any
25 concerns raised during the investigation regarding the

1 candidate were incorporated into the questioning today.

2 Mr. Chairman, I have no further questions.

3 SEN. MARTIN: All right. Thank you very much.

4 Any questions from the members of the Commission?

5 SEN. CAMPSSEN: I have one.

6 SEN. MARTIN: Senator from Charleston.

7 BY SEN. CAMPSSEN:

8 Q. Miss Khoury, thank you for your offering to
9 service.

10 I see in your brief summary that you run the
11 juvenile drug court in Lancaster County; is that correct?

12 A. That is correct.

13 Q. And how long have you been doing that?

14 A. Since 2005.

15 Q. And would you give a brief description of what
16 your duties are there.

17 A. Sure. A drug court is a diversion court. We
18 meet once a week for three weeks out of the month.
19 Children that come to us, come through way of contracts
20 with DJJ, through way of arbitration, and some probation
21 cases, we also get that too.

22 And what it is basically is young people who
23 their problem is not crime and criminal activity, as much
24 as it is drug addiction or drug use. So what we try to do
25 is get them the individual counseling that they need, the

1 family counseling that their family needs.

2 We try to be able to get them to make better
3 choices to understand the consequences of their behavior.
4 And hopefully within this 12 to 15 weeks, get them back on
5 track and into a system which is drug free and problem
6 free hopefully as adults.

7 Q. What type of recidivism rate have you experienced
8 in the drug court, do you know?

9 A. I asked the drug court coordinator not too long
10 ago. And he said that about 80 percent of our children
11 that we've do so far have not yet made it into the adult
12 system. So we feel that's pretty good.

13 And I think the problem has always been to try to
14 get them to think of things other than drugs and drug
15 usage and understand that they've got a whole life in
16 front of them and what they sort of need to do is have a
17 new focus.

18 SEN. CAMPSSEN: Thank you.

19 SEN. MARTIN: All right. Any other questions?

20 Senator from Darlington.

21 BY SEN. MALLOY:

22 Q. I'm just curious, how do you have 200 family
23 court appearances during the course of a year?

24 A. We have about five or six family court
25 practitioners in Lancaster. And on any given week, I'm

1 also in charge of the attorney for the guardian ad litem,
2 so every Monday I am involved in every DSS case that there
3 is there. And I usually average anywhere between five to
4 seven, maybe, private cases in a week's time too. We have
5 three weeks of court.

6 Q. So you include the guardian cases?

7 A. Correct.

8 SEN. MALLOY: Okay. Thank you.

9 SEN. MARTIN: All right. Well, Judge Khoury,
10 thank you so much for being here and for your willingness
11 to serve.

12 This concludes this portion of our screening
13 process. As you know, the record will remain open until
14 the report is published, so you may be called back should
15 any question or need arise.

16 I would also remind you, as we remind all
17 candidates, about the 48-hour rule. You have been asked
18 by the staff regarding that and you seem to understand it.

19 I just want to thank you again for offering and
20 your willingness to serve, and I hope that you have a
21 great day.

22 MS. KHOURY: Thank you.

23 (Pause in proceedings.)

24 SEN. MARTIN: Welcome, Ms. Adams.

25 Would you please raise your right hand and be

1 sworn.

2 WANDA L. ADAMS,

3 having been first duly sworn
4 testified as follows:

5 EXAMINATION

6 BY SEN. MARTIN:

7 Q. Thank you very much.

8 Have you had the opportunity to review the
9 personal data questionnaire?

10 A. I have.

11 Q. Is it correct? Does anything need to be changed?

12 A. Nothing that I see.

13 Q. Okay. Thank you.

14 Do you object to our making this summary and any
15 amendments a part of the record of your sworn testimony?

16 A. I have no objection.

17 SEN. MARTIN: Okay. It will be done at this
18 point in the testimony.

19 (Exhibit 36 was marked for
20 identification and attached hereto.)

21 BY SEN. MARTIN:

22 Q. The Judicial Merit Selection Commission has
23 thoroughly investigated your qualifications for the bench.

24 Our inquiry has focused on nine evaluative
25 criteria and has included; a ballot box survey, a thorough

1 study of your application materials, verification of your
2 compliance with state ethics' laws, search of newspaper
3 articles in which your name appears, a study of previous
4 screenings, check for conflicts of interest.

5 We have received no affidavits filed in
6 opposition to your election. No witnesses are here to
7 testify.

8 Do you have a brief opening statement you would
9 like to make at this time?

10 A. Well, I guess I would just like to thank you for
11 the opportunity to come before you today and for allowing
12 me to let you know a little bit more about me.

13 SEN. MARTIN: Well, thank you very much.

14 Would you please answer Ms. Wells' questions.

15 BY MS. WELLS:

16 Q. Thank you, Ms. Adams.

17 Do you have the green button pushed so the light
18 is on?

19 A. I do.

20 Q. You have before you the sworn statement you
21 provided with detailed answers to over 30 questions
22 regarding judicial conduct, statutory qualifications,
23 office administration, and temperament.

24 Are there any amendments you would like to make
25 at this time to your sworn statement?

1 A. No, ma'am.

2 MS. WELLS: Mr. Chairman, I would ask that
3 Ms. Wanda Adams' sworn statement be entered as an exhibit
4 into the hearing record at this time.

5 SEN. MARTIN: Is there any objection?

6 Hearing none, the sworn statement and any
7 amendments, if applicable, will be entered into the record
8 at this time.

9 (Exhibit 37 was marked for
10 identification and attached hereto.)

11 BY MS. WELLS:

12 Q. Ms. Adams, would you please state for the record
13 the city and judicial district in which you reside.

14 A. I reside in Mauldin, South Carolina which is the
15 13th Circuit.

16 MS. WELLS: I note for the record that based on
17 the testimony contained in the candidate's personal data
18 questionnaire, Ms. Wanda Adams meets the statutory
19 requirements for this position regarding age, residence,
20 and years of practice.

21 BY MS. WELLS:

22 Q. Miss Adams, would you explain to the Commission
23 why you want to serve as a family court judge.

24 A. Well, I think as you can see from my
25 questionnaire, I have the diverse experience. I have been

1 in family court long before I started to practice there
2 when I served as a social worker.

3 I have handled every type of case that you would
4 see in family court; adoptions, child abuse, divorces with
5 equitable division of assets and property. I've even done
6 an adult adoption, contested adoptions. I have also dealt
7 with vulnerable adults.

8 So, again, I think that I would bring some
9 experience that I might be able to see beyond what might
10 be obvious because of this experience. And I am --
11 because of that, I think I would be an asset to the court.

12 Q. Would there be any areas, including subjective
13 areas of law, that you feel you would need to additionally
14 prepare for in order to be effective as a family court
15 judge, and, if so, how would you go about handling this
16 preparation?

17 A. There are none that I can think of. I think, as
18 I have stated earlier, that I've handled just about every
19 type of case that would be heard in that court. Plus as
20 we all know, the law is always developing, and I am always
21 up for that challenge. But I feel that I could get up,
22 get in there, and be ready to go immediately.

23 Q. Well, what about the fact that you have practiced
24 primarily in the area of criminal law for the past five
25 years?

1 A. Well, I have been with the solicitor's office for
2 eight years. And four of those years were spent in family
3 court doing juvenile prosecution. And I continue to go
4 sometimes now to fill in because, unfortunately, a lot of
5 people don't have experience in that area of the law, and
6 they don't want to go from my office. So I'm still in and
7 out of family court.

8 Q. You addressed this in your sworn statement, but
9 would you explain to the members of the Commission what
10 you think is the appropriate demeanor for a family court
11 judge.

12 A. I look at family court as like a people's court.
13 A lot of these people come in, some are not represented,
14 but they want to be heard. And I think in order for
15 people to walk out of that courthouse and feel that
16 they've been given a fair shake, there has to be shown
17 some compassion.

18 And I think, especially with juveniles, there is
19 an accountability component of prosecuting these young
20 people. But, nevertheless, they come into that court as
21 part of a unit. And so I think the most important
22 demeanor that can be shown again is fairness, while you
23 also have to show firmness when it's appropriate.

24 But, again, if they walk out and they feel that
25 they've been heard and the decision was fair, I think

1 that's the best that you could do.

2 Q. Thank you. Do you have any suggestions for
3 improving the backlog of cases in the family court?

4 A. Well, in the 13th circuit, which is a very strong
5 circuit, we've used that ABC trial roster for a while, and
6 I think that that certainly helps in moving the case log
7 along.

8 But I think mediation which is also used in the
9 13th circuit, as well as a group of committed lawyers -- I
10 mean, committed judges who are willing to come early if
11 it's necessary and stay late if it's necessary just to see
12 that the work gets done.

13 Q. Thank you, Ms. Adams.

14 The Commission received 83 ballot box surveys
15 regarding you with 10 additional comments.

16 The surveys, for example, contained several
17 favorable comments on your intelligence, temperament, and
18 patience, such as, great demeanor, level-headed, excellent
19 knowledge of the family court arena which makes her an
20 extremely well-qualified candidate for the position.
21 Experience as a DSS caseworker and prosecutor gives her a
22 unique judicial perspective.

23 Only one of the written comments expressed
24 concerns. It indicated that her experience seems to be
25 severely limited. While having experience in DJJ matters,

1 does not appear to have much of any experience in the
2 several other areas of family court.

3 What response would you offer to the Commission
4 to this concern?

5 A. Well, prior to coming to the solicitor's office,
6 I was in private practice for about 13 years, with 10 of
7 those years, I served as a part time municipal court
8 judge. But my private practice, I would say 80 percent of
9 that practice was in family court.

10 Q. Thank you, Miss Adams.

11 I have just have few housekeeping issues.

12 Have you sought or received the pledge of any
13 legislator prior to this date?

14 A. No, ma'am, I have not.

15 Q. Have you sought or have you been offered a
16 conditional pledge of support of any legislator pending
17 the outcome of your screening?

18 A. No, I have not.

19 Q. Have you asked any third party to contact members
20 of the general assembly on your behalf?

21 A. No, I have not.

22 Q. Are you aware of anyone attempting to intervene
23 in any part of the process on your behalf?

24 A. No.

25 Q. Have you contacted any members of the Commission?

1 A. No, ma'am.

2 Q. Do you understand that you are prohibited from
3 seeking a pledge or commitment until 48 hours after the
4 formal release of the Commission's report?

5 A. I understand that.

6 Q. Have you reviewed the Commission's guidelines on
7 pledging?

8 A. I have.

9 Q. As a follow-up, are you aware of the penalties
10 for violating the pledging rules, that is, it is a
11 misdemeanor and upon conviction, the violator must be
12 fined not more than \$1,000 or imprisoned not more than 90
13 days?

14 A. Yes.

15 MS. WELLS: Members of the Commission, I would
16 note that the Upstate Citizens Committee found Ms. Adams
17 to be well-qualified as to constitutional qualifications,
18 ethical fitness, professional and academic ability,
19 character, reputation, physical health, mental stability,
20 experience, and judicial temperament.

21 And I would note for the record that any concerns
22 raising during my investigation regarding Ms. Adams were
23 incorporated into questions of her today.

24 And, Mr. Chairman, I have no further questions.

25 SEN. MARTIN: All right. Any questions of the

1 members of the Commission?

2 Well, Miss Adams, thank you very much for being
3 here. This concludes this portion of the screening
4 process.

5 And as you know, the record will remain open
6 until the report is published, so you could be called back
7 technically if the need would arise.

8 And I would remind you, as we do all candidates,
9 about the 48-hour rule --

10 MS. ADAMS: Yes. Yes, sir.

11 SEN. MARTIN: -- and anyone who may advocate on
12 your behalf, you need to remind them as best you can.

13 I thank you for offering and for your willingness
14 to serve South Carolina.

15 MS. ADAMS: Thank you.

16 SEN. MARTIN: Well, with that, we are going to
17 take a little lunch break.

18 (Luncheon recess.)

19 SEN. MARTIN: And as we commence, Jane has a
20 comment about one that we had suggested would not
21 personally appear this afternoon.

22 And Jane you got a --

23 MS. SHULER: I do. I would like to state for the
24 record, all the incumbents are not personally appearing
25 except for two. And one of those, we ask that we defer a

1 decision on this judicial candidate until this afternoon.

2 And he, Judge Larry Hyman, he is with the circuit
3 court, has sent us documentation handling a matter. So he
4 is now basically an incumbent with no concerns. And staff
5 would recommend that he not publicly appear if that be the
6 Commission's call.

7 SEN. MARTIN: Any objection?

8 Hearing none, so ordered. That's what we'll do.

9 MS. SHULER: And one follow-up matter. I would
10 offer that we admit his PDQ and sworn statements to the --
11 as an exhibit to the public hearing record and do it at
12 this time.

13 SEN. MARTIN: All right. Any objection?

14 Hearing none, so ordered.

15 (Exhibits 38 and 39 were marked for
16 identification and attached hereto.)

17 (Pause in proceedings.)

18 SEN. MARTIN: We'll go ahead and come to order.

19 We have James C. Alexander, the family court,
20 13th judicial circuit, seat 5.

21 MR. MALLOY: Mr. Chairman?

22 SEN. MARTIN: Oh, I'm sorry. Yes, sir?

23 MR. MALLOY: If you would note my --

24 SEN. MARTIN: You're okay.

25 MR. MALLOY: -- objection.

1 SEN. MARTIN: Okay. We'll note the objection of
2 the senator from Darlington on Judge Hyman not personally
3 appearing, as he had on the previous motion that we had
4 earlier.

5 SEN. MALLOY: Thank you, Mr. Chair.

6 SEN. MARTIN: All right.

7 Mr. Alexander, good to have you with us this
8 afternoon. We're ready to proceed. I am sorry we are a
9 little bit late. I hope you had a good lunch.

10 MR. ALEXANDER: I did. It was fine and I had a
11 good time.

12 SEN. MARTIN: Would you please raise your right
13 hand and repeat after me -- or take the oath.

14 JAMES C. ALEXANDER,
15 having been first duly sworn
16 testified as follows:

17 EXAMINATION

18 BY SEN. MARTIN:

19 Q. Have you had the opportunity to review the
20 personal data questionnaire that you've presented?

21 A. I have.

22 Q. Is it correct? Need to be any changes made?

23 A. Not today. I did submit a modification to that
24 about eight days ago. So with the modification, it is
25 correct.

1 Q. So you don't have any objection to submitting the
2 summary with those modifications be part of the record of
3 your sworn testimony today?

4 A. I do not.

5 SEN. MARTIN: So it will be done at this point in
6 the transcript.

7 (Exhibit 40 was marked for
8 identification and attached hereto.)

9 BY SEN. MARTIN:

10 Q. The Judicial Merit Selection Commission has
11 thoroughly investigated your qualifications for the bench.

12 Our inquiry has focused on nine evaluative
13 criteria which has included; a ballot box survey, a
14 thorough study of your application materials, verification
15 of compliance with applicable state ethics' laws, search
16 of newspapers articles in which your name may appear,
17 study of previous screenings, check of economic conflict
18 of interest.

19 We have received no affidavits in opposition to
20 your election. No witnesses are here present to testify
21 against you or for you.

22 I see you have someone present with you today.
23 Would you like to introduce who that may be?

24 MR. ALEXANDER: This is my wife of 42 years.
25 This is Linda.

1 SEN. MARTIN: Linda, welcome.

2 And let me for the record disclose to the
3 Commission that I have known lawyer, James Alexander, for
4 probably 25, 30 years now. We are members of the same
5 church, Pickens First Baptist.

6 About 20 years ago or so, I guess, I don't know
7 how long it's been Jim, but we taught Sunday school
8 together.

9 MR. ALEXANDER: We did indeed.

10 SEN. MARTIN: And he's a much better Sunday
11 school teacher than I. And we thoroughly enjoyed it. I
12 don't know how many years we did that, but it was a lot of
13 fun and we thoroughly enjoyed it.

14 SEN. CAMPSSEN: May we ask him questions about
15 your church attendance --

16 SEN. MARTIN: Well --

17 SEN. CAMPSSEN: -- and your morals as a member of
18 the congregation?

19 SEN. MARTIN: Well, in due time that will come
20 up, I'm sure.

21 But let me say this: One of the things that you
22 need to know, although we are in the same big church, we
23 go to separate -- we usually wind up in different
24 services. We have an early service, a second service. I
25 don't see Jim as frequently as I used to because we are

1 not in the same Sunday school class anymore.

2 But I will tell the Commission this: That when I
3 heard that he had filed, I called him. And I was just
4 going to tell him if the staff could do anything to assist
5 him with his filing, we would be glad to do that. But
6 that's the only discussion that we would've had, but he
7 wouldn't call me back.

8 And then when I saw him at church later, he told
9 me -- he said, I didn't call you back because I didn't
10 want to discuss my candidacy with you.

11 So that's just for full disclosure for the
12 Commission members. That's the extent of our conversation
13 about his interest in this position, and I just wanted to
14 disclose that to you.

15 SEN. MALLOY: Does that mean you're going to vote
16 when the time comes in favor --

17 SEN. MARTIN: I'll have to vote on him, I'm sure.

18 But I do want to tell you what a great, great
19 fellow he is in that respect. You will have the
20 opportunity to question him, put him on -- but don't ask
21 him anything about my Sunday school teaching, I would
22 appreciate that.

23 Do you have a brief opening statement you would
24 like to make?

25 MR. ALEXANDER: Mr. Chairman, I am just happy to

1 be here, happy to be involved in this process. It's been
2 an eye-opening process, and I appreciate the lengths that
3 people go to, to make sure judges are selected on merit.

4 And rather than me trying to tell you what I
5 think is important, I'll just open myself for questions so
6 you can find out what you think is important.

7 SEN. MARTIN: All right. Would you be willing to
8 answer some questions of Counsel Dean?

9 MR. ALEXANDER: I will do so.

10 MS. DEAN: Thank you, Mr. Chairman, members of
11 the Commission, Mr. Alexander. I have one procedural
12 matter to take care of first.

13 BY MS. DEAN:

14 Q. Mr. Alexander, you have before you the sworn
15 statement you provided with detailed answers. Are there
16 any additional amendments you would like to make to that
17 sworn statement?

18 A. No, not at this time. But I will say that one of
19 the questions that was asked and it is in line with what
20 Senator Martin has already said, we do attend the same
21 church. And one of the questions that was asked on the
22 information that I submitted is, have I had any contact
23 with a member of the Commission. And at this time I
24 submitted that, I hadn't talked to anybody.

25 Now since then, I have bumped into Senator Martin

1 at my church, and I will disclose that. I'm an usher.
2 Sometimes I've given a bulletin to his wife since then.
3 And at teacher training classes, we both teach Sunday
4 school. So I was going to make that disclosure that we
5 bumped into one another, but we just kind of gone on past,
6 and I wanted the Commission to know that.

7 MS. DEAN: Thank you, sir.

8 At this time I would like to ask that
9 Mr. Alexander's sworn statement be entered as an exhibit
10 into the hearing record.

11 SEN. MARTIN: Is there any objection?

12 Hearing none, the sworn statement and any
13 amendments will be entered into the record at this time.

14 (Exhibit 41 was marked for
15 identification and attached hereto.)

16 BY MS. DEAN:

17 Q. Thank you. Mr. Alexander, please state for the
18 record the city and circuit in which you reside.

19 A. I reside in the 13th judicial circuit. My
20 address is a Murrieta address which is normally associated
21 with Greenville County, but I actually live out in Pickens
22 County. And I live out in the country, so to speak, at 97
23 Dalton Road, Murrieta, South Carolina.

24 MS. DEAN: Thank you. And one final procedural
25 matter, I note for the record that based on the testimony

1 contained in the candidate's personal data questionnaire
2 which has been included in the record with the candidate's
3 consent, Mr. Alexander meets the statutory requirements
4 for this position regarding age, residency, and years of
5 practice.

6 BY MS. DEAN:

7 Q. Mr. Alexander, why do you now want to serve as
8 family court judge?

9 A. As you can tell from my record, I have practiced
10 law for a long time. I have litigated a lot of cases in a
11 lot of different forums; family court, common pleas,
12 general sessions. Don't do hardly any federal court work,
13 but I have even been there on an occasion or two.

14 I have found throughout my practice of how
15 important it is for the process to be fair and how people,
16 litigants are supposed to be treated fairly.

17 And the trial judge really sets the standard.
18 And through my practice -- I have been practicing 38
19 years, I've seen the good, I have seen the bad, I have
20 seen the ugly as far as trial judges go.

21 The family court, I have concluded -- and I
22 practice a lot in the family court. I have concluded that
23 the family court deals with our core society, it really
24 does. Our society is organized around the family unit.
25 It has been my observation the family unit is increasingly

1 breaking up to an alarming rate.

2 But those folks need to be able to get by what
3 they're doing, get by the litigation, and get on with
4 their lives in a positive manner. And to me -- it seems
5 to me in my experience that the process has to be deemed
6 to be fair before those people can get on with their
7 lives. They've got to have closure. They've got to move
8 on.

9 And the trial judge really, in family court or
10 whatever litigation it is, sets the tone for that. And
11 I've seen -- and I've tried in my practice when I deal
12 with people in practice, tried to adopt those good
13 characteristics of the trial judges that I've seen.

14 But I have seen that before these people can get
15 on, they really got to know they've had justice, they've
16 been treated fairly, they've had their say, and then they
17 can move on. Some never move on, but most do if they've
18 got good closure.

19 In my experience, I've dealt with -- in two
20 areas, I have dealt with the family court and with my
21 Social Security practice, you deal with the basic core of
22 society there. There were desperate people in the Social
23 Security cases. So I have seen how really they need to be
24 treated.

25 At my age, frankly, I am on the downside of my

1 career and I know that. And I've got about eight or ten
2 good years left, I believe, in practice. That's how long
3 I continue or expect to continue to work.

4 And I would like to take the experience that I've
5 gotten, the good family court judges, the good circuit
6 court judges that I've seen, those characteristics, and
7 try -- in the years that I have left, just try to bring
8 something to the family court and try to get it done the
9 right way. I would like to put my experience to good use.

10 Q. Thank you, Mr. Alexander.

11 And as a follow-up to your last point, can you
12 please expand a little bit on how your legal and
13 professional experience thus far will help you be an
14 effective judge.

15 A. I have done a lot. I have litigated in one court
16 or the other about every kind of case there is. I don't
17 -- I say that -- I don't get into -- as far as individuals
18 go. Patents and bankruptcy and antitrust, I wouldn't even
19 know where to start there.

20 I deal with people. I don't represent insurance
21 companies, I don't represent big corporations. I
22 represent individual and small businesses in all types of
23 litigation. And the experience that I've got -- and I
24 have had a lot of experience in the family court. I've
25 dealt with I think about any issue you can deal with in

1 the family court on a lot of different bases.

2 And I've seen how judges handle it, I have dealt
3 with other lawyers. And I think the experience that I
4 have qualifies me to bring some credence to resolving
5 disputes in the family court.

6 Q. Thank you, Mr. Alexander.

7 Are there any areas, including subjective --
8 substantive areas of the law, that you would need to
9 additionally prepare for in order to serve as a family
10 court judge?

11 A. I don't believe so. The only area that I really
12 don't do much in right now is juvenile adjudication, I'll
13 make that very clear.

14 I have a son that practices with me. He is
15 interested in criminal law. And while juveniles are not
16 criminals, I recognize that they're adjudicated
17 delinquents. I haven't done a lot of that, and I will
18 make that clear for the record. But over the last --
19 since he's been with me the last seven or eight years,
20 he's done most of that, but I have done some juveniles.
21 That's the only area that I have not practiced in fairly
22 frequently in the last eight or ten years.

23 So other than that, no, I think I am well-versed.
24 And even then, things haven't changed much. I mean, my
25 son does juveniles, and we talk about cases and that type

1 of thing. Things haven't changed so much where I think
2 this would be a problem.

3 Q. Thank you. And although you addressed this in
4 your sworn affidavit, can you please explain to the
5 members of the Commission what you think is the
6 appropriate demeanor of a judge.

7 A. It's to be courteous. You've got to be firm.
8 You've got to be in control of the court. You've got to
9 be -- you can't let things go awry. You've got to be
10 firm, but you've got to do it in a courteous,
11 professional, respectful way, and let litigants have their
12 say. But there again, you've got to be in control of
13 the court, you can't let them control the court.

14 But courtesy is the big thing. And
15 professionalism with not only just litigants, but the
16 lawyers, court personnel. There should be no anger in
17 court. There should be no impatience. We should treat
18 people as we say we want to be treated, and then you'll
19 get a good result.

20 Q. Thank you. Do you have any suggestions for how
21 to alleviate the backlog of cases in the family court
22 docket?

23 A. I have thought about this. Our system at least
24 in the 13th judicial district works pretty well. You
25 know, you've got an ABC docket status in Pickens County.

1 We only use A and B, but our docket in Pickens County is
2 actually in pretty good shape.

3 A couple things, I believe mediation settles a
4 lot of cases. You know, I think and I've seen this and
5 this is not my -- it's not you and me, I wish it was to
6 me. Even after mediation which is unsuccessful, there
7 probably should be a status conference to deal with those
8 issues, just a brief status conference before it's set for
9 maybe a full-day trial because sometimes the judge can
10 identify issues.

11 And I know I've had some cases, where if we could
12 have just got in front of the judge with a status
13 conference, we may have been able to resolve those issues
14 that the mediator couldn't resolve. So additional status
15 conferences very well may help.

16 Q. Thank you, Mr. Alexander.

17 You have been named in two lawsuits back in 2002.
18 One was Mortgage Electric Regis versus Jessie Lingerfelt,
19 and the other was Bank of America versus TMS Mortgage,
20 Inc.

21 Do you mind briefly explaining your involvement
22 in those cases.

23 A. I will. Those two, I looked them up. I remember
24 the second one, which is client was -- last name was
25 Arnold. I received an award of attorney's fees from the

1 husband in that case. The husband never paid me. It
2 happens sometimes in family court. And when they didn't
3 pay their mortgage, the mortgage lender foreclosed.

4 Since my -- the order to me was a lien on
5 property, they named me to take care of that lien, so that
6 they would take the title. So I was named because I was
7 actually owed money and had never gotten paid.

8 And there was also another matter I was named.
9 It actually never showed up on the SLED report, it's in my
10 testimony. I actually had a second mortgage on a piece of
11 property. So I was named in that litigation as well
12 because they didn't pay the first mortgage either anymore
13 than they paid me. So the first mortgage holder got the
14 property back, and I lost out completely. But I was named
15 because, again, money was owed to me.

16 Q. Thank you, sir.

17 I would note that you received 51 ballot box
18 surveys. And written comments included that you have
19 extensive experience in all aspects of the law, and no
20 concerns were raised by these surveys.

21 MS. DEAN: Mr. Chairman, I now just have some
22 housekeeping issues to go through if I may.

23 BY MS. DEAN:

24 Q. Mr. Alexander, have you sought or received the
25 pledge of any legislator prior to this date?

1 A. I have not.

2 Q. Have you sought or have been offered a
3 conditional pledge of support pending the outcome of your
4 screening?

5 A. I have not.

6 Q. Have you asked any third party to contact members
7 of the general assembly on your behalf?

8 A. I have not.

9 Q. Are you aware of anyone attempting to intervene
10 in any part of the process on your behalf?

11 A. I am not.

12 Q. Have you contacted any member of the Commission?

13 A. Other than my comment with Senator Martin, we've
14 passed one another at church. But other than that, I have
15 not spoken to any member or contacted in any way, any
16 member of this Commission.

17 Q. Thank you, Mr. Alexander.

18 Do you understand that you are prohibited from
19 seeking a pledge or commitment until 48 hours after the
20 formal release of the Commission's report?

21 A. I do understand that.

22 Q. Have you reviewed the Commission's guidelines on
23 pledging?

24 A. I have.

25 Q. And as a follow-up, are you aware of the

1 penalties for violating the pledging rules, that is; it is
2 a misdemeanor and upon conviction, the violator must be
3 fined not more than \$1,000 or imprisoned not more than
4 90 days?

5 A. I could not say I -- if you had asked me what the
6 penalty was, I would have said I would've had to look it
7 up. But I know there is a penalty, and I accept that
8 that's the penalty.

9 MS. DEAN: Thank you, Mr. Alexander.

10 I would note that the Upstate Citizens Committee
11 found Mr. Alexander to be well-qualified in the evaluative
12 criteria of; physical health, mental stability, ethical
13 fitness, professional and academic ability, character,
14 reputation, and experience.

15 The Committee found Mr. Alexander to be qualified
16 in the evaluative criteria of judicial temperament, and
17 the Committee did not include any statements.

18 I would just note for the record that any
19 concerns raised during the investigation regarding the
20 candidate, were incorporated into the questioning of the
21 candidate today.

22 And Mr. Chairman, I have no further questions.

23 SEN. MARTIN: All right. Thank you so much.

24 Any member of the Commission have questions?

25 Senator from Darlington has questions.

1 BY SEN. MALLOY:

2 Q. You had a chance to practice law with John Bolt
3 Culbertson?

4 A. Yes, sir, I did.

5 Q. John Bolt Culbertson is a legend in South
6 Carolina. He did a lot of civil rights' litigation as
7 well, didn't he?

8 A. Yes, sir, he did. I was able to practice with
9 him. When I got out of the Air Force, I came back to
10 South Carolina and joined his office and practiced for
11 about eight years with Mr. Culbertson. He was a legend, I
12 think that's the best way to put it.

13 Q. Did he used to do any of that litigation?

14 A. Oh, yes, sir. Mr. Culbertson never turned down a
15 case.

16 Q. That's right.

17 A. Never. And the lawyers in his office would turn
18 down cases. And they would go in and see Mr. Culbertson,
19 and that file would wind up back on your desk. And you
20 would take care of it because he would never turn down a
21 case.

22 He was a very, very interesting man. I actually
23 learned a lot from Mr. Culbertson.

24 SEN. MALLOY: We all did.

25 SEN. MARTIN: Well, I don't have any questions

1 for you. And I appreciate you being here and the request
2 to the response that you provided to our Counsel, we all
3 do. And your willingness to serve the people of South
4 Carolina is an important position. We appreciate that as
5 well.

6 I would just remind you, as we do with all the
7 candidates, about the 48-hour rule that, once again, that
8 the -- anyone that would seek a commitment on your behalf,
9 that's just something we do with everyone. They cannot do
10 so until 48 hours after the report is published.

11 Also, you may be called back before this report
12 is published if the need arises, if there is some question
13 that comes up. We don't anticipate that happening.

14 Again, thank you for your willingness to offer
15 and wish you a safe trip back to Pickens.

16 MR. ALEXANDER: Thank you, Mr. Chairman. Thank
17 you, members of the Commission.

18 (Pause in proceedings.)

19 SEN. MARTIN: Welcome --

20 MR. CLARK: Hello.

21 SEN. MARTIN: -- Mr. Clark. Welcome.

22 Mr. Robert A. Clark, will you please raise your
23 hand and take the oath.

24 ROBERT A. CLARK,
25 having been first duly sworn

1 testified as follows:

2 EXAMINATION

3 BY SEN. MARTIN:

4 Q. Thank you. You had the opportunity to review
5 your personal data questionnaire?

6 A. I have.

7 Q. Is it correct? Does anything need to be changed?

8 A. No, sir.

9 Q. Do you object to our making this summary and any
10 amendments part of the record of your sworn testimony
11 today?

12 A. I do not.

13 SEN. MARTIN: Okay. It will be done.

14 (Exhibit 42 was marked for
15 identification and attached hereto.)

16 BY SEN. MARTIN:

17 Q. The Judicial Merit Selection Commission has
18 thoroughly investigated your qualifications for the bench.

19 Our inquiry has focused on nine evaluative
20 criteria and has included; a ballot box survey, a thorough
21 study of your application materials, verification of your
22 compliance with state ethics' laws, search of newspaper
23 articles in which your name may appear, study of previous
24 screenings, and a check of economic conflicts of interest?

25 We have received no affidavits in opposition to

1 your election. No witnesses are here to testify.

2 Do you have a brief statement you would like make
3 to the Commission?

4 A. No, your Honor.

5 SEN. MARTIN: Will you please answer our
6 counsel's questions.

7 MR. DAVIDSON: Thank you, Mr. Chairman.

8 First, I have a few procedural matters to take
9 care of with this candidate.

10 BY MR. DAVIDSON:

11 Q. Good afternoon, Mr. Clark.

12 A. Good afternoon.

13 Q. You have before you the sworn statement you
14 provided with detailed answers to over 30 questions
15 regarding judicial conduct, statutory qualifications,
16 office administration, and temperament.

17 Are there any amendments that you would like to
18 make at this time to your sworn statement?

19 A. No, there is not.

20 MR. DAVIDSON: At this time, Mr. Chairman, I
21 would ask that Mr. Clark's sworn statement be entered into
22 the hearing record.

23 SEN. MARTIN: Is there any objection?

24 Hearing none, the sworn statement will be entered
25 into the record and any amendment thereto at this time.

1 (Exhibit 43 was marked for
2 identification and attached hereto.)

3 BY MR. DAVIDSON:

4 Q. Mr. Clark, please state for the record the city
5 and the circuit in which you reside.

6 A. I live in Greenville, South Carolina, the 13th
7 circuit.

8 MR. DAVIDSON: Thank you. One final procedural
9 matter. I note for the record that based on the testimony
10 contained in the candidate's PDQ, which has been included
11 in the record with the candidate's consent, Mr. Clark
12 meets the statutory requirements for this position
13 regarding age, residence, and years of practice.

14 BY MR. DAVIDSON:

15 Q. Mr. Clark, why do you now want to serve as a
16 family court judge?

17 A. Well, quite frankly, I would like to help
18 children. Family court is there to help families. But I
19 got involved initially helping children through the
20 guardian ad litem program.

21 And I went to law school -- this is kind of my
22 second career as being an attorney. I went to law school,
23 and then thought I could do even more by being a judge.
24 So that's been my goal.

25 Q. Can you explain to the Commission how you feel

1 your legal and professional experience thus far will
2 assist you to be an effective judge.

3 A. Sure. Serving as the counsel for the guardian ad
4 litem program, as a private attorney, and also as a
5 private guardian ad litem, I've had a unique opportunity
6 to see both sides of things and almost sit as a judge when
7 you get to hear both sides and not just for one side
8 unless, it's a parent of course or a husband or wife.

9 But I've seen the business side of it through my
10 first career of owning a heating and air company. I see
11 how lives are affected through abuse and neglect, through
12 family turmoil of divorce, through substance abuse. And I
13 think my exposure to these things can help me be a
14 compassionate judge.

15 Q. Are there any areas, including subjective areas
16 of the law, that you would need to additionally prepare
17 for in order to serve as a judge, and how would you handle
18 that additional preparation if so?

19 A. Well, I think you can always learn more. And
20 keeping up with current case law and statutes of course,
21 is an ongoing process. As I stated in my questionnaire, I
22 think probably my weakest point is DJJ work. And that
23 I'll diligently learn as I go along. And I have, you
24 know, continued to learn more each year.

25 Q. Thank you. Although you address this in your

1 sworn affidavit, could you please explain to the members
2 of the Commission what you think is the appropriate
3 demeanor for a judge.

4 A. Well, a judge should be compassionate, should be
5 unbiased. The judge needs to be in control of the
6 courtroom. But it's a process and you need to give
7 everyone their respect and time to be heard according to
8 the law. Never angry. And just be a compassionate, fair
9 judge. And make decisions, you know, you're there to pull
10 the trigger and make the call.

11 Q. What suggestions would you offer for improving
12 the backlog of cases on the docket in the family court?

13 A. Well, recently, I believe the Justice Toal, Chief
14 Justice Toal implemented the ABC system which was already
15 in Greenville. I think that's a good system to help move
16 the backlog along. I think Greenville has a fairly good
17 docket system to tell you the truth. It's a large volume
18 of work that goes through there. There is always room for
19 improvement, but I think it does it about as efficiently
20 as it can.

21 Q. The Commission received 94 ballot box surveys
22 regarding your candidacy with five additional comments.
23 The ballot box surveys, for example, contained the
24 following positive comments.

25 Mr. Clark has the knowledge and experience to

1 make an excellent judge.

2 While another comment is that your temperament
3 and intelligence would be an asset to the bench.

4 Two of the written comments expressed concerns.
5 One comment indicated that you have a limited range of
6 experience and questioned your work ethic.

7 What response would you offer to this concern?

8 A. Well, I agree limited work experience as far as
9 the DJJ juvenile hearings, as I said earlier. But I
10 believe I have a vast experience in family court. I've
11 done over 6,000 abuse and neglect hearings. And I think I
12 put a break -- a table breakdown where about a third of my
13 work handles private cases representing husbands and
14 wives.

15 The real world experience again, is a -- is a
16 plus, not having been an attorney all my life, but also
17 seeing it from a family side and the business side.

18 Q. Thank you. The other comment questioned the
19 ability to keep your guardian ad litem in check, citing
20 that they were often unreasonable and confrontational.

21 And also stated that, in quote, I would worry
22 about his presence in the courtroom if they had to keep
23 all parties focused and under control.

24 What response would you offer to this comment?

25 A. And I'm assuming they they're referring to the

1 guardian ad litem --

2 Q. Yes, sir.

3 A. -- contract attorney?

4 Well, in Greenville, I am one of two contract
5 attorneys. Normally we work different days. I am in the
6 hearings, so I'm not out in the hallways talking to the
7 guardians or helping them negotiate because there is only
8 one of me, there is usually five DSS attorneys. So we
9 generally rely on the guardian staff to help talk and
10 negotiate cases.

11 Guardians are my clients just like any other
12 client. I have to tell them reasonableness of what they
13 are seeking and whether it's justified by the law. But I
14 still take my direction from them.

15 You know, they're an independent voice to be
16 heard by the court, but I certainly tell them whether they
17 can do what they are asking for is legal or not as part of
18 my advice.

19 Q. Thank you. Just a few housekeeping issues.

20 Have you sought or received the pledge of any
21 legislator prior to this date?

22 A. No.

23 Q. Have you sought or have you been offered a
24 conditional pledge of support from any legislator pending
25 the outcome of your screening?

1 A. No.

2 Q. Have you asked any third party to contact members
3 of the general assembly on your behalf?

4 A. No.

5 Q. Are you aware of anyone attempting to intervene
6 in any part of the process on your behalf?

7 A. No.

8 Q. Have you contacted any members of the Commission?

9 A. No.

10 Q. Do you understand you are prohibited from seeking
11 a pledge of commitment until 48 hours after the formal
12 release of the Commission's report?

13 A. I am.

14 Q. Have you reviewed the Commission's guidelines on
15 pledging?

16 A. I have.

17 Q. And as a follow-up, are you aware of the
18 penalties for violating the pledging rules, that is; it is
19 a misdemeanor and upon conviction, the violator must be
20 fined not that \$1,000 or imprisoned not more than 90 days?

21 A. I have.

22 MR. DAVIDSON: I would note that the Upstate
23 Citizen Committee found Mr. Clark well-qualified in each
24 of the nine evaluative criteria, that is; constitution of
25 qualifications, physical health, mental stability, ethical

1 fitness, professional and academic ability, character,
2 reputation, experience, and judicial temperament. And the
3 Committee did not include any statements.

4 I would also note for the record that any
5 concerns raised during the investigation regarding the
6 candidate were incorporated into the questioning of the
7 candidate today.

8 Mr. Chairman, I have no further questions.

9 SEN. MARTIN: All right. Any questions from the
10 members of the Commission?

11 REP. BANNISTER: I've got just a couple
12 follow-ups.

13 SEN. MARTIN: All right. Mr. Bannister, then Mr.
14 Strom.

15 BY REP. BANNISTER:

16 Q. And this is sort of related to the work ethic.

17 You second your second career was being a lawyer.
18 What was your first career?

19 A. After I went to USC, I had a bachelors in
20 business administration and went to work for my father's
21 heating and air company.

22 Shortly after I came back into the company, my
23 father passed away, and I took over that company --

24 Q. And how did --

25 A. -- and ran that for about ten years.

1 Q. You ran that for ten years?

2 A. Yes, sir.

3 Q. And then you decided to go back to law school?

4 A. Yes, sir.

5 SEN. MARTIN: All right. Mr. Strom.

6 MR. STROM, JR.: Thank you, Mr. Chairman.

7 BY MR. STROM, JR.:

8 Q. Congratulations on having a lot of balls in
9 there, that's what it takes now I think to be successful.

10 But I do want to ask you a little bit about this
11 air conditioning business and how you would handle, for
12 example, if you were a judge and one of the lawyers
13 appearing before you wanted you to do the work at their
14 house or install something for them, would you feel like
15 you would need to disclose that to the other side before
16 you heard the case or one of the litigants that used you?
17 How would you handle that?

18 A. I would have to know about it first.

19 I don't do anything day to day with the heating
20 and air company, I have some excellent management staff
21 that runs it. I do keep up with quarterly financials.

22 But if someone disclosed that to me, I would
23 certainly make it aware to all the litigants and offer to
24 leave the courtroom and allow them to discuss it and see
25 if they wanted to waive any conflict or ask me to recuse

1 myself. But like I say, I don't -- I wouldn't even know
2 they're a client most likely. I don't know.

3 Q. But you could see how there would be an
4 appearance of impropriety if somebody was using you, and
5 whether you knew about it or not, people would think that
6 you did?

7 A. Certainly.

8 Q. And particularly in family court, often times
9 that's very heated and you have to make a decision because
10 you don't have the benefit of the jury, a judge decides
11 and there's that business relationship.

12 A. Yes, sir. I understand the appearance of it, and
13 I think it would be very important to disclose it if it's
14 brought up.

15 MR. STROM, JR.: Okay. Thank you.

16 SEN. MARTIN: Senator from Darlington.

17 BY SEN. MALLOY:

18 Q. Mr. Clark, how long have you been practicing law?

19 A. Ten years.

20 Q. How many abuses and neglect cases have you done?

21 A. I have done about 6,000 hearings. On average,
22 there's about 400 cases going at any one time in
23 Greenville County. I have been the contract attorney for
24 the guardian program for 8 years now. The last 2 years,
25 there has been a second contract attorney that would help

1 me. So the first six years, I did it by myself.

2 Q. So 10 years, that's 600 cases a year on average?

3 A. Four-hundred, yes, sir.

4 Q. Okay, 400. That's a lot of cases.

5 A. Yes, sir.

6 Q. And those, you are talking about the guardian ad
7 litem?

8 A. Yes, sir. Where I was representing the
9 volunteer.

10 SEN. MARTIN: All right. Mr. Bannister, do you
11 have any questions?

12 REP. BANNISTER: I do.

13 BY REP. BANNISTER:

14 Q. Do you have any personal experience in the --

15 Mr. Clark is a neighbor of mine. I won't begin
16 to tell you about his foster care experience.

17 Do you have any personal experience in foster
18 care?

19 A. I do. We've got two kids. They are 17 and 16.
20 And my wife and I wanted to foster care, and I wanted to
21 do older kids, and she wanted to do younger kids. So we
22 started out saying that we'd do 0 to 5. And we went
23 through Anderson, so there was many conflicts of interest.
24 And low and behold, they brought us a 4-week old baby for
25 the first time.

1 And unfortunately, the parents -- we didn't know
2 who the father was, but the mother was unable to do her
3 treatment plan. And I didn't want my wife to get her
4 hopes up for, you know, any kind of adoption or anything.
5 So we basically doubled the statutory times of no visit,
6 no support, and all that, and waited 12 months before we
7 even thought about trying to adopt.

8 And he came free for adoption. And we adopted
9 him and he has been a true joy to our life.

10 Q. How old is he now?

11 A. He's four.

12 REP. BANNISTER: That's all the questions I got.

13 SEN. MARTIN: All right. Anyone else?

14 Well, thank you very much --

15 MR. CLARK: Thank you.

16 SEN. MARTIN: -- Mr. Clark.

17 And this concludes this portion of the screening
18 process. As you know, the record may remain open until
19 the report is published and you could be called back, but
20 we don't anticipate that happening.

21 We remind every candidate, once again, of the
22 48-hour rule regarding commitments and when that can be
23 solved after the report is processed. And anyone acting
24 on your behalf, if you have knowledge of it, you need to
25 share that with them as well.

1 Again, thank you for offering and best wishes to
2 you.

3 MR. CLARK: Thank you. Thank you all.

4 (Pause in proceedings.)

5 SEN. MARTIN: Welcome, Ms. Dunbar.

6 MS. DUNBAR: Thank you.

7 SEN. MARTIN: Tarita A. Dunbar, would you please
8 raise your hand and take the oath.

9 TARITA A. DUNBAR,
10 having been first duly sworn
11 testified as follows:

12 EXAMINATION

13 BY SEN. MARTIN:

14 Q. Have you had the opportunity to review your
15 personal data questionnaire?

16 A. Yes, sir.

17 Q. Do you notice anything that needs to be changed
18 or any corrections or additions that you might need to
19 make?

20 A. No, sir.

21 Q. Do you object to us making this summary and any
22 amendments that you may provide as part of the record of
23 your sworn testimony today?

24 A. No, sir.

25 SEN. MARTIN: All right. It will be done at this

1 point in the transcript.

2 (Exhibit 44 was marked for
3 identification and attached hereto.)

4 SEN. MARTIN: The Judicial Merit Selection
5 Commission has thoroughly investigated your qualifications
6 for the bench.

7 Our inquiry has focused on nine evaluative
8 criteria and has included; a survey of -- a ballot box
9 survey, a thorough study of your application materials,
10 verification of your compliance with state ethics' laws,
11 search of newspaper articles in which you may have been
12 included, study of previous screenings, check for economic
13 conflicts of interest.

14 We have received no affidavits in opposition to
15 your election. No witnesses are here to testify in
16 opposition to you.

17 Do you have a brief opening statement you would
18 like to make?

19 A. Yes, sir. I just would like to thank Mrs. Emma
20 Dean who has been very professional and courteous to me
21 throughout this whole process; and also Mrs. Jane Shuler
22 who has also been courteous; and also Mrs. Jaynie Jordan
23 -- there she is -- she has been excellent and very kind.
24 I would just like to thank them so much, they're great.

25 SEN. MARTIN: Well, we appreciate that. We think

1 so too.

2 If you would answer Counsel Dean's questions,
3 we'd appreciate it.

4 MS. DUNBAR: Yes, sir.

5 MS. DEAN: Thank you, Mr. Chairman, and members
6 of the Commission. I have a procedural matter to take up
7 first with Ms. Dunbar.

8 BY MS. DEAN:

9 Q. Ms. Dunbar, you have before the sworn statement
10 that you provided with detailed answers to over 30
11 questions regarding judicial conduct, statutory
12 qualifications, office administration, and temperament.

13 Are there any additional amendments you would
14 like to make to that sworn statement now?

15 A. No, ma'am.

16 MS. DEAN: At this time, Mr. Chairman, I would
17 like to ask that Ms. Dunbar's sworn statement be entered
18 as an exhibit into the hearing record.

19 SEN. MARTIN: Is there any objection?

20 Hearing none, the sworn statement and any
21 amendment will be entered into the record at this time.

22 (Exhibit 45 was marked for
23 identification and attached hereto.)

24 BY MS. DEAN:

25 Q. Thank you. Ms. Dunbar, please state for the

1 record, the city and circuit in which you reside.

2 A. Greenville in the 13th judicial circuit.

3 MS. DEAN: And one final procedural matter.

4 I note for the record that based on the testimony
5 contained in Ms. Dunbar's personal data questionnaire,
6 which has been included in the record and with the
7 candidate's consent, Ms. Dunbar meets the statutory
8 requirements for this position regarding age, residency,
9 and years of practice.

10 BY MS. DEAN:

11 Q. Ms. Dunbar, why do you now want to serve as a
12 family court judge?

13 A. Well, right now, I wanted to continue to serve my
14 community and assistance of the state at-large.

15 I come from a family of public servants. My
16 great-grandfather was appointed mayor of a small community
17 of St. Paul in Clarendon County. And his two daughters
18 were -- went on to become teachers in that same community,
19 one of whom was my grandmother, who was the head teacher
20 of the Oak School in the 1920s.

21 And my mother was also a teacher in that small
22 community. And I was raised in that community. And I
23 also attended elementary school in that community. And it
24 was also in that community where I began to realize the
25 importance of a legal dissension -- decision that

1 affected, profoundly, in a positive way, my community.

2 And from there, I currently live in Greenville
3 County, and I practice in the family courts. So I have
4 been there about ten years. And I want to continue in
5 that tradition of serving the public and promoting public
6 confidence and the integrity and the impartiality and,
7 also, the impartiality and the fairness of the judiciary.

8 Q. Thank you, Ms. Dunbar.

9 And you just touched briefly on your legal
10 experience. Could you please explain further how your
11 legal and professional experience will prepare you to be a
12 family court judge.

13 A. Yes. I would be happy to. I started in my
14 professional career in private practice handling simple
15 divorce, custody, and visitation issues, and I tried a
16 case in probate court. And then I decided I wanted to be
17 a full-time mother and wife, and I took time off from my
18 legal profession.

19 And when my youngest child became school age, I
20 was fortunate enough to obtain a position with labor
21 license and regulations contract position. In that
22 position, I acquired decision-making skills and that was
23 -- which is very valuable to being a judge.

24 And in that decision-making time, I required --
25 it acquired me to be -- have legal skills to advise

1 non-lawyers who are on the board and they counted on me.
2 And I understand the importance of drafting accurate and
3 timely orders.

4 And during that time, when I was on the -- at the
5 labor licensing and regulation, my husband was asked of
6 his law firm to move to Greenville and head up a
7 Greenville office, and we decided to move to Greenville.
8 And that was almost ten years ago.

9 And then I started out. And since that ten
10 years, I have exclusively practiced in the family court.
11 And I have practiced in the area, starting out with child
12 abuse and neglect, TPRs, and adult protective services in
13 Spartanburg County.

14 And through that experience, I grasped the
15 importance of being calm -- and I need that right now --
16 being calm in highly-charged emotional situations.

17 And, also, I -- at some point, I learned the
18 importance of a heavy caseload. And, also, I learned my
19 way around a courtroom. I had to because in that
20 community, it was very litigious. People were not going
21 to go out -- go down without a fight when it came to
22 custody of their children.

23 So I learned how to question a witness. I
24 learned how to -- learned about chain of custody, how to
25 qualify a witness as an expert, how to introduce documents

1 without the testimony of witnesses. Hearsay, how to get
2 around hearsay. So all of that furthered my experience in
3 the legal profession.

4 And I also learned how to handle a docket by
5 myself. Because three months into the job, I was the sole
6 attorney for practicing in adult protective services,
7 abuse and neglect, and -- excuse me -- abuse and neglect
8 and TPR cases in both Cherokee County and Spartanburg
9 Counties.

10 So I learned pretty quickly. I handled my own
11 docket. And I learned -- I had to work on the weekends,
12 so I developed a high, high intensity of work ethic.

13 And, also, my youngest son was still in
14 elementary school, so I had to think about that. That was
15 a very hardship on my family, traveling to Spartanburg
16 back and forth and also to Gaffney. And I took a
17 position, very fortunate to receive a position, in child
18 support, which I currently hold.

19 And in that position, I -- I learned great skills
20 in negotiating. And it's also a highly-charged situation
21 when you're coming -- that's a whole other ball of wax
22 when you think you're taking custody of people's children.

23 Finances are another issue. And also when you're
24 dealing with child support, it sort of goes into the areas
25 of all other areas of divorce. I had the fortunate

1 experience of when I handled child support cases that I am
2 sometimes involved with issues that are talking about
3 custody and visitation.

4 Because -- now, I didn't file the complaints
5 regarding child custody or visitation. But because the
6 notice of assignment, DSS was involved as a party to the
7 case, I had the opportunity to witness other lawyers
8 handling their issues regarding visitation, child support,
9 and also touching on some issues of equitable distribution
10 and transmutation of marital property.

11 Because during that time, as well, I read tons of
12 cases to prepare for court. And in those court of
13 appeals' decisions, in those Supreme Court decisions,
14 child support interacts. And, also, in modifying child
15 support. Some of the same factors, exactly the same
16 factors that are used in modifying child support are used
17 in modifying alimony.

18 So I have a great deal of experience, even though
19 I hadn't actually practiced in alimony, I understand the
20 concept behind that. And I understand what to do in those
21 situations.

22 And I also have to deal in negotiating skills.
23 And also being in my position, it's unique, in that I
24 don't advocate for either the non-custodial parent or the
25 custodial parent. I have to be an objective position.

1 And part of my job duties require that I be
2 unbiased and be unprejudicial with both the non-custodial
3 parent and the custodial parent.

4 And in my experience and in listening to them,
5 having -- you have to have patience and great listening
6 skills because these people, they want to be heard. And
7 if they feel that they've had their day in court or they
8 feel like they've had -- the system works for them, then
9 they are less -- they are more likely to be less
10 contentious with each other and more likely to be
11 agreeable and compliant with the order, and that's good
12 for the community.

13 And I also hear them say sometimes, are you the
14 judge? No, I'm not the judge. I'm the attorney.

15 And they don't necessarily want to even go into
16 court because I have heard them out and listened to their
17 issues.

18 And we work very closely with the Fatherhood
19 Program. And on those issues, some of the issues that
20 prevent them -- also, when I'm negotiating listening, I've
21 learned, believe it or not, most people want to take care
22 of their children. But they have -- and there are a few
23 that you can't get through to, of course.

24 But the ones that you listen to, you under -- you
25 begin to understand that sometimes it's because of the

1 consequences of their actions when they've committed
2 crimes. And they understand they have to pay for those
3 consequences by, you've got to be in this program so you
4 can get the criminal record -- they help you get the
5 criminal record free, clear so they can obtain a job and
6 they understand that. They are required to do that.

7 And, also, sometimes the issues are visiting with
8 the children, visitation of the acrimony between the
9 parties. And you try to help -- hopefully resolve some of
10 those issues. The Fatherhood does a great job in
11 mediating some of those issues. I find people -- I am
12 sorry if I am taking too long.

13 Q. Thank you, Ms. Dunbar.

14 A. Okay.

15 Q. And you were kind of hinting towards this, could
16 you please describe what you believe is the appropriate
17 demeanor of a judge.

18 A. I believe if -- for me, I always know that I am a
19 servant because I work for the state. So I believe if you
20 have that attitude that you are a servant of the state,
21 that you won't have a problem being respectful of people,
22 realizing your time isn't just yours, it's also the
23 litigants and the parties that come before you.

24 Being respectful and courteous, those are things
25 that I have no problem with doing and I always do, even if

1 I obtained this position being off the bench doing that.
2 So that's an answer to that.

3 Q. Are there areas of the law, either subjective or
4 substantive, that you would need to prepare yourself in
5 order to be an effective family court judge?

6 A. I would like to say that, of course, I'm a -- I
7 have a great, healthy fear and respect of the law, which
8 brings about wisdom. So I would -- I have taken CLE --
9 on-line CLEs on qualified relation orders. I continue to
10 do that. I think there will be enough time for me to sit
11 in and observe DJJ cases.

12 And I've come to love -- since this process, I've
13 actually been studying. I've memorized all the family
14 court rules. Because I didn't realize when I did the bar
15 screening that I thought they were going to question me
16 about procedures. So I know a lot of rules of civil
17 procedure, so, of course, I do those things.

18 And also having no problem asking other seasoned
19 judges. I think that they will be there to help.

20 Q. Thank you, Ms. Dunbar.

21 And do you have any suggestions that you would
22 offer to help resolve the backlog of cases in the family
23 court?

24 A. Sure. When I first started out in Greenville
25 County, they started court at 9:00 o'clock. I would be

1 happy to start at 8:30, having a full day on Friday, going
2 past 5:00, if need be.

3 I know that Judge Ralph King Anderson has a
4 reputation of holding court until midnight.

5 Q. Now, Ms. Dunbar, as part of this process, we've
6 received ballot box surveys. And the Commission received
7 58 ballot box surveys regarding you, with five additional
8 comments.

9 For example, one of them stated -- many of them
10 contained very positive statements, including saying,
11 Miss Dunbar would make an excellent judge.

12 One of the written comments expressed a slight
13 concern that your experience was limited to DSS cases.
14 You've already talked about your expansive background, but
15 would you like to respond specifically to that?

16 A. Yes. Specifically, I would like to say that I
17 was also appointed by former Governor Stanford as the
18 human affairs commissioner and that gave me quasi judicial
19 experience.

20 And I think also, that not only just legal
21 experience, life experiences. I am mature. I am much
22 more mature than I was ten years ago. And also the
23 background of my life experience, coming from a divorced
24 family and also a family where a father didn't visit or
25 didn't support my mother.

1 But my mother was wise enough to -- to not say
2 anything negative about my father -- and I knew that my
3 father loved me, but circumstances were in the way. And
4 so from that, at a very young age, I developed a sense of
5 being fair and not prejudicial and not prejudging anyone.
6 So I think that would tend to help me as well.

7 And, also, I come from a predominantly -- not so
8 much of a religious family. And I now, I teach Sunday
9 school. My husband is a deacon in the church. All three
10 of my children are baptized. And I also attend an
11 integrated church, and I also live in an integrated
12 neighborhood. And so I think all those life
13 experiences -- I can go on and on, but I know time will
14 not permit.

15 Q. Thank you. In your materials, you say that you
16 sat for the bar three times. Would you like to briefly
17 address that?

18 A. Yes. That was a very low point in my life. I
19 was engaged to be married. And I tell you one thing, I
20 took a positive out of that negative experience. And that
21 was that I don't go anywhere without being prepared. So I
22 truly think that that's helped me. And I try to take from
23 that experience. I always look at life now as taking a
24 positive out of a negative, and I tell that to my children
25 all the time.

1 MS. DEAN: Thank you, Ms. Dunbar.

2 Mr. Chairman, at this time, I would like to
3 request that we now go into executive session to handle a
4 matter.

5 SEN. MARTIN: All right. No objection, we will
6 consider ourselves in executive session.

7 (The members went into executive session.)

8 - - - - -

9 (The members came out of executive session.)

10 SEN. MARTIN: We're back on the record.

11 BY MS. DEAN:

12 Q. Thank you, Mrs. Dunbar. I just now have some
13 quick housekeeping issues.

14 Have you sought or received the pledge of any
15 legislator prior to this date?

16 A. No, ma'am.

17 Q. Have you sought or have you been offered a
18 conditional pledge of support of any legislator pending
19 the outcome of your screening?

20 A. No, ma'am.

21 Q. Have you asked any third party to contact members
22 of the general assembly on your behalf?

23 A. No, ma'am.

24 Q. Are you aware of anyone attempting to interfere
25 in any part of the process on your behalf?

1 A. Well, I have to be honest. I just recently
2 learned one of my neighbors, who I asked to write a
3 recommendation for me, wrote two letters additionally to,
4 I believe, some members of the house or senate. I can't
5 -- I don't even know who. But she was thinking she was
6 supposed -- doing something for me, but I didn't tell her
7 to do that though.

8 Q. Have you contacted any members of the Commission?

9 A. No. No, ma'am.

10 Q. Okay. And other than what you just disclosed,
11 are you aware of anyone attempting to interview in any
12 part of process on your behalf?

13 A. No, ma'am.

14 Q. Do you understand that you are prohibited from
15 seeking a pledge or commitment until 48 hours after the
16 formal release of the Commission's report?

17 A. Yes, ma'am.

18 Q. Have you reviewed the Commission's guidelines on
19 pledging?

20 A. Yes, ma'am.

21 Q. As a follow-up, are you aware of the penalties
22 for violating the pledging rules, that is, it is a
23 misdemeanor and upon conviction, the violator must be
24 fined not more than \$1,000 or imprisoned not more than 90
25 days?

1 A. Yes, ma'am.

2 MS. DEAN: I would note that the Upstate Citizens
3 Committee report found Ms. Dunbar well-qualified in all of
4 the evaluative criteria categories. And the Committee did
5 not include any comments.

6 I would just note for the record that any
7 concerns raised during the investigation regarding the
8 candidate were incorporated into today's questioning.

9 Mr. Chairman, I have no further questions.

10 SEN. MARTIN: Thank you so much.

11 Any questions from members of the Commission?

12 SEN. MARTIN: Senator from Darlington.

13 SEN. MALLOY: I just want to make a point to the
14 members of the Committee that I went on a vacation once
15 with Mrs. Dunbar and what I found was that neither one of
16 them could swim.

17 MS. DUNBAR: That is true considering I spent all
18 of my holidays at Santee State Park. I can survive in the
19 water, but I can't really swim.

20 SEN. MARTIN: Well, Ms. Dunbar, thank you very
21 much.

22 MS. DUNBAR: Well, thank you all so much. I
23 appreciate it. Thank you.

24 SEN. MARTIN: This will complete this portion of
25 the screening process. As you know, the record will

1 remain open --

2 MS. DUNBAR: Yes, sir.

3 SEN. MARTIN: -- until such time it is published.

4 And there could be a need to call you back with any
5 question that comes up. We don't anticipate anything like
6 that happening.

7 I do want to remind you about the 48-hour rule --

8 MS. DUNBAR: Yes, sir.

9 SEN. MARTIN: -- as it applies to both you and
10 anyone you may talk to who, in turn, may want to talk to
11 members of the general assembly prior to the report being
12 published and 48 hours' latching.

13 So again, thank you for your willingness to
14 serve. And best wishes to you.

15 MS. DUNBAR: Thank you, Senator Martin.

16 (Pause in proceedings.)

17 SEN. MARTIN: Kathryn Gooch, welcome.

18 MS. GOOCH: Thank you. Thank you for having me.

19 SEN. MARTIN: Would you raise your right hand and
20 take the oath.

21 KATHRYN W. GOOCH,

22 having been first duly sworn

23 testified as follows:

24 EXAMINATION

25 BY SEN. MARTIN:

1 Q. Have you had the opportunity to review your
2 personal data questionnaire?

3 A. I have, yes.

4 Q. Is it correct? Does anything need to be changed?

5 A. I do have a letter of amendment that I would like
6 to submit to amend PDQ number 43 to reflect campaign
7 expenditures over \$100. And I have those expenses listed.

8 I have a letter to give to you and a copy to
9 Ms. Shuler -- two copies to Miss Shuler.

10 BY SEN. MARTIN:

11 Q. Okay. Do you object to our making this summary
12 and any amendments part of your sworn testimony?

13 A. No objection.

14 SEN. MARTIN: Okay. Well, they will be done at
15 this point in the transcript.

16 (Exhibit 46 was marked for
17 identification and attached hereto.)

18 BY SEN. MARTIN:

19 Q. The Judicial Merit Selection Commission has
20 thoroughly investigated your qualifications for the bench.

21 Our inquiry has focused on nine evaluative
22 criteria and has included; a ballot box survey, a thorough
23 study of your application materials, verification of your
24 compliance with state ethics' laws, search of newspaper
25 articles in which your name may appear, study of

1 previously screenings, a check for a conflict of interest
2 or economic conflicts of interest.

3 We have no affidavits in opposition to your
4 election. No witnesses are present to testify.

5 I see you have some folks that came in with you.
6 Would you like to introduce them to the members of the
7 Committee?

8 A. Yes. Thank you. It's a pleasure.

9 This is my husband, Matthew Gooch. And this is
10 my four-year old daughter, Evelyn; this is my mother,
11 Martha Baton -- please sit up -- this is my nine-year old
12 son, Benjamin; and my seven-year old daughter, Abigail.

13 Q. Thank you.

14 A. They are here under threat and bribe.

15 Q. Well, welcome. I'm sure they're going to do just
16 fine.

17 Do you have a brief opening statement for us?

18 A. I don't. Your time is precious so I'm open for
19 questions.

20 SEN. MARTIN: Brevity is clarity.

21 And Counsel Shuler will ask some questions, if
22 you can respond to her at this time, please.

23 BY MS. SHULER:

24 Q. Good afternoon, Miss Gooch.

25 A. Good afternoon.

1 MS. SHULER:: I have a few procedural matters to
2 take care of with this candidate.

3 BY MS. SHULER:

4 Q. Miss Gooch, you have before you the sworn
5 statement you provided with detailed answers to over 30
6 questions regarding judicial conduct, statutory
7 qualifications, office administration, and temperament.

8 Are there any amendments that you would like to
9 make at this time to your sworn statement?

10 A. No, there are not.

11 MS. SHULER: Mr. Chairman, I would like to ask
12 that Miss Gooch's sworn statement be entered into the
13 hearing record as an exhibit.

14 SEN. MARTIN: Is there any objection?

15 Hearing none, the sworn statement and any
16 amendments would be entered into the record at this time.

17 (Exhibit 47 was marked for
18 identification and attached hereto.)

19 BY MR. SHULER:

20 Q. Mrs. Gooch, would you state your city and circuit
21 of residence.

22 A. The city is Simpsonville, South Carolina. The
23 circuit is 13th judicial circuit.

24 Q. Miss Gooch, after practicing law since 1994, why
25 do you now want to serve as a family court judge?

1 A. With the diversity of experience that I have, I
2 believe that I am the most-qualified candidate. I have
3 had experience in almost every area in family court from
4 being involved in private practice with family court.

5 I was a DJJ attorney for the defendants. I am a
6 certified -- or was a certified family court mediator, and
7 have now served as a staff attorney for the Department of
8 Social Services. In addition, I have served as the
9 guardian ad litem.

10 I don't know of any other candidate that has the
11 diversity and breadth of experience that I have. I know
12 that I would service you well.

13 Q. Thank you. Can you explain to the Commission how
14 you feel your legal and professional experience thus far
15 will assist you to be an effective judge.

16 I think you've touched on it, is there anything
17 you would like to add?

18 A. It's just, I've got 19 years of experience. And
19 I that that would certainly give me the experience I need
20 to serve that seat well.

21 Q. Are there any areas, including subjective areas
22 of law, that you would need additional preparation in
23 order to serve. And if so, how would you undergo that
24 additional preparation?

25 A. At this point, I don't believe there is any other

1 area of law that I would need additional preparation in,
2 in order to serve the seat.

3 Q. Miss Gooch, although you addressed this in your
4 sworn statement, can you please explain to the members of
5 the Commission what you believe to be the appropriate
6 demeanor for a judge.

7 A. The appropriate demeanor of a judge needs to be
8 one with integrity, one with common sense, and one with
9 the practical application of the law to the facts.

10 Q. What suggestions would you offer for improving
11 the backlog of cases on the docket in family court?

12 A. I think that's something that faces anyone who
13 practices in family court on a daily basis. And I have a
14 few ideas of what I think would help with the backlog.

15 One is our new OID, the Office of Indigent
16 Defense, contract attorney system. From a practical
17 standpoint, it is not working well as it is, and, in fact,
18 it's causing an increase in the backlog of the family
19 court.

20 I would either suggest increasing the number of
21 contract attorneys that we have in the institutional cases
22 or to diversify it and have more than just a handful for
23 every county.

24 A second thing I would suggest is just from
25 experience, from the institutional days in family court,

1 are almost like black holes of docket time. You either
2 use up all that time, or you use several cases very
3 quickly, and then there is an afternoon left with nothing
4 left to do for the judge.

5 So I would suggest implementing a "B" case status
6 perhaps for the afternoon dockets on institutional days.
7 By "institutional days," I mean both DJJ and DSS days.

8 And then I think a third thing would be in
9 Greenville County, we start at 9:30. That was implemented
10 several years ago. That 30-minute period of time, I think
11 is crucial. I think we should go back to the 9 o'clock
12 starting time. And I think that those things would
13 certainly help with the backlog.

14 And it's something that -- it's just -- I don't
15 know -- I don't know what the feeling would be, but to
16 have bench warrants in the afternoons rather than in the
17 morning, I think judges might be a little bit more
18 motivated to have those done more quickly, if they are
19 starting in the afternoon rather than at 9 o'clock in the
20 morning.

21 So those are just four ideas that I thought of
22 from a practical standpoint that I think really would help
23 eliminate the backlog.

24 Q. Thank you, Ms. Gooch.

25 The Commission received 88 ballot box surveys

1 regarding you with several additional comments. The
2 ballot box survey, for example, contained the following
3 positive comments:

4 Kathryn Gooch is extremely well-qualified. She
5 is knowledgeable, confident, and compassionate. She would
6 do an excellent job as a family court judge. As a DSS
7 attorney, she has experienced the worst in family law. I
8 feel that her knowledge and temperament would serve her
9 well as a judge.

10 Two of the seven additional comments expressed
11 concerns. One comment indicated that you do not have
12 enough experience for this position.

13 I would ask, what response would you offer to the
14 Commission regarding your experience level?

15 A. Well, I would go back to, I think, one of my
16 original statements. I think there is nobody who has the
17 experience that I have. Whoever wrote that comment must
18 have only known me as an DSS attorney, which has been my
19 area of experience since about 2002, 2003.

20 I certainly do have the diversity of experience.
21 I was public defender for juveniles in the DJJ proceedings
22 for two years. I was in private practice for a number of
23 years practicing in family court.

24 I am a certified -- or was a certified family
25 court mediator. I have served as a guardian ad litem in

1 adoption and other cases.

2 I do believe that I have the diversity of
3 experience that would serve this seat well.

4 Q. Thank you. The second concern stated that the
5 respondent has "concerns" regarding your judgment and
6 doesn't provide any specifics regarding your judgments.

7 What response would you offer this concern?

8 A. Well, again, I would like to know more about what
9 gave rise to that comment. I would think that that
10 comment would come only from somebody who has worked with
11 me through DSS.

12 And as an DSS attorney, I certainly am limited to
13 the amount of flexibility that I have in the findings that
14 we're seeking and the treatment plans that we are
15 offering.

16 I do hope that my colleagues would find me to be
17 very easy to work with, that they would find me to be
18 somebody who would like to think to work outside of the
19 box a little bit more. But I am still constrained by the
20 policies and procedures and the decisions made by the
21 agency that I have to promote.

22 Q. Thank you. Miss Gooch, you noted in your PDQ
23 that a tax lien was filed against you in the late 1990s.
24 Your SLED report also reflected a tax lien filed in
25 December 2001 in the amount of \$1,082, which you stated in

1 your interview with staff was the same lien that you
2 reported in your PDQ.

3 Please explain the circumstances regarding the
4 filing of this lien and the status of this lien.

5 A. Thank you. Yes. This is a tax lien from the
6 year 1998. It is in the amount of \$849 plus penalties and
7 taxes. That came up to the \$1,010.19. It was from the
8 tax year of 1998. It was a state tax.

9 The lien was filed in 2000 -- in the year 2000,
10 April of 2000. And then it was -- I'm sorry -- it was
11 filed in February of 2000, and then it was satisfied on
12 March 14th of 2000. As soon as I discovered the existence
13 of the lien, I did pay it in full, and it is marked as
14 satisfied.

15 MS. SHULER: All right. Mr. Chairman, I would
16 like to request that we now go into executive session to
17 handle a very brief matter.

18 SEN. MARTIN: Any objection?

19 Hearing none, we'll briefly go into executive
20 session.

21 (The members went into executive session.)

22 - - - - -

23 (The members came out of executive session.)

24 SEN. MARTIN: We're back on the record.

25 BY MS. SHULER:

1 Q. Miss Gooch, I have a few housekeeping issues to
2 cover with you.

3 Have you sought or received the pledge of any
4 legislator prior to this day?

5 A. No.

6 Q. Have you sought or have you offered a conditional
7 support of any legislator pending the outcome of your
8 screening?

9 A. No.

10 Q. Have you asked any third parties to contact
11 members of the general assembly on your behalf?

12 A. No.

13 Q. Are you aware of anyone attempting to intervene
14 in any part of the process on your behalf?

15 A. No.

16 Q. Have you contacted any members of the Commission?

17 A. No.

18 Q. Do you understand that you are prohibited from
19 seeking a pledge or commitment until 48 hours after the
20 release of the Commission's report?

21 A. I understand that, yes.

22 Q. Have you reviewed the Commission's guidelines on
23 pledging?

24 A. Yes, I have.

25 Q. Are you aware of the penalties for violating the

1 pledging rules, and that is; it's a misdemeanor and upon
2 conviction, the violator must be fined not more than
3 \$1,000 or imprisoned not more than 90 days?

4 A. I am aware of that, yes.

5 MS. SHULER: I would note that the Upstate
6 Citizens Committee found Miss Gooch qualified in the
7 evaluative criteria of constitutional qualification.

8 The Committee found her well-qualified in the
9 evaluative criteria of physical health, mental stability,
10 ethical fitness, professional and academic ability,
11 character, reputation, experience, and judicial
12 temperament.

13 And I would just note for the record that any
14 concerns raised during the investigation of the candidate
15 were incorporated into my questioning of the candidate
16 today.

17 And, Mr. Chairman, I have no further questions of
18 Miss Gooch.

19 SEN. MARTIN: All right. Any questions for
20 Miss Gooch by any members of the Commission?

21 REP. BANNISTER: I might have just one comment.

22 SEN. MARTIN: Representative Bannister.

23 REP. BANNISTER: For the benefit of your
24 children, congratulations in having the highest score of
25 any other candidate for family court.

1 MS. GOOCH: Thank you very much.

2 REP. BANNISTER: You had to work hard for that,
3 so thank you.

4 MS. GOOCH: Thank you.

5 SEN. MARTIN: Ms. Gooch, thank you so much.

6 That concludes this portion of our screening
7 process. As you know, you could be called back prior to
8 the publishing of our report. That's probably not going
9 to happen under any circumstance, but it is a possibility.

10 I remind all candidates of the 48-hour rule, once
11 again, so there is no misunderstanding, of anybody who may
12 work hard or on somebody -- a third party on your behalf,
13 you need to remind them if someone discusses it with you.

14 We just want to thank you for your willingness to
15 serve and for your being here and cooperation with our
16 staff.

17 MS. GOOCH: Well, thank you. I know this is time
18 off from your regular schedule for being in session. So
19 thank each of you for being here today and devoting such
20 time. I wouldn't be in your shoes, I don't think, for
21 anything.

22 SEN. MARTIN: Well, thank you very much. Y'all
23 take care.

24 MS. GOOCH: Thank you.

25 (Pause in proceedings.)

1 SEN. MARTIN: Ms. Nichols-Graham, welcome.

2 MS. NICHOLS-GRAHAM: Thank you.

3 SEN. MARTIN: Delighted to have you with us.

4 Would you raise your right hand and take the
5 oath.

6 KIMAKA NICHOLS-GRAHAM,
7 having been first duly sworn
8 testified as follows:

9 EXAMINATION

10 BY SEN. MARTIN:

11 Q. Have you had the opportunity to review your
12 personal data questionnaire?

13 A. Yes, sir.

14 Q. Is there any corrections that need to be made,
15 anything that needs to be changed?

16 A. No, sir.

17 Q. Do you object to our making this summary and any
18 amendments as part of the record of your sworn testimony?

19 A. No, sir.

20 SEN. MARTIN: It will be done at this point in
21 the transcript.

22 (Exhibit 48 was marked for
23 identification and attached hereto.)

24 BY SEN. MARTIN:

25 Q. The Judicial Merit Selection Commission has

1 thoroughly investigated your qualifications for the bench.

2 Our inquiry has focused on nine evaluative
3 criteria and has included; a ballot box survey, a thorough
4 study of your application materials, verification of your
5 compliance with state ethics' laws, search of newspapers
6 articles in which your name may appear, study of previous
7 screenings, check of economic conflicts of interest.

8 We have no affidavits in opposition to your
9 election. No witnesses are here to testify.

10 Do you have a brief opening statement you would
11 like to make?

12 A. Yes, I do. I would like to make a brief
13 statement, just so you will have to some context in which
14 to put the answer to my other questions.

15 I have a slightly different background, being
16 that I am the only lawyer in my family, and I come from a
17 small, rural community. And so some of my answers, it may
18 take me a couple of seconds to compose my words because we
19 are a public record. But I am ready to proceed.

20 SEN. MARTIN: Would you mind answering some
21 questions of our counsel.

22 MR. DAVIDSON: Thank you, Mr. Chairman.

23 First I have some procedural matters to take care
24 of with this candidate.

25 BY MR. DAVIDSON:

1 Q. Good afternoon, Miss Nichols-Graham.

2 You have before you the sworn statement you
3 provided with detailed answers to over 30 questions
4 regarding; judicial conduct, statutory qualifications,
5 office administration, and temperament, as well as an
6 amendment that you provided to the Commission.

7 Are there any additional amendments you would
8 like to make at this time to your sworn statement?

9 A. No, there are not.

10 MR. DAVIDSON: At this time, Mr. Chairman, I
11 would ask that Miss Nichols-Graham's sworn statement be
12 entered as an exhibit into the record.

13 SEN. MARTIN: Is there any objection?

14 Hearing none, the sworn statement will be entered
15 into the record at this time.

16 (Exhibit 49 was marked for
17 identification and attached hereto.)

18 BY MR. DAVIDSON:

19 Q. Miss Nichols-Graham, please state for the record
20 the city and circuit in which you reside.

21 A. Greenville, South Carolina. The 13th judicial
22 circuit.

23 MR. DAVIDSON: Thank you.

24 One final procedural matter. I note for the
25 record that based on the testimony contained in the

1 candidate's personal data questionnaire, which has been
2 included in the record with the candidate's consent,
3 Miss Nichols-Graham meets the statutory requirements for
4 this position regarding age, residence, and years of
5 practice.

6 BY MR. DAVIDSON:

7 Q. Miss Nichols-Graham, could you please explain to
8 the Commission why you now would like to serve as a family
9 court judge.

10 A. Yes. I have been privileged to work with the
11 public as a Legal Services' attorney. Before I went to
12 law school and before I completed my formal education,
13 there is certain things about my background that
14 introduced me to family court.

15 I am well aware of all the matters that would --
16 that would come ordinarily before a family court judge,
17 all of the different types of cases. I have had the
18 privilege of arguing the different sides of the different
19 issues. I am comfortable with communicating with people
20 from various backgrounds.

21 My entire career has been without fear or favor,
22 and I believe that I'm that -- I'm the proper person to
23 serve the state in this capacity.

24 Q. Thank you. Can you explain also how you feel
25 your legal and professional experience thus far will

1 assist you to be an effective judge.

2 A. I have practiced in the family court on the
3 private docket on private cases. I have handled divorce
4 custody cases. I have handled custody cases. I've
5 handled child support enforcement cases. I have been
6 involved and handled abuse and neglect cases. I have also
7 had the opportunity to prepare appeals before the court of
8 appeals.

9 As a Legal Services' attorney, we do not get to
10 choose or pick which side or which type of case that we
11 will primarily practice in. So any given day of the week,
12 I am dealing with different issues.

13 We primarily -- we handle a lot of consumer, as
14 well as family law. I also have had the opportunity to
15 practice in the bankruptcy court, which -- which is
16 relevant to a family -- family court practice.

17 As the managing attorney of a Legal Services'
18 office, I also screen cases. We have people that apply
19 for legal services on a daily basis. And as you know when
20 it comes to civil court, there is no entitlement or no
21 right to an attorney on the civil side, except for an
22 abuse or neglect or a termination of parental rights'
23 cases.

24 And so I am responsible for safeguarding the
25 public trust and making sure that we do not accept cases

1 that are not meritorious or do not -- are not appropriate
2 for -- for free civil legal services.

3 So on a routine basis, I have to screen cases and
4 determine who will -- who will receive free civil legal
5 services.

6 And I have a background and I understand the
7 working poor, and I understand people who are much more
8 fortunate as well.

9 And -- and I am well aware of the various issues
10 that may come in front of a family court judge, from the
11 order protections as well. I am familiar with domestic
12 violence issues. I am familiar with how to deal with
13 counsel, how to deal with any type of litigant, even if
14 they have some type of mental impairment, if they have
15 been blessed with a higher-education background or very
16 little or no education in their background.

17 I have the ability to communicate with people who
18 are dealing with crisis. And that is one of the things
19 that I consider to be one of my talents, the ability to
20 communicate with people who are going through difficult
21 times, as well as those who are not going through
22 difficult times.

23 Q. Thank you. Are there any areas, including
24 subjective areas of the law, that you would need to
25 additionally prepare for in order to serve as a judge, and

1 how would you handle that additional preparation?

2 A. I would like to experience some other cases in
3 the juvenile justice capacity or area of law in family
4 court. I have had some cases that have brought me before
5 a family court judge in juvenile-justice-type cases. My
6 experience is not as deep, I would say.

7 When it comes to juvenile justice, it's not as if
8 I do not have experience in that area, but if there were a
9 weak area, that would be a weak area. And I am prepared
10 to observe those hearings. I am prepared to continue to
11 study those types of cases and to offset any weaknesses
12 that I may have in that area.

13 Q. Thank you. Although you addressed this in your
14 sworn affidavit, could you please explain to the members
15 of the Commission what you think is the appropriate
16 demeanor for a judge.

17 A. I think a judge has to -- has to maintain control
18 of the courtroom. You have to have a certain -- you have
19 to control your temperament. You need to treat people
20 respectfully, regardless of the things that they are
21 accused of doing, regardless of the things that they have
22 accomplished.

23 And so you would need to be -- I believe an
24 appropriate temperament is a calm, even-handed temperament
25 for a family court judge.

1 And regardless of the facts that are before you
2 or the allegations that are before you, you should treat
3 everyone with respect. And you should not let your
4 emotions show, it's not the appropriate place.

5 Q. And what suggestions would you offer for
6 improving the backlog of cases on the docket in the family
7 court?

8 A. We have recently implemented some of the -- some
9 changes to the family courts across the state that we have
10 already been doing in some areas of the state. I look
11 forward to continuing that.

12 As well as, for instance, Justice Toal's order
13 whereas we're using -- we're limiting the amount of
14 affidavits to eight pages for family court. We're
15 limiting the amount of time that attorneys can request for
16 temporary hearings.

17 Also, in some counties, they're -- well, in
18 addition to that, in some counties, attorneys are allowed
19 to request additional temporary hearings without the
20 permission of a court.

21 I think if we would take a look at that practice,
22 that could help the docket, in addition to the recent
23 changes that we have recently implemented in family court.

24 Q. Thank you. The Commission received 60 ballot box
25 surveys regarding your candidacy with 9 additional

1 comments. The ballot box survey, for example, contain the
2 following positive comments:

3 She has always shown superior abilities to
4 analyze and solve problems. She exhibits a high degree of
5 patience and diplomacy when dealing with attorneys and
6 clients. She is incredibly bright, well-organized, and
7 fair minded. I think she would be an excellent candidate
8 for the position.

9 And lastly, Miss Nichols-Graham is an exemplary
10 member of our bar. She is fair, just, impartial, and has
11 a great legal mind. I believe that she would be an
12 extraordinary court judge and highly recommend her for
13 this judicial position.

14 Zero of the written comments expressed concerns.

15 Just a few more housekeeping issues.

16 Have you sought or received the pledge of any
17 legislator prior to this date?

18 A. No, I have not.

19 Q. Have you sought or have you been offered a
20 conditional pledge of support of any legislator pending
21 the outcome of your screening?

22 A. No, I have not.

23 Q. Have you asked any third parties to contact
24 members of the general assembly on your behalf?

25 A. No, I have not.

1 Q. Are you aware of anyone attempting to intervene
2 in any part of the process on your behalf?

3 A. No, I am not.

4 Q. Have you contacted any members of the Commission?

5 A. No, I have not.

6 Q. Do you understand that you are prohibited from
7 seeking a pledge of commitment until 48 hours after the
8 formal release of the Commission's report?

9 A. I understand.

10 Q. Have you reviewed the Commission's guidelines on
11 pledging?

12 A. Yes, I have.

13 Q. And as a follow-up, are you aware of the
14 penalties for violating the pledging rules, that is; it is
15 a misdemeanor and upon conviction, the violator must be
16 fined not more than \$1,000 or imprisoned not more than
17 90 days?

18 A. I am aware.

19 MR. DAVIDSON: I would note that the Upstate
20 Citizens Committee found Miss Nichols-Graham
21 well-qualified in each of the nine evaluative criteria,
22 that is; constitutional qualifications, physical health,
23 mental stability, ethical fitness, professional and
24 academic ability, character, reputation, experience, and
25 judicial temperament. And the Committee did not include

1 any statements.

2 And, lastly, I would note for the record that any
3 concerns raised during the investigation regarding
4 Miss Nichols-Graham were incorporated into the questioning
5 of the candidate today.

6 Mr. Chairman, I have no further questions.

7 SEN. MARTIN: Any questions from members of the
8 Commission?

9 Yes, Representative.

10 REP. MACK: Thank you.

11 BY REP. MACK:

12 Q. I notice looking at your -- at your courses that
13 you've lectured, you've done a lot of talks as relates to
14 serving people, working with people, and it's very
15 impressive.

16 How do you -- how would that translate, do you
17 think, into sitting on the bench in family court where a
18 lot of what you will see will be contentious and
19 confrontational?

20 A. I think -- I believe it translates quite well. I
21 am quite familiar with working with various backgrounds
22 and communicating with people with various backgrounds.

23 I would still, you know, like to be an active
24 member of the bar. And if asked to do any type of
25 trainings or lecturings (sic), I would -- if at all

1 possible, I would accommodate those requests so that I can
2 continue to share information and be an active member of
3 the bar.

4 SEN. MARTIN: Any other questions?

5 SEN. CAMPSSEN: I have one.

6 SEN. MARTIN: Yes. Senator from Charleston.

7 BY SEN. CAMPSSEN:

8 Q. Thank you for your willingness to serve.

9 And my questions is: It appears to me that your
10 -- all of your legal experience has been working with
11 Legal Services; is that correct? Am I correct in that?

12 A. You are correct. I began working with Legal
13 Services the day after I was born into the South Carolina
14 bar.

15 Q. What would you say to someone who was concerned
16 about that, of not having a broader field of experience as
17 far as working in a private practice, maybe working for
18 DSS, et cetera, et cetera, like many judicial candidates
19 for family court that come before us now? What would your
20 response be?

21 A. I would take a look at explaining the various
22 types of law that we practice at Legal Services. Because
23 we provide civil legal services, we do everything except
24 for the criminal side.

25 We handle a lot of areas of law that attorneys

1 would not have the opportunity to do if they were in a
2 sole practice or a small practice.

3 In addition to that, because I'm at Legal
4 Services, my family law practice has not been limited to
5 just one type or one area of family law, which is what you
6 would traditionally see had I been a family practitioner,
7 you know, not at Legal Services.

8 So my argument or response to that is, because I
9 have been at Legal Services, that has broadened my
10 perspective especially as it relates to family law.

11 It is rare that you would find a family law
12 attorney that practices in every single area of family
13 law. You would usually find somebody who does only abuse
14 and neglect or only handles divorce or custody.

15 Or there are very few attorneys that only do
16 adoptions, some that only do child support enforcement.
17 Some never appear on the private docket -- some always --
18 only appear on the private docket. We do it all.

19 SEN. MARTIN: All right. Well,
20 Miss Nichols-Graham, we appreciate so much your being here
21 today. And that concludes this portion of the screening
22 process.

23 As you know, the record will remain open and you
24 could be called back, it's very doubtful, for additional
25 information if need be.

1 I will remind you again, as we do all candidates,
2 about the 48-hour rule and anyone who may advocate on your
3 behalf that you're aware of, you need to remind them of
4 that as well.

5 Again, thank you for offering and for your
6 willingness to serve South Carolina.

7 MS. NICHOLS-GRAHAM: Thank you.

8 (Pause in proceedings.)

9 SEN. MARTIN: Mr. Hodges, welcome.

10 MR. HODGES: Thank you for having me.

11 SEN. MARTIN: It's good to have you with us.

12 Would you please raise your hand and take the
13 oath.

14 THOMAS T. HODGES,
15 having been first duly sworn
16 testified as follows:

17 EXAMINATION

18 BY SEN. MARTIN:

19 Q. All right. Have you had the opportunity to
20 review your personal data questionnaire?

21 A. Yes, I have.

22 Q. Have you seen any changes or corrections we need
23 to make?

24 A. No, sir.

25 Q. Do you object to our making this part of your --

1 this part of the record, your sworn testimony?

2 A. No objection at all.

3 SEN. MARTIN: Okay. It will be done at this
4 point in the transcript.

5 (Exhibit 50 was marked for
6 identification and attached hereto.)

7 BY SEN. MARTIN:

8 Q. The Judicial Merit Selection Commission has
9 thoroughly investigated your qualifications for the bench.

10 Our inquiry has focused on nine evaluative
11 criteria. It has included a ballot box survey, a thorough
12 study of your application materials, verification of your
13 compliance with state ethics' laws, search of newspaper
14 articles in which your name may appear, study of previous
15 screenings, check for economic conflicts of interest.

16 We have no affidavits filed in opposition to your
17 election. No witnesses are present to testify.

18 Do you have a brief opening statement you would
19 like to make?

20 A. Only that I know y'all have a long day or have
21 had a long day and have a long day after this, so I'll
22 keep that short. And thank you for letting me be here.

23 Q. Do you have someone with you you'd like to
24 introduce to the Commission?

25 A. Yes. This is my wife, Carol Anne. Twenty-five

1 years and best friend for twenty-five years.

2 SEN. MARTIN: Well, great. Welcome. Good to
3 have you with us.

4 Would you answer the questions of our counsel?

5 MR. HODGES: Yes, sir.

6 MR. DENNIS: Good afternoon, Mr. Hodges.

7 MR. HODGES: Good afternoon.

8 MR. DENNIS: Mr. Chairman and members of the
9 Commission, I have a procedural matter to take care of
10 with Mr. Hodges.

11 BY MR. DENNIS:

12 A. Mr. Hodges, you have before you the sworn
13 statement you've provided with detailed answers to over 30
14 questions regarding judicial conduct, statutory
15 qualifications, office administration, and temperament.

16 Are there any amendments that you would like to
17 make to your sworn statement?

18 A. No.

19 MR. DENNIS: At this time, Mr. Chairman, I would
20 like to ask that Mr. Hodges' sworn statement be entered as
21 an exhibit into the hearing record.

22 SEN. MARTIN: All right. Any objection?

23 Hearing none, the sworn statement and any
24 amendments will be entered into the record at this time.

25 (Exhibit 51 was marked for

1 identification and attached hereto.)

2 BY MR. DENNIS:

3 Q. Mr. Hodges, please state for the record the city
4 and circuit in which you reside.

5 A. I live in Greenville and that's the 13th circuit.

6 MR. DENNIS: One final procedural matter. I note
7 for the record that based on the testimony contained in
8 the candidate's personal data questionnaire, which has
9 been included in the record with the candidate's consent,
10 Mr. Hodges meets the statutory requirements for this
11 position regarding age, residence, and years of practice.

12 BY MR. DENNIS:

13 Q. Mr. Hodges, why do you now want to serve as a
14 family court law judge?

15 A. Well, for the past ten years, I have practiced
16 exclusively in the family court. Every time I go into the
17 courtroom, I am reminded that the judge is making a
18 decision that's going to affect somebody probably for the
19 rest of their lives. And we need judges who will make the
20 right decisions.

21 And at the risk of sounding immodest, I think I
22 have the skills and experience necessary to make the right
23 decisions on a consistent basis. In other words, I think
24 I would be good at it. And if I'm good at it and
25 providing a good service to the community, then I am

1 getting something back. And generally, when you are good
2 at something, you tend to like it. So I think it's sort
3 of a win/win all around.

4 Q. Mr. Hodges, can you explain to the Commission how
5 you feel your legal and professional experience thus far
6 will assist you in being an effective judge.

7 A. Well, as I said, for the last ten years, I have
8 only practiced in family court. I have handled, I don't
9 know how many hundreds of cases dealing with people who
10 have next to nothing, to people who have millions of
11 dollars and a lot of emotional issues.

12 Prior to that, I was a labor lawyer for 16 years.
13 And both, I guess, careers, if you want to call it that,
14 it seems like people value two things in their life; and
15 that's their family and that's their job. And so for
16 26 years, I have been dealing with people who have had
17 issues with two of the most important things in their
18 lives, and it's very stressful for all of them.

19 And I've gathered through my 26 years, an
20 ability, I think, to analyze the situation, come to a good
21 solution for those people, calm them down. And like I
22 say, it's very emotional in the labor field and in the
23 family field, obviously. But I think that ability to calm
24 people down and identify the -- the issues and get to the
25 correct result would suit me well.

1 Q. Are there any areas of law that you would need to
2 additionally prepare for in order to serve as a family
3 court judge? And how would you handle that additional
4 preparation?

5 A. Well, I was here last year, and it was the same
6 two issues -- two areas, I guess. Adoptions, I don't do
7 any adoptions. I consider that to be a subspecialty of
8 family law. And I really feel like you need to focus on
9 what you know how to do. There is not enough adoption
10 work for me to try to develop that practice, so I stay
11 away from that. And I -- any questions I get, I refer
12 that to someone else.

13 The other area would be juvenile court. I
14 consider that to be more of a criminal arena, and I've let
15 the lawyers who handle criminal trials take care of those.

16 But in order to understand how each operates, I
17 could associate with someone who is going through one of
18 those types of cases or sit in through court hearings and
19 get a feel for that.

20 Q. Although you addressed this in your sworn
21 affidavit, could you please explain to the members of the
22 Commission what you think is the appropriate demeanor for
23 a judge.

24 A. Well, I think a judge needs to be fair and
25 compassionate, understanding, open-minded. But more than

1 anything else, the judge needs to treat everyone who comes
2 into the courtroom with dignity and respect.

3 And, you know, as I mentioned before, it's very
4 stressful most of the times for these people. And a lot
5 of the folks coming into family court, that may be the
6 first and only time they are ever going to be in a
7 courtroom or have any interaction at all with the legal
8 system. And the judge is going to be the face that they
9 remember.

10 They're taxpayers, they deserve to be treated
11 with dignity and respect. And the judge needs to listen
12 to them and care about their situation and make the right
13 decision for them.

14 Q. What suggestions would you offer for improving
15 the backlog of cases on the docket in the family court?

16 A. Well, I don't -- I don't know if the problem with
17 backlog comes from the institutional cases or the private
18 sector cases. But I think in both cases, mediation tends
19 to move cases forward when otherwise, they wouldn't. So
20 if people were forced to go mediation and go to mediation
21 early.

22 Right now, I think in -- well, statewide
23 mediation is supposed to take place within one year or the
24 case gets stricken. If mediation took place, say, in six
25 months, I think it would move cases along quicker.

1 The problem seems to be, I think, is getting
2 people together at the same time to focus on the same
3 issues. And if you can do that, then I think you remove a
4 lot of the cases and a lot of the backlog.

5 Q. Mr. Hodges, the Commission received 104 ballot
6 box surveys regarding you with 10 additional comments.

7 The comments -- the ballot box survey, for
8 example, contained positive comments related to your
9 temperament, ethical standards, intellect, and experience.

10 However, two of the written comments expressed
11 concerns. One comment questioned your academic ability.
12 The second comment questioned your temperament during
13 family court negotiations.

14 What response would you provide to the Commission
15 in response to these concerns?

16 A. Well, the academic ability -- and without any
17 specifics, it's hard to -- to address it in that manner.

18 But in general terms, you know, I graduated 27
19 years ago with a better than a 3.0 average, was hired by
20 one of the most prestigious labor firms in the state, or
21 in the country for that matter, handled very complex cases
22 throughout that career.

23 And then recently for the last ten years, I've
24 handled complex cases in the family court. You know, I
25 have that ability to handle those cases. Quite frankly, I

1 think it's the lawyers and the litigants that make cases
2 complex, not necessarily the case itself.

3 My clients come to me and they are scared and in
4 need of help. They don't want their case or their life
5 more complicated. They want me to uncomplicate their
6 lives and sort problems out for them, which I tend to do.

7 And then the other issue, I don't know the
8 specifics of that. I've been practicing for 26 years. I
9 have never had a grievance that I know of and hopefully
10 none coming.

11 But no one's ever told me I was unprofessional to
12 my face. No one's ever come up and, you know, tapped me
13 on the shoulder and said, hey, let me do you a favor and
14 tell you you're acting up. If that were true, I hope
15 somebody would.

16 And I am not saying this comment isn't true, I
17 just don't know the specifics. And I guess perception is
18 reality. If somebody perceived me of treating them
19 overbearing or whatever in a negotiation standpoint, then
20 that must be their reality.

21 I certainly didn't mean to offend anybody, and I
22 wish I could approach that person and explain to them that
23 I certainly meant no harm.

24 Q. Thank you, Mr. Hodges. I have a few housekeeping
25 issues.

1 Have you sought or received the pledge of any
2 legislator prior to this date?

3 A. No.

4 Q. Have you sought or have you been offered a
5 conditional pledge of support of any legislator pending
6 the outcome of your screening?

7 A. No.

8 Q. Have you asked any third parties to contact
9 members of the general assembly on your behalf?

10 A. No.

11 Q. Are you aware of anyone attempting to intervene
12 in any part of the process on your behalf?

13 A. No.

14 Q. Have you contacted any members of the Commission?

15 A. No.

16 Q. Do you understand that you're prohibited from
17 seeking a pledge or commitment until 48 hours after the
18 formal release of the Commission's report?

19 A. Yes, I do.

20 Q. Have you reviewed the Commission's guidelines on
21 pledging?

22 A. Yes.

23 Q. Are you aware of the penalties for violating the
24 pledging rules, that is; it is a misdemeanor and upon
25 conviction, the violator must be fined not more than

1 \$1,000 or imprisoned not more than 90 days?

2 A. Yes, I am aware of that.

3 MR. DENNIS: I would note that the Upstate
4 Citizens Committee found Mr. Hodges well-qualified in each
5 of the nine evaluative criteria of; constitutional
6 qualifications, physical health, mental stability, ethical
7 fitness, professional and academic ability, character,
8 reputation, experience, and judicial temperament.

9 I would just note for the record that any
10 concerns raised during the investigation regarding
11 Mr. Hodges were incorporated into the questioning of the
12 candidate today.

13 Mr. Chairman, I have no further questions.

14 SEN. MARTIN: Okay. Any questions of the members
15 of the Commission?

16 Senator from Charleston.

17 SEN. CAMPSSEN: Thank you.

18 BY SEN CAMPSSEN:

19 Q. Mr. Hodges, thank you. Thank you for your
20 willingness to offer for a judicial position.

21 My question is, why did you shift from labor law
22 to family law after practice -- you practiced labor law
23 for ten years; is that right?

24 A. Sixteen.

25 Q. Sixteen.

1 A. Sixteen. My practice was union avoidance. And
2 as y'all probably know, there are not a lot of unions in
3 South Carolina. There are not a lot of unions in North
4 Carolina, Georgia.

5 Q. So you worked yourself out of a position; is that
6 what you're saying?

7 A. Well, that's part of it. But I had to go farther
8 and farther away. I spent three or four weeks in Alaska,
9 and I've been to California. I counted up one time that I
10 traveled to, and worked in, I think 39 states.

11 My children were young. They were fourth grade
12 and second grade at that time, and it was just time to
13 make a change. And I made the decision to trade time for
14 money, and one that I would make again today.

15 And now my children are in college, and I
16 wouldn't have had these experiences with them had I stayed
17 on the road and in an airplane.

18 It takes a special person to continue to do that.
19 A lot of my good friends are still practicing in that
20 area.

21 I had a -- one of the big law firms call me after
22 I left and they wanted me to come with them and do the
23 same thing, and I wasn't just interested from going from
24 the pan into the fire. I wanted a change.

25 SEN. MARTIN: Senator from Darlington.

1 BY SEN. MALLOY:

2 Q. Thank you, Mr. Hodges, for being here as well.

3 First I'll start by saying, your -- your former
4 partner is also a family court judge --

5 A. Yes.

6 Q. -- is that right?

7 The one that you started your law firm with?

8 A. That's right -- well, his firm was already there
9 and I --

10 Q. Joined him?

11 A. -- joined him.

12 Q. My next question comes in the form of a bit of a
13 story that I used to have.

14 When I first started practicing law, there was a
15 man named Jack Nettles and I worked with him. And in
16 every case, Jack Nettles would ask for the judge to recuse
17 himself because of the legislator status of Senator Levy.
18 During that time, I worked in his law firm, so he did it
19 in every single case that anybody had.

20 And I noticed in your question number six on your
21 questionnaire (sic), it says:

22 "What is your philosophy on recusal,
23 especially in situations in which
24 lawyer-legislators, former associates,
25 or law partners are to appear before

1 you?"

2 And in your answer, you said:

3 "With regards to lawyer-legislators,
4 I would not automatically decline to
5 hear the case simply because the lawyer
6 also happens to be a current or former
7 legislator. However, if one party
8 expressed a concern that I could not be
9 impartial, then I would recuse myself."

10 Help me understand why -- if -- if someone could
11 then use that as a strategy --

12 A. Well, if I could perceive that as being a
13 strategy to, you know, shop for a different judge, then I
14 wouldn't do it. But I think there's a -- you know, it's
15 better to be safe than sorry. But I would certainly, you
16 know, have them explain why they think that representative
17 so-and-so, who happens to be a lawyer, would influence my
18 decision.

19 Q. My question is because it's -- I misused
20 "strategy."

21 It says:

22 "However, if one party expressed a
23 concern that I could not be impartial,
24 then I would recuse myself."

25 And so, you know, my point being, is that in my

1 life experience, they would do it in every case.

2 A. Well, I -- if that became a problem, then -- then
3 I wouldn't do it anymore.

4 Q. I am just curious. I was just reading through
5 your questionnaire --

6 A. Right.

7 Q. -- and -- and my -- my just -- immediate reaction
8 was, is that just because a person is a lawyer -- I'm not
9 disagreeing --

10 A. Right.

11 Q. -- lawyer/legislator, then they could -- if he is
12 in that practice, then they are not going to be able to do
13 any cases. Because if they find out that that's going to
14 happen, they are going to ask for a recusal in every
15 situation.

16 A. Well, there are six judges or five more judges up
17 there in Greenville --

18 Q. Well, I am talking about you, though.

19 A. Oh, I know. But if, you know, if I couldn't
20 handle the case, then someone else would.

21 I think the primary issue is appearance to the
22 litigants that the judge is impartial. And if you don't
23 have that, then that has to be the basis of the judicial
24 system as an impartial judge. And if someone genuinely
25 believes that the judge can't be impartial, I think the

1 judge should consider recusing himself.

2 Q. Thank you.

3 A. And again, I don't think it would necessarily be
4 automatic, but it's certainly -- that's the first concern
5 is whether or not there is an appearance of impartiality.

6 SEN. MARTIN: All right. Mr. Strom.

7 BY MR. STROM, JR.:

8 Q. Mr. Hodges, you and I know each other
9 professionally, and there is no doubt in my mind that
10 you've got the skill-set and the intellect to do the job?

11 But I want to follow up a little bit on what
12 Senator Campsen talked to you about. And you went from,
13 you know, a very prestigious law firm probably making a
14 lot of money, into a smaller practice doing family court.
15 And now, I suspect if you are elected to the family court,
16 you're going to take another step down in income.

17 And one of the things I see often with
18 experienced, good lawyers who have done well in private
19 practice is they start resenting that salary. And, you
20 know, as my wife says, it's not a surprise when a family
21 court judge or a circuit court judge -- it's not a
22 surprise in the envelope, you know what you're going to
23 make.

24 And have you looked at your finances and
25 discussed this with your wife, and if you're elected this

1 position, are you going to be comfortable, you know, at
2 53 years for the rest of your career on that salary?

3 A. Yes. Yes. And my wife's an attorney, she works
4 and I can rely on her.

5 That's off the record, isn't it?

6 Q. Right. Can we call her up next time?

7 A. I can understand that and, you know, I am not
8 going into this lightly by any means. This is something
9 that I've thought about for a while. And, actually, I
10 never thought the opportunity would arise until last year
11 when they had those new at-large seats.

12 My partner, Marsh, was trying to become a judge,
13 and I wasn't going to jump in the race with him, so I
14 thought my chances were gone. But now that they are here,
15 that's why I am giving it a shot.

16 MR. STROM, JR.: Thank you.

17 SEN. MARTIN: All right. Any other questions?

18 Well, Mr. Hodges, we thank you for being here
19 today and for your cooperation with our staff.

20 That concludes this portion of the screening
21 process. As you know, the record will remain open until
22 such time as a report is published.

23 Also, we just remind every candidate about the
24 48-hour rule one more time, and anybody who may campaign
25 on your behalf, you may need to sort of counsel them in

1 that regard.

2 Again, I want to thank you for your willingness
3 to serve, and we wish you the very best.

4 MR. HODGES: Thank you.

5 (Recess taken.)

6 SEN. MARTIN: Mr. Michael Stokes, welcome.

7 Would you raise your right hand to take the oath.

8 MICHAEL D. STOKES,

9 having been first duly sworn

10 testified as follows:

11 EXAMINATION

12 BY SEN. MARTIN:

13 Q. Have you had the opportunity to review your
14 personal data questionnaire?

15 A. Yes, sir.

16 Q. Is it correct? Anything need to be changed?

17 A. To the best of any knowledge, Senator, it's
18 correct.

19 Q. Do you object to our making this summary and any
20 amendments part of your sworn testimony?

21 A. No, sir, not at all.

22 SEN. MARTIN: It will be done at this point in
23 the transcript.

24 (Exhibit 52 was marked for
25 identification and attached hereto.)

1 BY SEN. MARTIN:

2 Q. The Judicial Merit Selection Commission has
3 thoroughly invested your qualifications for the bench.

4 Our inquiry has focused on nine evaluative
5 criteria and included; a ballot box survey, a thorough
6 study of your application materials, verification of your
7 compliance with state ethics' laws, search of newspaper
8 articles in which your name may appear, previous
9 screenings that may have occurred, check of economic
10 conflict of interest.

11 We've got no affidavits on file in opposition to
12 your election. There are no witnesses here to testify.

13 Do you have a brief opening statement you would
14 like to make?

15 A. No, Senator. I am just happy to be here, and I
16 will answer any questions you folks may have.

17 SEN. MARTIN: Counsel Gentry has a few questions
18 for you.

19 JUDGE STOKES: Yes, sir.

20 MR. GENTRY: Mr. Chairman and members of the
21 Commission, I have a procedural matter to take care of
22 with this candidate.

23 BY MR. GENTRY:

24 Q. Judge Stokes, you have before you the sworn
25 statement you provided with detailed answers to over 30

1 questions regarding judicial conduct, statutory
2 qualifications, office administration, and temperament.

3 Are there any amendments you would like to make
4 at this time to your sworn statement?

5 A. No, Mr. Gentry.

6 MR. GENTRY: At this time, Mr. Chairman, I would
7 ask that Judge Stokes' sworn statement be entered as an
8 exhibit into the hearing record.

9 SEN. MARTIN: Is there any objection?

10 Hearing none, the sworn statements will be
11 entered into the record at this time.

12 (Exhibit 53 was marked for
13 identification and attached hereto.)

14 BY MR. GENTRY:

15 Q. Judge Stokes, please state for the record the
16 city and circuit in which you reside.

17 A. I live in Greenville County. I have a Taylor's
18 address which is unincorporated, so I don't technically
19 live in a city. But it's in 13th judicial circuit in
20 Greenville County.

21 MR. GENTRY: One final procedural matter. I note
22 for the record that based on the testimony contained in
23 the candidate's PDQ, which has been included in the record
24 with the candidate's consent, Judge Stokes meets the
25 statutory requirements for this position regarding age,

1 residence, and years of practice.

2 BY MR. GENTRY:

3 Q. Judge Stokes, why do you want to serve as a
4 family court judge?

5 A. Well, I have thoroughly enjoyed being a
6 magistrate judge for a decade and a half, and I feel like
7 I am very good at it. And I think I could do more good
8 for more people on a more active court.

9 I have been a part-time magistrate 35 hours a
10 week, if you want to consider that part time. That's
11 pretty busy. But I do continue to have a practice in
12 family court which I like. I will do 25, 30, 35 cases a
13 year, even with my private practice and even with my
14 current judicial duties.

15 And that is the area of law I like the most, I am
16 most comfortable with. And I just feel like I can add a
17 little bit more to what's going on if I move to a more
18 active court. I have about heard all the type of cases
19 you could hear on the magistrate's court in 17 years.

20 Q. Can you please explain to the Commission how you
21 feel your legal and professional experience thus far has
22 adequately prepared you to be an effective judge.

23 A. Sure. I have been determining the credibility of
24 witnesses for 17 years. I think I have a pretty good
25 handle on that. I have been deciding cases for 17 years.

1 And one thing I have learned between trying --
2 being one of the few individuals probably in the state
3 that still practices as a lawyer and has relatively
4 extensive judicial duties, there is a world of difference
5 between advocating a case and actually having to decide
6 something. It is a tough transition to make, and I feel
7 like I have already made it.

8 My academic background and areas of practice in
9 the matters I have handled in family court, I am pretty
10 well-experienced with anything that would come up. And I
11 feel like I would be ready to, you know, first day I sat
12 down, I believe I am about 90 percent ready for anything
13 you could throw at me.

14 Q. Are there any areas, including subjective areas
15 of the law, that you would need to additionally prepare
16 for in order to serve as a judge, and how would you handle
17 that preparation?

18 A. There is one area that I have just not ever had
19 an opportunity to be involved with. Criminal law, I'm
20 involved in that quite extensively. I haven't every --
21 ever done a juvenile criminal case. I have read the
22 procedure. I have been around in courts while it was
23 going on, I am familiar with it.

24 I would like to take a primer on the actual
25 procedure on the juvenile criminal side, and, you know,

1 watch a couple of the cases before I actually tried one of
2 those.

3 That is the only thing that would -- I really
4 feel like I wouldn't be up-to-snuff on, which would be
5 easy to get caught up on.

6 Q. Although you address this in your sworn
7 affidavit, could you please explain to the members of the
8 Commission what you think is the appropriate demeanor for
9 a judge.

10 A. Well, I used to think that you needed to be a
11 little bit of an authoritarian. I was appointed
12 originally at 29 years old, had no court security,
13 45-minute response time, and I was scared to death
14 circumstances would get out of control.

15 Nowadays, I have determined, if I can just get
16 the people to relax and talk to me a lit bit and sort of
17 forget that they are testifying in court, I am going to
18 get a whole lot more information out of them.

19 So I think you need to be pretty low-key and
20 mellow, which is -- tends to be what I am now. I was
21 pretty uptight at 32 years old. I'm 47 years now and I
22 just don't have the energy to be so uptight anymore.

23 But the biggest thing is -- in all of this that
24 I've watched, these folks don't remember what I say to
25 them a whole lot. We're talking legal stuff. A lot of

1 them are lay folks, but they remember how I make them
2 feel.

3 If I make them feel like they got a fair shot and
4 I gave it some consideration, tried to explain to them a
5 little bit where I'm coming from, most of them nod their
6 head and then feel pretty confident with the result; win,
7 lose, or draw. And I feel like that's the best way to
8 handle things in my years of experience.

9 Q. What suggestions would you offer for improving
10 the backlog of cases on the docket in family court?

11 A. Well, quite frankly to the kudos of the judges
12 that are there now, the 13th circuit is in reasonably good
13 shape. I do like it when we have an ability -- which
14 comes and goes -- to just sort of sign up the uncontested
15 cases, just sort of have a, y'all come, get in line, we'll
16 take care of all you folks here. I think that frees up a
17 lot of docketing time and all that.

18 I also am a huge fan of mediation because I am so
19 extensively involved with it, with the summary court being
20 one of their pilot programs. But those cases that go to
21 mediation tend to have 60 to 65 resolution. And that
22 should be encouraged, and I would like to see it go
23 statewide. It works real well for us in the Upstate. We
24 even do it in some of the cases where it is technically
25 not required.

1 Oh, I encourage mediation, I am a big fan. I
2 would be willing to, you know, push things to make it more
3 popular. And I have a pretty good background since I've
4 led the pilot program in Greenville for summary court,
5 jury trial mediation for two and a half years, have a
6 pretty good idea of how to organize that and go on and
7 would be tickled to do it.

8 Q. A background review by SLED indicated you have
9 been in two lawsuits in 2013: Graydon versus Highlands
10 Summary Court and Lookup Forest Homes Association versus
11 Norwood.

12 Please explain the nature and disposition of
13 these lawsuits.

14 A. Certainly. Mr. Graydon did not want to pay his
15 sewer bill to the homeowners' association. They brought
16 suit against Mr. Graydon. Mr. Graydon is an Internet
17 lawyer. He can generate paper with the best of them.

18 He brought a lawsuit in response to losing his
19 original lawsuit that included everybody who literally
20 touched the file, every judge, a couple of the clerks of
21 court were even involved.

22 My involvement was, as it was in my area, and we
23 called it for trial. And we were starting, and he had a
24 pretrial motion where he wanted one the participating
25 lawyers for the other side to present his certificate

1 signed by the Supreme Court that he could practice law.

2 And I said, no, no, I am going to take judicial
3 notice that this well-known attorney can practice law.

4 And he said, well, you're taking sides. I want
5 you to recuse yourself.

6 And I said, well, I'll grant your motion. And I
7 recused myself. That was my entire involvement of me in
8 the case.

9 It went on to another judge who actually tried
10 it, he was included as well. And when it was taken to the
11 circuit court, the entire case was dismissed for having
12 absolutely no merit.

13 Q. The Commission received 98 ballot box surveys
14 regarding you with 10 additional comments.

15 One comment indicated there may be some concern
16 regarding your temperament as a judge. The comment
17 suggested that you take sides easily, lecture parties
18 unnecessarily, and threaten parties who do not mediate in
19 good faith.

20 What response would you offer to these concerns?

21 A. Let me do it backwards if I can.

22 I do all the civil mediation in some recording in
23 Greenville County. When we were originally starting, I
24 wanted to be extraordinarily relaxed, like you would be
25 when lawyers are doing it. We would do that in

1 particularly with pro se clients. They would say, we
2 refuse to -- I want my day in court, I want my day. Well,
3 let me explain to you, the Chief Justice says, you have to
4 mediate.

5 So what we switched to is, I would pull them
6 together, and I would essentially summarize the Chief
7 Justice's order. And in the Chief Justice's order, it
8 says you're required to mediate, and if not, the trial
9 judge has the authority to enforce that.

10 What the lawyer that put that in also left out
11 though, is my -- and this is rogue, I do it every time is
12 that -- my next statement is, we've never had to invoke
13 any kind of injunctions, and I don't expect we'll have to
14 today. And we never have.

15 I don't know how threatening that is. My
16 preference would be to say nothing about it as it
17 originally was. But it was not working good procedurally
18 without those two comments.

19 Also, in mediation, we did a study because it's
20 new. We had to -- it's part of a grant -- to -- to keep
21 the program going. And one of the questions was your
22 impression of the judge; very favorable, favorable,
23 neutral, didn't like him, you know, he's off, more or
24 less.

25 When all that was pulled together, these other

1 folks that heard me say the same thing, who put favorable
2 and very favorable. I have a 96-percent response that
3 they had viewed the judge handling the case as favorable
4 or very favorable.

5 My clerk of court actually got 98 percent, and I
6 am a little jealous of that. But I think, by and large, I
7 am handling that aspect pretty good.

8 Now, as to lecturing. When I was practicing in
9 summary court as a young lawyer, we'd go between -- before
10 magistrates and we'd put up our case and our verdict would
11 be, I find for the plaintiff based on the evidence.
12 That's all we got.

13 There is no written orders or anything for
14 summary court, it's a general rule. You just get a form
15 and find for the plaintiff this much.

16 So, yeah, I do tend to take a few minutes to try
17 to explain to two parties, well, I am going to find for
18 the plaintiff and here is why.

19 And then say that. And, then, here were the
20 strengths or weaknesses of the defendant's case, explain
21 to them the elements of negligence, the elements of
22 contract. And it has been my experience that most people
23 are most appreciative of that. Obviously, somebody
24 doesn't care for it.

25 That's what I am doing to garner that criticism.

1 Maybe I shouldn't explain myself, but I just feel like
2 it's better for the folks to understand why something was
3 done so they have some idea as to what they've got so that
4 they'll feel like it's a little more fair.

5 Q. Thank you, Judge Stokes.

6 Have you sought or received a pledge of any
7 legislator prior to this date?

8 A. No, sir.

9 Q. Have you sought or have you been offered a
10 conditional pledge of support of any legislator pending
11 the outcome of your screening?

12 A. No, sir.

13 Q. Have you asked any third parties to contact
14 members of the general assembly on your behalf?

15 A. No, sir.

16 Q. Are you aware of anyone attempting to intervene
17 in any part of the process on your behalf?

18 A. Not to my aware.

19 Q. Have you contacted any members of this
20 Commission?

21 A. No, sir.

22 Q. Do you understand that you are prohibited from
23 seeking a pledge or commitment until 48 hours after the
24 formal release of the Commission's report?

25 A. Yes, sir.

1 Q. Have you reviewed the Commission's guidelines on
2 pledging?

3 A. Yes, sir.

4 Q. As a follow-up, are you aware the penalties for
5 violating the pledging rules, that is; it's a misdemeanor
6 and upon conviction, the violator must be fined not more
7 than \$1,000 or imprisoned not more than 90 days?

8 A. Yes, sir, I remember reading that.

9 MR. GENTRY: I would note that the Upstate
10 Citizens Committee found Judge Stokes qualified in
11 evaluative criteria of constitutional qualifications.

12 The committee found him well-qualified in
13 evaluative criteria of; ethical fitness, professional and
14 academic ability, character, reputation, physical health,
15 mental stability, experience, and judicial temperament.

16 I would just note for the record that any
17 concerns raised during the investigation regarding the
18 candidate were incorporated into the questioning of the
19 candidate today.

20 Mr. Chairman, I have no further questions.

21 SEN. MARTIN: All right. Any questions to the
22 members of the Commission?

23 Hearing none, Judge Stokes, we thank you. And
24 that completes this part of the screening process.

25 Keep in mind that you could be called back before

1 the report is published, we don't anticipate that will
2 occur, should there be some question that need to be
3 asked.

4 And further, we always remind every candidate
5 about the 48-hour rule as it applies, not only to him but
6 also any individual he has knowledge of, that may act on
7 his behalf.

8 Other than that, we thank you for your
9 willingness to serve and best wishes to you.

10 JUDGE STOKES: Thank you, Mr. Chairman.

11 SEN. MARTIN: Thank you.

12 (Pause in proceedings.)

13 SEN. MARTIN: All right. Welcome. Katherine
14 Tiffany, glad to have you with us.

15 MS. TIFFANY: Thank you.

16 SEN. MARTIN: Would you raise you right hand to
17 take the oath.

18 KATHERINE H. TIFFANY,
19 having been first duly sworn
20 testified as follows:

21 EXAMINATION

22 BY SEN. MARTIN:

23 Q. All right. Did you have the opportunity to
24 review your personal data questionnaire?

25 A. Yes, sir.

1 Q. Is everything okay with it? Do you need to make
2 any corrections?

3 A. I did send a letter to Jane Shuler that had some
4 amendments to some of the questions. But just -- number
5 10, I admitted for some additional CLEs that I have
6 attended; number 11, some CLEs that I taught at and
7 presented at since I submitted my application; number 43,
8 the money that I've spent on postage.

9 And I would also add that on number 50, I had an
10 incorrect date on one of the programs I served on, Red
11 Ribbon Week coordinator, that ended in 2012; and number
12 51, I think I put I've been in private practice 16 years,
13 it's actually 17 years.

14 So those would be the only amendments that I
15 would make.

16 Q. Okay. Do you object to our making this summary
17 and any amendments part of the record of your sworn
18 testimony?

19 A. No objection.

20 (Exhibit 54 was marked for
21 identification and attached hereto.)

22 BY SEN. MARTIN:

23 Q. The Judicial Merit Selection Commission has
24 thoroughly investigated your qualifications for the bench.

25 Our inquiry has focused on nine evaluative

1 criteria; a ballot box survey, a thorough study of your
2 application materials, verification of your compliance
3 with state ethics' laws, search of newspapers articles in
4 which your name appears, study of previous screenings,
5 check for economic conflict of interest.

6 We have received no affidavits in opposition to
7 your election. No witness are here to testify one way or
8 the other.

9 Do you have someone with you, you would like to
10 introduce to the Commission?

11 A. I brought my husband, Peter Tiffany.

12 SEN. MARTIN: Peter, good to have you with us.

13 MR. TIFFANY: Thank you, sir.

14 BY SEN. MARTIN:

15 Q. Do you have a brief opening statement?

16 A. Only to say that I believe it was 356 days ago, I
17 was sitting in front of you before. So it's good to see
18 those of you that I saw before and to see those of you
19 that I have not met before. But the experience that I had
20 last time was -- I can only say, a good one. And I'm
21 pleased to be in front of you again.

22 Q. All right. Would you answer Counsel Dennis'
23 questions?

24 A. Certainly.

25 BY MR. DENNIS:

1 Q. Ms. Tiffany, you should also have in front of you
2 your sworn statement in which you provided detailed
3 answers to about 30 questions regarding judicial conduct,
4 statutory qualifications, office administration, and
5 temperament.

6 A. Yes.

7 Q. Are there any amendments that you would like to
8 make to that statement at this time?

9 A. Only to number 28 about the money that I have
10 spent on postage, which I think is about \$93 at this
11 point.

12 MR. DENNIS: Mr. Chairman, I would ask that
13 Ms. Tiffany's sworn statement and that amendment be
14 entered into the record as an exhibit at this time.

15 SEN. MARTIN: All right. Is there any objection?

16 Hearing none, it will be done. The sworn
17 statement and any amendment will be entered into the
18 record.

19 (Exhibit 55 was marked for
20 identification and attached hereto.)

21 BY MR. DENNIS:

22 Q. Ms. Tiffany, would you please state for the
23 record the city and judicial circuit in which you reside.

24 A. I live in Greenville, South Carolina in the 13th
25 judicial circuit.

1 MR. DENNIS: Thank you, ma'am.

2 I would note for the record that based on the
3 testimony contained in the candidate's PDQ, which has been
4 included in the record with the candidate's consent,
5 Miss Tiffany meets the statutory requirements for this
6 position regarding age, residence, and years of practice.

7 BY MR. DENNIS:

8 Q. Miss Tiffany, can you explain to the Commission
9 why you would like to be a family court judge.

10 A. I've been in private practice for 17 years. But
11 let me first state that my decision to run has nothing to
12 do with the fact that I am in any way dissatisfied with my
13 practice. I have loved these years that I have had with
14 my firm. I have been fortunate to be with the same firm
15 for 17 years.

16 But just for you to understand who I am and why I
17 seek this position, I was raised in a family that
18 instilled in me from the time I can remember that the way
19 you approach life and the way you undertake anything is
20 that you do your best. You might not do the best; but you
21 always do your best. And when you have done your best,
22 then you try to do a little bit more, you try to seek out
23 another challenge.

24 And 17 years ago, I was -- I was fortunate enough
25 to find a position with a firm who really has the same

1 philosophy. We have approached every single one of our
2 clients with; what could we do for them, how could we do
3 the best for them? And when we have finished their case,
4 the first question we have always asked ourselves is,
5 well, we did our best, but what can we do better?

6 And I find myself at a point in my life when I
7 would like to do more. I loved practice. I feel like
8 I've given my -- the best of myself to the profession, and
9 now I want to do more.

10 I feel like the system works, but I think that
11 it's only going to continue to work if you have people
12 that are really willing to invest themselves in this
13 position and who are really willing to work.

14 And that is why I want to be a family court
15 judge. I want the opportunity to push myself into doing
16 more than I -- maybe I think I'm capable of. But that is
17 -- it is a challenge that I would seek, and it is one that
18 I would embrace and love.

19 Q. I know you touched on this just a little bit in
20 your previous answer, can you tell us how you feel your
21 legal and professional experience thus far will assist you
22 in being an effective judge.

23 A. Well, again, I have been with a firm that I feel
24 like has -- from the moment that I began working as a
25 lawyer -- and they've really mentored me and trained me,

1 but their insistence has always been that we do our best,
2 and when in doubt, we do as much or more than we think we
3 can do.

4 Through the time that I have been in private
5 practice, I really feel like I have dealt with just about
6 every issue a family court judge can deal with, with the
7 exception of the area of the department of juvenile
8 justice and juvenile crimes. But I have, by association
9 and DSS cases, dealt with some of those issues as well.

10 I have had the opportunity to deal with all of
11 the grounds for divorce, with the exception of desertion,
12 which is not routinely brought up in this state. And I
13 have dealt with, particularly custody, from just about
14 every aspect that I think I can be called on to take -- to
15 deal with it.

16 But I have always approached -- and I've really
17 tried to tell myself, even if an issue is difficult,
18 embrace it, tackle it, do what you can do with it, instead
19 of avoiding it.

20 And I have had the -- I guess the benefit of
21 being the only female working with all male attorneys, so
22 I have had to approach my demeanor -- or shape my demeanor
23 somewhat differently working with men.

24 Q. Having said that, do you believe that there is
25 any subjective area of the law that maybe you need some

1 extra preparation for, before taking the bench? And how
2 would you get that extra preparation?

3 A. I would say definitely in the juvenile justice
4 area. I just have not actively practiced in that area as
5 I have in the other areas.

6 Like I said, I do have some experience in it
7 because I have had a number of Rule 608 appointments and
8 taken on DSS cases for other lawyers where there have been
9 DJJ cases in conjunction with that. So I have had the
10 opportunity to observe those proceedings and meet with the
11 DJJ defenders and prosecutors. But that is an area where
12 I feel like I can -- I need to educate myself more.

13 And as I stated in my statement, I believe that
14 what I could do is, I could attend those proceedings and
15 observe them and see how other judges handle them.

16 I would like to work with the DJJ prosecutors and
17 defenders to get their philosophies on and the benefit of
18 their experience.

19 And again, I think sometimes the best way to
20 learn is to do, as well.

21 Q. You discussed this a little in your sworn
22 statement, but could you explain to the members of the
23 Commission what you think the appropriate demeanor for a
24 judge is.

25 A. I think the Cannons obviously tell us that judges

1 should be fair. They should be patient.

2 And I think that I touched on this when I was
3 before the Commission last time, but as I think about
4 this, I really think there has to be an -- an element of
5 creativity that a judge has to bring to that position.
6 Not that you're going to create the law, but I think that
7 you have to realize that there can't necessarily be a
8 cookie-cutter approach to every case because every case is
9 going to be different.

10 I think you have to know the law well enough so
11 that you can -- you can realize that the same result isn't
12 necessarily going to be the best result in the case in
13 front of you, as it was in the case that you recently
14 heard.

15 But I guess really to sum it up what I think the
16 correct demeanor is and what I would hope if I'm elected
17 people would remember about me is that, I took my job very
18 seriously, but I never took myself that seriously.

19 Q. Can you offer any suggestions for alleviating the
20 backlog of cases in the family court?

21 A. Fortunately, I believe Greenville is the most
22 current docket in the state. But that being said, it's
23 probably one of the heaviest as well.

24 I believe that we could probably use -- better
25 use a system of pretrial hearings. And with complex cases

1 or cases that are going to take up an enormous amount of
2 time on the docket, that we could implement a system,
3 maybe scheduling orders to try to address those cases. So
4 that when they are set for trial, they aren't continued as
5 they can typically be because you are dealing with so many
6 witnesses at the same time.

7 I think there has been some discussion for a
8 number of years about implementing a system of using
9 hearing officers. I don't know where -- where that is at
10 this point, but I think maybe that should be considered to
11 some extent to take some of the -- particularly with the
12 self-represented litigants that are filing more.

13 I do -- also personally having worked with the
14 guardian ad litem, I think there could be some -- if it is
15 possible to work into the system, the ability to have
16 guardians submit preliminary reports at things like
17 pretrial hearings so that the issues of custody can be
18 fully prepared when they go to trial.

19 And, frankly, I think it's just a matter of
20 expecting the judge to work every minute that they can,
21 including Friday afternoon where it's needed.

22 Q. Miss Tiffany, the Commission has received
23 approximately 120 ballot box surveys regarding you with 18
24 additional comments. I am pleased to say that of those 18
25 additional comments, not a single one contained a negative

1 comment about you.

2 I am just noting that for the record.

3 Miss Tiffany, I have got a couple housekeeping
4 issues for you I'm going to run with you.

5 A. Yes.

6 Q. Have you sought or received the pledge of any
7 legislator prior to this date?

8 A. No.

9 Q. Have you sought or have you been offered a
10 conditional pledge of support of any legislator pending
11 the outcome of your screening?

12 A. No.

13 Q. Have you asked any third parties to contact
14 members of the general assembly on your behalf?

15 A. No, sir.

16 Q. Are you aware of anyone attempting to intervene
17 in any part of the process on your behalf?

18 A. No.

19 Q. Have you contacted any members of this
20 Commission?

21 A. No.

22 Q. Do you understand that you are prohibited from
23 seeking a pledge or commitment until 48 hours after the
24 formal release of the Commission's report?

25 A. I do.

1 Q. Have you reviewed the Commission's guidelines on
2 pledging?

3 A. Yes.

4 Q. As a follow-up, are you aware of the penalties
5 for violating the pledging rules, that is; it is a
6 misdemeanor and upon conviction, the violator must be
7 fined not more than \$1,000 or imprisoned not more than
8 90 days?

9 A. I do understand.

10 MR. DENNIS: I would note that the Upstate
11 Citizens Committee found Miss Tiffany well-qualified in
12 all nine of the evaluative criteria.

13 And I would note for the record that any concerns
14 raised during the investigation regarding the candidate
15 were incorporated into my questioning of the candidate.

16 And Mr. Chairman, I have nothing further.

17 SEN. MARTIN: Okay. Any questions by members of
18 the Commission?

19 All right. Well, Ms. Tiffany, we thank you for
20 your being with us once again and for your desire to serve
21 the people of South Carolina.

22 For the record, the transcript will be -- or the
23 record will be open until the report is published.

24 And also, we always go overboard, but we do
25 remind candidates of the 48-hour rule, once again, and

1 REP. BANNISTER: And I am voting John Harrell's
2 proxy, and he also votes to find everybody qualified.

3 MS. SHULER: So that's ten each, qualified.

4 SEN. MARTIN: So now the question would be, you
5 get three votes for three of-- you get one -- three votes
6 for each member that is qualified and nominated.

7 So do you want to go just go down -- do you want
8 to call the list?

9 REP. CLEMMONS: Just call the list then.

10 SEN. MARTIN: Just call the list then.

11 MS. SHULER: Wanda L. Adams.

12 And raise your hand if you are voting for her.

13 MS. SHULER: All right. Zero votes.

14 James C. Alexander; one, two, three, four, five.

15 Five votes.

16 Robert A. Clark; one, two, three, four five.

17 Five votes.

18 Tarita A. Dunbar; one, two, three, four, five,

19 six. Six votes.

20 Were you voting twice?

21 SEN. MARTIN: Were you voting proxy?

22 REP. BANNISTER: Yes. Do I need to say that
23 every time?

24 MS. SHULER: Yes, you do.

25 REP. BANNISTER: Okay.

1 MS. SHULER: So that would make it seven.

2 Kathryn W. Gooch; one, two, three. Three votes.

3 Kimaka Nichols-Graham; zero votes.

4 Thomas T. Hodges; zero votes.

5 The Honorable Michael D. Stokes; zero votes.

6 Katherine H. Tiffany; --

7 REP. BANNISTER: I'm voting twice.

8 MS. SHULER: -- one, two, three, four, five, six,
9 seven, eight, nine, ten.

10 All right. So we have two clear-cut qualified
11 and nominated, Katherine Tiffany with ten votes, Tarita
12 Dunbar with seven votes.

13 And we are taking out Wanda Adams with zero
14 votes; Kimaka Nichols-Graham with zero votes; Thomas
15 Hodges with zero votes; and Michael Stokes with zero
16 votes.

17 And we're voting between -- right -- because
18 James Alexander had five votes, which was not enough.
19 Robert Clark has five votes, which was not enough. And
20 Kathryn Gooch has three votes.

21 So you have one vote each now between three
22 candidates, that would be Alexander, Clark, and Gooch.

23 Is everybody clear on that?

24 All right. James Alexander; one, two, three,
25 four, five.

1 Robert Clark; one, two --

2 REP. BANNISTER: I'm voting twice.

3 MS. SHULER: -- three, four, five.

4 And Kathryn Gooch; zero.

5 So third round, one vote each is between James B.
6 Alexander and Robert Clark. They each have five votes.

7 All right. James C. Alexander; one, two, three,
8 four, five.

9 Robert Clark --

10 REP. BANNISTER: I'm voting twice.

11 MS. SHULER: -- one, two, three, four, five.

12 And this kind of goes on until -- we're on our
13 fourth round, one vote each.

14 James C. Alexander -- raise your hand -- one,
15 two, three, four, five.

16 And Robert A. Clark; one, two --

17 REP. BANNISTER: Two votes.

18 MS. GOUCH: -- three, four, five.

19 All right. Fifth round, James C. Alexander and
20 Robert A. Clark.

21 SEN. MARTIN: Fifth round?

22 MS. SHULER: Fifth round.

23 SEN. MARTIN: Alexander.

24 MS. SHULER: One, two, three, four, five.

25 Robert A. Clark, one two, three, four, five.

1 SEN. MARTIN: Well, it looks apparently like
2 we're pretty well locked in. Do you all want to talk
3 further before we vote anymore or keep voting?

4 MR. SELLERS: Do we need to talk in executive
5 session?

6 SEN. MARTIN: Do what now?

7 REP. CLEMMONS: Let's go into executive session.

8 MR. SELLERS: Executive session?

9 MS. SHULER: Make a motion for that.

10 SEN. MARTIN: Any objection?

11 Hearing none, we'll go into executive session.

12 Off the record.

13 (The members went into executive session.)

14 - - - - -

15 (The members came out of executive session.)

16 SEN. MARTIN: We're back on the record.

17 Go ahead and call the role.

18 MS. SHULER: We are voting for the family court,
19 13th judicial circuit, seat 5, 6th round between James C.
20 Alexander and Robert Clark.

21 Will all those in favor of James C. Alexander,
22 raise your hand. One, two, three, four. Four.

23 Robert A. Clark; one, two, three, four, five.

24 MR. SELLERS: Who's missing?

25 MS. SHULER: One, two, three, four, five.

1 Did somebody not vote?

2 MS. BELL: I changed my vote, if that's what
3 everybody's trying to figure out.

4 MS. SHULER: James C. Alexander has four votes
5 and Robert Clark has five.

6 You're going to vote for Alexander, all right.

7 So Alexander has five and Clark has five.

8 All right. Seventh round.

9 SEN. MARTIN: We didn't make any progress.

10 REP. CLEMMONS: No, we really didn't. We just
11 changed tires, but we're still going down the same road.

12 MS. SHULER: All right.

13 James C. Alexander, raise your hand. One, two,
14 three, four, five.

15 Robert A. Clark; one, two, three, four, five.

16 Five to five.

17 MR. SELLERS: Nobody's very persuasive.

18 REP. CLEMMONS: I'd suggest that we take
19 testimony of the next candidate and come back to this.

20 MS. SHULER: All right. Do you want to vote on
21 the Chief Justice race and the other race while we're
22 taking votes?

23 REP. CLEMMONS: That would be fine with me. I
24 just think we might need to let this settle.

25 MS. SHULER: Everybody in favor of that motion?

1 MR. SELLERS: What motion is that?

2 SEN. MARTIN: To go ahead and go to the Chief
3 Justice and put this on the -- is there any objection to
4 having another executive session just for a moment?

5 Back into the executive session.

6 (The members went into executive session.)

7 - - - - -

8 (The members came out of executive session.)

9 SEN. MARTIN: We are back in session.

10 MS. SHULER: The family court, 13th judicial
11 circuit, seat 5. We're now on our 8th round of voting
12 between James C. Alexander and Robert A. Clark.

13 All those in favor of James C. Alexander, raise
14 your hand. One, two, three, four, five, six. All right.

15 All those in favor of Robert A. Clark; one, two,
16 three four. All right.

17 Mr. Alexander is the third nominee found
18 qualified and nominated with six votes.

19 SEN. MARTIN: Let's proceed with the Chief
20 Justice race.

21 REP. CLEMMONS: Mr. Chairman, I move that we find
22 both candidates qualified and nominated.

23 SEN. MARTIN: All right. Any objection?

24 All right. All willing to find both candidates
25 qualified and nominated, please raise your hand.

1 MS. SHULER: And it's ten counting the proxy of
2 Harrell.

3 SEN. MARTIN: All right.

4 MS. SHULER: All right. We have one more seat.

5 SEN. MARTIN: All right. Family court, seat 6 --
6 6th judicial circuit, seat 1, Coreen B. Khoury.

7 Do we have a motion she be nominated, qualified?

8 REP. CLEMMONS: So moved.

9 MR. STROM, JR.: Second.

10 SEN. MARTIN: All those in favor, please raise
11 your hand.

12 MS. SHULER: Favor of her qualified and
13 nominated?

14 SEN. MARTIN: Qualified and nominated.

15 MS. SHULER: Ten, counting Mr. Harrell's proxy.

16 SEN. MARTIN: All right. We are ready for
17 Ms. Emery then.

18 SEN. MARTIN: Ms. Emery, we are now ready.

19 Wait a minute. Representative Clemmons has a
20 comment.

21 REP. CLEMMONS: Ladies and gentleman,
22 Mr. Chairman, I know this is a little unusual. But it was
23 just reported to me that John Graham Altman, former
24 long-standing member of the house of representatives
25 passed away a few moments ago. I would move that we take

1 a moment and stand in a moment of silence in honor of John
2 Graham Altman.

3 SEN. MARTIN: Let's do that, have a moment of
4 silence for our friend, John Graham.

5 (Pause in proceedings.)

6 SEN. MARTIN: Amen.

7 REP. CLEMMONS: Amen.

8 SEN. MARTIN: All right. Melissa Emery.

9 MS. EMERY: Yes, sir.

10 SEN. MARTIN: Family court, 15th judicial
11 circuit, seat 2.

12 Please raise your hand and take the oath.

13 MELISSA J. EMERY,

14 having been first duly sworn

15 testified as follows:

16 EXAMINATION

17 BY SEN. MARTIN:

18 Q. Thank you. Have you had the opportunity to
19 review your personal data questionnaire?

20 A. I have.

21 Q. Are there any corrections or changes that need to
22 be made?

23 A. No, sir.

24 Q. Do you object to our making the summary part of
25 your sworn testimony today?

1 A. No objection.

2 SEN. MARTIN: All right. It will be done at this
3 point in the transcript.

4 (Exhibit 56 was marked for
5 identification and attached hereto.)

6 BY SEN. MARTIN:

7 Q. The Judicial Merit Selection Commission has
8 thoroughly investigated your qualifications for the bench.
9 Our inquiry has focused on nine evaluative
10 criteria and has included; a ballot box survey, a thorough
11 study of your application materials, verification of your
12 compliance with state ethics' laws; search of newspaper
13 articles in which your name appears, study of previous
14 screenings, and a check for economic conflicts of
15 interest.

16 We've received no affidavits in opposition to
17 your election and no witnesses are here to testify.

18 Do you have a brief statement you'd like to make
19 at this time?

20 A. Just briefly. I would like to thank y'all for
21 the opportunity to come and serve as a candidate for this
22 position and thank you for your service to the state.

23 Family court is a passion of mine, what's what
24 I've dedicated my professional life to. And I believe
25 that I will, if elected, serve and be a fair and competent

1 judge for the family court.

2 Q. Do you have someone with you, you'd like to
3 introduce?

4 A. I do. My friend, Martha Hamel. She is a lawyer
5 in Polygon, South Carolina, made the trip up with me.

6 SEN. MARTIN: Welcome. Glad to have you.

7 MS. HAMEL: Thank you, Senator Martin.

8 SEN. MARTIN: Would you answer some questions of
9 Counselor Dennis.

10 MS. EMERY: Yes, sir.

11 BY MR. DENNIS:

12 Q. Ms. Emery, you should also have in front of you
13 your sworn statement. Are there any amendments that you
14 would like to make to that at this time?

15 A. No, sir.

16 MR. DENNIS: Mr. Chairman, I would ask that
17 Miss Emery's sworn statement also be made a part of the
18 record.

19 SEN. MARTIN: Any objection?

20 Hearing none, it will be done and become part of
21 the record.

22 (Exhibit 57 was marked for
23 identification and attached hereto.)

24 BY MR. DENNIS:

25 Q. Miss Emery, would you please state for the record

1 the city and circuit in which you reside.

2 A. I reside in Myrtle Beach, South Carolina. That
3 would be the 15th circuit.

4 MR. DENNIS: I would note for the record that
5 based on the testimony contained in the candidate's PDQ,
6 which has been included in the record and with candidate's
7 consent, Miss Emery meets the statutory requirements for
8 this position regarding, age, residence, and years of
9 practice.

10 BY MR. DENNIS:

11 Q. Ms. Emery, can you tell the Commission why you
12 would like to serve as a family court judge.

13 A. Well, as I've stated earlier, I have pretty much
14 dedicated my professional life to family court. I am very
15 passionate about family court. There is not really an
16 aspect of family court I have not been a part of, from
17 guardian ad litem, to mediator, to representing litigants.

18 And I just feel that this would be a good step.
19 We need people on the family court bench that are very
20 passionate about family court, that have experience in it
21 and knowledge in it, and are willing to serve. Sometimes
22 we have difficulty getting people that might be qualified,
23 willing to serve. And I think that I would be a benefit
24 to the bench.

25 Q. Miss Emery, are there any areas of subjective law

1 that you feel you would need extra preparation in before
2 assuming the bench? And how would you go about getting
3 this extra preparation?

4 A. I have practiced in every area of family law. If
5 there are any areas I might have to hone-up on, it might
6 be juveniles. Simply because, in our county, we have a
7 public defender who does -- handles the majority of
8 juvenile representation unless there is a conflict.

9 I volunteer as a mediator for DSS cases, and so
10 that takes up a lot of my appointments that might come.
11 So I've done juveniles in the past.

12 I was in a firm that had 11 attorneys, and all
13 the family court appointments dribbled down to me because
14 I was the only family court attorney. So I have done it
15 in the past, but that might be something, if there is
16 anything, that I might need to hone-up on.

17 Q. Miss Emery, you addressed this in your sworn
18 statement, can you explain to the Commission what you
19 believe the appropriate demeanor for a judge is.

20 A. I think the appropriate demeanor of the judge is
21 described to be fair and impartial, respectful of the
22 people that are in front of the judge.

23 The people that are in front of a judge are going
24 through the worst thing in their lives in the breakup of
25 their home and with their marriage and dealing with their

1 children. And I think that a family court judge should
2 not only be fair and impartial, but have compassion when
3 dealing with those litigants.

4 Q. Thank you, Miss Emery.

5 Can you offer any specific suggestions for
6 improving the backlog of cases in the family court docket?

7 A. More judges? But -- no. I think that -- I think
8 that with the addition of the six judges that came on
9 board in July, I think we are seeing that we are catching
10 up with a lot of the backlog that has been out there.

11 I think that each county is doing their best to
12 expedite. I think there has been a lot of rules come
13 down, to the 365-day rules, the ABC dockets. There's a
14 lot going on now to try and catch up that backlog, and I
15 think we are on our way.

16 Q. Miss Emery, as you know, the Pee Dee Citizens
17 Committee noted -- and I'm going to use their word --
18 "concerns" voiced about -- voiced by the community
19 concerning your character.

20 Can you offer any comment or understanding, as
21 they did not offer any more specificity than that.

22 A. I don't know other than I didn't know that until
23 you and I discussed it. Because I went through last year
24 and was found well-qualified and had no concerns.

25 This time, I did have an opponent early on from

1 my area. And I think that both of us had friends and
2 contacts and -- that contacted the board. So without
3 knowing what was said to them, I really don't have a
4 response as to why.

5 Q. Thank you, ma'am.

6 The Commission also received approximately 293
7 ballot box surveys regarding you with 50 additional
8 comments. The ballot box surveys were primarily positive
9 and contained several comments concerning your level of
10 experience and your ability to cast those in a positive
11 light.

12 However, there were three individual written
13 comments that expressed concern about your temperament.

14 Could you please react to that.

15 A. Well, family court is a court where emotions run
16 high. And when you -- when a case is contested in family
17 court, somebody is going to come out of there upset.

18 And with the level of my practice -- 100 percent
19 of my practice has dealt with family court for the last 18
20 years. So with the level of my practice, I have dealt
21 with some pretty highly stressful cases. And so without
22 knowing exactly who responded or who made the comments,
23 it's hard to comment directly.

24 But I can tell you that I diligently represent my
25 clients. If I have offended opposing counsel during that

1 process, sometimes that might happen. I see it as a
2 professional -- I try to be professional and courteous to
3 everybody.

4 I would say that I am one of the most-used
5 mediators in Horry County by stipulation, one of the most
6 used guardians in Horry County by stipulation, which I am
7 very proud of. Because that means my peers seek me out to
8 mediate their cases because they have confidence in my
9 ability. So that would be the only response I have.

10 Q. Additionally -- and this is more for the record,
11 though you can respond further if you'd like since you've
12 already touched on this -- there were two individual
13 comments that suggested that you lacked experience with
14 juvenile criminal proceedings.

15 You've discussed that already. If you don't want
16 to discuss that any further, that's fine.

17 Ms. Emery, I have a couple of housekeeping
18 questions I'll --

19 A. Sure.

20 Q. -- run through with you.

21 Have you sought or received the pledge of any
22 legislator prior to this date?

23 A. No, sir.

24 Q. Have you sought or have you been offered a
25 conditional pledge of support of any legislator pending

1 the outcome of your screening?

2 A. No, sir.

3 Q. Have you asked any third parties to contact
4 members of the general assembly on your behalf?

5 A. No, sir.

6 Q. Are you aware of anyone attempting to intervene
7 in any part of this process on your behalf?

8 A. No, sir.

9 Q. Have you contacted any members of this
10 Commission?

11 A. No, sir.

12 Q. Do you understand that you are prohibited from
13 seeking a pledge or commitment until 48 hours after the
14 formal release of the Commission's report?

15 A. Yes, sir.

16 Q. Have you reviewed the Commission's guidelines on
17 pledging?

18 A. Yes, sir.

19 Q. As a follow-up, are you aware of the penalties
20 for violating the pledging rules, that is; it's a
21 misdemeanor and upon conviction, the violator must be
22 fined not more than \$1,000 or imprisoned not more than 90
23 days?

24 A. Yes, sir.

25 MR. DENNIS: I would note that the Pee Dee

1 Citizens Committee found Miss Emery qualified in the
2 evaluative criteria of constitutional qualifications,
3 physical health, and mental stability.

4 The Committee found her well-qualified in the
5 evaluative criteria of ethical fitness, professional and
6 academic ability, reputation, experience, and judicial
7 temperament.

8 The Committee found Ms. Emery qualified on the
9 evaluative criteria of character due to, quote, concerns
10 voiced by community members, end quote.

11 The Committee stated in summary that Miss Emery
12 has the ability, experience, and temperament necessary to
13 fulfill the requirements of family court judge.

14 I would just note for the record that any
15 concerns raised during the investigation regarding this
16 candidate were incorporated into my questioning here
17 today.

18 And, Mr. Chairman, I do not have anything
19 further.

20 SEN. MARTIN: All right. Any question by members
21 of the Commission?

22 Well, thank you very much.

23 Miss Emery, this concludes this portion of the
24 screening process. As you know, the record will remain
25 open right up until the time it's published, and you could

1 be called back, but that's probably not going to happen.

2 MS. EMERY: Yes, sir.

3 SEN. MARTIN: The 48-hour rule, do you know that
4 routine --

5 MS. EMERY: Yes, sir.

6 SEN. MARTIN: -- as it applies to not only you,
7 but anyone on your behalf?

8 MS. EMERY: Yes, sir.

9 SEN. MARTIN: We thank you for your willingness
10 to serve and --

11 MS. EMERY: Thank you, sir.

12 SEN. MARTIN: -- look forward to seeing you
13 again.

14 (Pause in proceedings.)

15 SEN. MARTIN: Welcome. Mr. White, would you
16 raise your hand and take the oath.

17 THOMAS H. WHITE, IV

18 having been first duly sworn

19 testified as follows:

20 EXAMINATION

21 BY SEN. MARTIN:

22 Q. Have you had an opportunity to review your
23 personal data questionnaire?

24 A. I have, Senator.

25 Q. Any change or corrections you need to make at

1 this time?

2 A. No, sir. I think it's in appropriate form.

3 Q. Do you mind if we make that part of your official
4 sworn testimony?

5 A. No objection at all, sir.

6 SEN. MARTIN: All right. It will be done at this
7 point in the transcript.

8 (Exhibit 58 was marked for
9 identification and attached hereto.)

10 BY SEN. MARTIN:

11 Q. The Judicial Merit Selection Commission has
12 thoroughly investigated your qualifications for the bench.

13 Our inquiry has focused on nine evaluative
14 criteria and has included; a ballot box survey, a thorough
15 study of your application materials, verification of your
16 compliance with state ethics' laws, search of newspaper
17 articles in which your name may appear, study of previous
18 screenings, check for economic conflicts of interest.

19 We have got no affidavits in opposition to your
20 election. No witnesses are present to testify.

21 Do you have any brief opening statement you'd
22 like to make?

23 A. Mr. Chairman and other members of the Commission,
24 I simply would like to thank each and every one of your
25 for your time invested in this process. I know that it's

1 already been a long day for you and quite frankly,
2 although I look forward to answering any inquiries that
3 you may have, my hope is that none of my responses extend
4 your stay here today any longer than necessary.

5 SEN. MARTIN: Do you mind answering a few
6 questions of our counsel.

7 MR. DAVIDSON: Thank you, Mr. Chairman.

8 Senator, we have a few procedural matters to take
9 care of with this candidate.

10 BY MR. DAVIDSON:

11 Q. Good afternoon -- or evening, Mr. White.

12 A. Yes, sir.

13 Q. You have before you the sworn statement you
14 provided with detailed answer to over 30 questions
15 regarding judicial conduct, statutory qualifications,
16 office administration, and temperament.

17 Are there any amendments that you would like to
18 make at this time to your sworn statement?

19 A. No, sir.

20 MR. DAVIDSON: At this time, Mr. Chairman, I
21 would like to ask that Mr. White's sworn statement to be
22 entered as an exhibit into the hearing record.

23 SEN. MARTIN: Any objection?

24 Hearing none, it will be done and entered into
25 the record.

1 (Exhibit 59 was marked for
2 identification and attached hereto.)

3 BY MR. DAVIDSON:

4 Q. Mr. White, please state for the record the city
5 and circuit in which you reside.

6 A. I reside in Union, South Carolina, and that's in
7 the 16th circuit.

8 MR. DAVIDSON: Thank you. One final procedural
9 matter.

10 I note for the record that based on the
11 candidate's PDQ, which has been included in the record
12 with the candidate's consent, Mr. White meets the
13 statutory requirements for this position regarding age,
14 residence, and years of practice.

15 BY MR. DAVIDSON:

16 Q. Mr. White, could you please explain to the
17 Commission why you would like to serve as a circuit court
18 judge.

19 A. I have been practicing law now for 30 years. And
20 I must say that I think that this is somewhat of a natural
21 progression. I think most individuals who go into the
22 practice of law, at some point think that they maybe would
23 like to be on the other side as well, and move from being
24 an advocate to being an arbiter.

25 And I would like to think that I've had a good

1 bit of experience in family court, which is a unique and
2 very emotional court.

3 But I think my years of experience both in family
4 court work and a broad range of legal matters, I've done
5 an awful lot of trial work in the criminal -- in the
6 criminal realm as well, as well as general litigation. I
7 really think that I just look forward to the time to a new
8 challenge of being, as I say, the arbiter, the decision
9 maker rather than the advocate.

10 Q. Thank you. Could you briefly explain to the
11 Commission how you feel your legal and professional
12 experience thus far will assist you in being an effective
13 judge.

14 A. I think the very fact that I have had a very
15 broad, general practice gives me a bit of experience in a
16 wide range of fields that would come before the family
17 court.

18 I have had extensive experience in criminal
19 court. I have had extensive experience in family court.
20 I've had extensive experience in general litigation. I
21 have also had some experience in matters in dealing with
22 -- with real estate transactions and things of that
23 nature, all of which come to play in the family court.

24 Q. Are there any areas, including subjective areas
25 of law, that you would need to additionally prepare for in

1 order to serve as a judge, and how would you handle that
2 additional preparation, if so?

3 A. Well, even though I've had some experience with,
4 like, child abuse and neglect cases with DSS, it has been
5 probably about 10 or 12 years since I've had an extensive
6 experience in that.

7 So I would need to make sure that I -- that I
8 studied up on that process, reacquainted myself with that
9 process, as I understand that this is -- makes up a large
10 bit of the family court work, particularly in these
11 counties that I would be serving.

12 Q. Thank you. And although you addressed this in
13 your sworn affidavit, could you please explain to the
14 members what you think is the appropriate demeanor for a
15 judge.

16 A. Well, obviously I think a judge needs to maintain
17 his composure at all times. The judge is in control of
18 that courtroom. But I think a judge needs to treat
19 everyone with respect. And even though one needs to be in
20 control, I think that you need to make sure that everyone
21 gets a fair and impartial hearing.

22 I also -- particularly in family court when
23 you're dealing with circumstances that are very serious in
24 nature, sometimes I think you have to have an appropriate
25 sense of humor at appropriate times to try to ease some of

1 the anxieties that might come up, but without -- you know,
2 without obviously demeaning the process. It would be an
3 appropriate sense of humor.

4 I think you must be calm and patient as all of
5 you learned today about being patient. We all have to be
6 patient in dealing with this. And I think that the main
7 thing is to maintain composure and maintain control, but
8 treating everyone politely but with respect also.

9 Q. And what suggestions would you offer for
10 improving the backlog of the cases on the docket in the
11 family court?

12 A. Well, to tell you the truth, a lot of times the
13 docket on the family court, I find, has slowed down a bit
14 by folks who want to try to start negotiating their cases
15 when they get to the hallways of the courthouse, instead
16 of preparing them and being ready to go before they get
17 there.

18 I also see a lot of people who -- and I've
19 frankly seen some judges who spent a lot of time
20 socializing, more so than getting to work and dealing with
21 the cases.

22 And I think basically it's just a matter -- it's
23 probably best to make sure that all the lawyers know that
24 they need to be prepared. And if they are going to
25 negotiate settlements to their cases, settle them quickly.

1 If they are not going to negotiate settlements,
2 coming to the courthouse steps is not the place to do it.
3 Just make sure everybody gets started on time and
4 completes their cases in the appropriate manner.

5 Q. Thank you. The Commission received 207 ballot
6 box surveys regarding your candidacy, with 8 additional
7 comments.

8 The ballot box surveys, for example, contained
9 the following positive comments:

10 Good lawyer. Will make a good judge.

11 Another said, couldn't be nicer or better suited
12 for a judicial position.

13 And a third said, solid lawyers make good judges.
14 He is one of them.

15 Zero of the written comment expressed concerns.

16 Just a few more housekeeping issues.

17 Have you sought or received the pledge of any
18 legislator prior to this date?

19 A. I have not.

20 Q. Have you sought or have you been offered a
21 conditional pledge of support of any legislator pending
22 the outcome of your screening?

23 A. I have not.

24 Q. Have you asked any third parties to contact
25 members of the general assembly on your behalf?

1 A. No, sir, I have not.

2 Q. Are you aware of anyone attempting to intervene
3 in any part of the process on your behalf?

4 A. Not to my knowledge, no, sir.

5 Q. Have you contacted any members of the Commission?

6 A. I have not, no, sir.

7 Q. Do you understand that you are prohibited from
8 seeking a pledge or a commitment until 48 hours after the
9 formal release of the Commission's report?

10 A. Yes, sir. I understand that rule.

11 Q. Have you reviewed the Commission's guidelines on
12 pledging?

13 A. I have, yes, sir.

14 Q. And as a follow-up, are you aware of the penalty
15 to violating the pledging rules, that is; it is a
16 misdemeanor and upon conviction, the violator must be
17 fined not more than \$1,000 or imprisoned not more than
18 90 days?

19 A. I'm aware of that, yes, sir.

20 MR. DAVIDSON: I would note that the Upstate
21 Citizens Committee found Mr. White qualified in the
22 evaluative criteria of constitutional qualifications and
23 judicial temperament.

24 The Committee found him well-qualified in the
25 evaluative criteria of; ethical fitness, professional and

1 academic ability, character, reputation, physical health,
2 mental stability, and experience.

3 The Committee stated in summary that interviews
4 conducted by the Committee indicated that Mr. White is a
5 person of high character with extensive experience in a
6 range of family court matters.

7 Lastly, I would note for the record that any
8 concerns raised during the investigation regarding the
9 candidate were incorporated into the questioning of the
10 candidate today.

11 Mr. Chairman, I have no further questions.

12 SEN. MARTIN: Thank you very much.

13 Any questions by members of the Commission?

14 Representative Bannister.

15 REP. BANNISTER: Mr. Chairman, this is only one
16 time that I'm going to say congratulations in being the
17 only candidate, that means that you were recognized by
18 your peers that you would be a good family court judge.

19 And nobody wanted to run against you. And there
20 weren't a negative comment in the bunch. And for that,
21 you should be commended. Thirty years of law practice and
22 no negative comments is a -- quite an accomplishment.

23 MR. WHITE: I appreciate those comments,
24 Representative Bannister. Thank you very much.

25 SEN. MARTIN: All right. We thank you very much,

1 Mr. White. Thank you for your willingness to serve in
2 this important position and your cooperation with our
3 staff.

4 We still operate under the 48-hour rule even
5 though you're unopposed, and we would just would remind
6 you of that.

7 And we just wish you the very best as you move
8 forward in the next step of the process.

9 MR. WHITE: That you, Mr. Chairman.

10 SEN. MARTIN: Thank you.

11 (Pause in proceedings.)

12 MS. LEE: Good afternoon, everyone.

13 SEN. MARTIN: Good afternoon.

14 Judge Lee, it's good to have you with us.

15 MS. LEE: Thank you.

16 SEN. MARTIN: Would you mind raising your hand
17 and taking the oath.

18 ALISON R. LEE,
19 having been first duly sworn
20 testified as follows:

21 EXAMINATION

22 BY SEN. MARTIN:

23 Q. All right. Well, have you had a chance to look
24 at your personal data questionnaire?

25 A. Yes, sir, I have.

1 Q. Any corrections or changes that you want to make
2 at this time?

3 A. I don't have any corrections. I did submit an
4 amendment to one of the questions earlier, and I have
5 already provided that, I believe, to the Commission.

6 Q. All right. No objection to making it part of
7 your sworn testimony today?

8 A. No, sir.

9 SEN. MARTIN: It will be done at this point in
10 the transcript.

11 (Exhibit 60 was marked for
12 identification and attached hereto.)

13 BY SEN. MARTIN:

14 Q. The Judicial Merit Selection Commission has
15 thoroughly investigated your qualifications for the bench.

16 Our inquiry has focused on nine evaluative
17 criteria and has included; the traditional ballot box
18 survey, thorough study of your application material,
19 verification of your compliance with state ethics' laws,
20 search of newspaper articles in which your name appears,
21 study of previous screenings, check for economic conflicts
22 of interest.

23 We have got no affidavits in opposition to your
24 election. No witnesses are here to testify.

25 Do you have a brief statement you would like to

1 make?

2 A. Given the hour of the day, no, sir.

3 Q. All right.

4 A. I am delighted to be here to answer any questions
5 the Commission may have.

6 SEN. MARTIN: Counsel Gentry may have a few
7 questions for you.

8 MR. GENTRY: Mr. Chairman and members of the
9 Commission, I have a procedural matter to take care of
10 with this candidate.

11 BY MR. GENTRY:

12 Q. Judge Lee, you have before you the sworn
13 statement that you provided with detailed answers to over
14 30 questions regarding judicial conduct, statutory
15 qualifications, office administration, and temperament.

16 Are there any amendments that you would like to
17 make at this time to your sworn statement?

18 A. No, sir, I do not believe there are any.

19 MR. GENTRY: At this time, Mr. Chairman, I would
20 ask that Judge Lee's sworn statement be entered as an
21 exhibit into the hearing record.

22 SEN. MARTIN: Any objection?

23 Hearing none, the sworn statement and any
24 amendments will be entered into the record at this time.

25 (Exhibit 61 was marked for

1 identification and attached hereto.)

2 BY MR. GENTRY:

3 Q. Judge Lee, after serving over 13 years on the
4 circuit court bench, why do you want to continue serving
5 on the bench?

6 A. I still believe I have something to offer in
7 terms of the service to the state. I've been a judge for
8 about 14 and a half years now and I enjoy my job. I think
9 I am effective in what I do. I think I am providing a
10 public service, and I would like to continue on in that
11 area.

12 Q. Although you addressed this in your sworn
13 affidavit, could you please explain to the members of the
14 Commission what you think is the appropriate demeanor for
15 a judge.

16 A. First of all, a judge should be courteous and
17 forthright, impartial, follow the ethics' rules, treat
18 everyone with respect and to listen and make rulings
19 impartially and based upon the law.

20 Q. Judge Lee, your SLED report indicated there were
21 three lawsuits filed against you since your prior
22 screening. The first two lawsuits were filed in 2011 by a
23 prisoner, Glen Laconi.

24 Please explain the nature and disposition of
25 those lawsuits.

1 A. I am not familiar -- I was not aware of those
2 lawsuits until it was brought to my attention in
3 connection with the hearing.

4 I did come into contact with Mr. Laconi back in
5 2007 I believe, when I was a chief administrative judge.
6 He had a dispute with Judge Strickland. But I've never
7 been served with a lawsuit, I don't know what it's about,
8 and I've have never received a copy of it, so I'm not
9 familiar with it.

10 Q. The third lawsuit was filed this year by Joseph
11 Thomas McQuatters. Please explain the nature and
12 disposition of that lawsuit.

13 A. Mr. McQuatters -- I was from Lexington County. I
14 was in Lexington County holding court on some non-jury
15 matters. His case came before me and I made rulings on
16 his motions, and he disagreed with my rulings and filed a
17 lawsuit against myself and the other judges who had ruled
18 on his cases. So the -- it arose out of a -- the judicial
19 nature of my job.

20 And I was -- and I did receive a copy of it. I
21 didn't -- I was not properly served, and I believe that
22 was the basis for which counsel on my behalf thought to
23 dispose of the matter.

24 Q. Judge Lee, the Commission received 709 ballot box
25 surveys regarding your candidacy with 44 additional

1 comments, the majority of which were positive.

2 Several of the comments indicated a concern
3 regarding the length of time you take to make decisions
4 and issue orders.

5 What response would you offer to these concerns?

6 A. Over the years, I understand that that has been a
7 point of contention. And I understand that I am somewhat
8 slow in making some decisions.

9 What I have tried to do over the course of the
10 years is provide -- generally, I would make decisions
11 first in, first out.

12 I have evaluated that and figured out that this
13 is not always the most efficient way to be able to make
14 decisions. So when I have complicated cases, I may ask
15 for more proposed orders, I may ask for more detailed
16 briefs, anything to assist me in making further decisions.

17 Often times at the hearings, we're not allowed
18 enough time to be able to go into depth into all of the
19 issues. And so we, my office, we take those in, we make
20 notes about those matters, we calendar when the matter was
21 heard, we talk about what the issues are. And then I try
22 to prioritize those cases in which the issues can be
23 easily resolved and try to get them first.

24 And then the more complicated cases are usually
25 the ones that take the longest to decide, and so we try to

1 work through those as quickly as we can. And I'm still
2 working on a few of those.

3 And I must say that over the years, I have been
4 able to reduce the time that it takes for me to make of
5 lot of decisions, and I'm hoping that I'll continue to do
6 that over the few years.

7 Q. A search of news media indicated concerns
8 regarding your decisions to reduce bonds about your
9 defendants in two specific cases.

10 The first case involved Mr. Lorenzo Young in a
11 motion to reinstate bond hearing held in January of 2013.
12 During the hearing, you decided to reinstate and reduce
13 the bond.

14 Without getting into the merits of the case,
15 please explain how you arrived at your decision.

16 A. The first thing that I determined is that when a
17 -- when someone comes up for bond, my premise is that they
18 are innocent. They have only been charged with a criminal
19 offense, that they are still innocent until they are
20 proven by guilty a court, by the jury. And the state has
21 that burden.

22 And so the purpose of bond is to make sure that
23 someone will not be a flight risk or appear for the
24 charges and go through the process of disposing of those
25 charges through the criminal justice system.

1 The things that I look at would be, first of all,
2 what's the offense? Second of all, I look at whether
3 there is any prior record. I look at the defendants,
4 himself or herself, in terms of age, education, whether he
5 is employed, what ties he has with the community.

6 And to the extent that there is information about
7 this specific offense and what exactly happened. If there
8 are victims present, I will listen to the victims. If
9 there are people who want to speak on behalf of the
10 defendant, I listen to those individuals as well.

11 So I don't have a rating system, per se, as to
12 each factor, but I do consider all those things in
13 deciding whether to offer a bond and what type of bond to
14 set. And I also consider, generally, what bonds have been
15 set on similar charges in the past involving other cases.

16 So all -- while that may -- the facts of each
17 case will be different, I do look at traditionally what
18 type of bond has been set in similar types of charges.

19 And in this particular case, based upon what I
20 learned in the hearing, there seemed to have been some
21 question about whether or not the bond should have been
22 revoked. And based upon the information that was
23 provided, I determined that the bond should not have been
24 revoked because they were not new charges.

25 With Mr. Young, there was no prior record. He

1 was a young man. He was attending Midlands Tech. He
2 lived with his parents. He had been a life-long resident
3 of the county. While he had been charged with multiple
4 offenses that -- I -- he has been arrested for certain
5 crimes, he had no prior record. And so that's the major
6 things.

7 The Constitution says that he is entitled to a
8 bond unless it's a capital offense, and so I start with
9 that premise and go from there.

10 Certainly, based upon the information that was
11 presented to me, I felt that the bond should be
12 reinstated. And then I looked at the factors as to
13 whether or not what to do about reducing the bond, whether
14 the bond should be reduced.

15 Given the fact that -- I believed on one of the
16 charges, there were additional charges that were served
17 upon him. It was not a new offense, it was not a new
18 incident that had occurred. But they were just simply
19 adding charges that had already been brought, they were
20 adding new charges.

21 So I tried to consolidate all those together and
22 then lower that bond somewhat so he would have the
23 opportunity to get be able to get out on bond, if that was
24 appropriate, which I thought it was because he had no
25 prior record.

1 You know, hindsight is always much better. I
2 mean, there is always information that you would consider,
3 having additional information.

4 Based upon what I knew at that particular time,
5 more information I had before me at that time, I thought
6 that it was appropriate to lower the bond somewhat to give
7 him the opportunity to be able to get out and to meet with
8 his lawyer and to continue to work with his family. He
9 was living at home.

10 If I were to go back and do it now, perhaps I
11 would have added some additional conditions. I may have
12 added conditions about house arrest, or I may have added
13 conditions about electronic monitoring. But at the time
14 that he was present before me, I didn't think that that
15 was needed or that that was appropriate in order to ensure
16 that he would come to court.

17 Every time you make a decision about a bond or
18 what to do, you know, I understand that there is going to
19 be an impact upon somebody's life; whether it's the
20 victim's life, whether it's going to be the defendant's
21 life or the family.

22 But I firmly believe that the justice system
23 works and that someone is entitled to a bond unless the
24 Constitution -- or there is another reason to deny the
25 bond.

1 And given the fact that they were allegations and
2 he is still innocent until proven guilty, I thought that
3 what occurred in that particular case was appropriate
4 under the circumstances.

5 And of course, you know, as I said, hindsight is
6 always 20/20. I can always tweak it a little bit. But I
7 do the best that I can based upon the information I have
8 available to me at that particular time.

9 Q. The second case involved Mr. Dequan Vereen in a
10 motion to reconsider bond hearing held in February of
11 2013. During that hearing, you decided to reconsider bond
12 and reduce the bond.

13 Without getting into the merits, once again of
14 the case, can you please explain how you arrived at that
15 decision.

16 A. Same factors would have been employed.

17 I believe Mr. Vereen was 18 or 19 years old. He
18 had children, was employed with McDonalds, and was on a
19 track for being a trainee to be a manager.

20 I mean, he had no prior record. His family
21 members were there. He had ties to the community. There
22 was nothing to know that he should not be given the
23 opportunity to be released and to show up to court and be
24 able to meet those obligations with the criminal justice
25 system and to be able to require the state to meet its

1 burden of proving that he was guilty beyond a reasonable
2 doubt before he would be incarcerated.

3 And so the same factors would have been
4 considered under those circumstances as well.

5 Q. Thank you, Judge Lee.

6 Have you sought or received the pledge of any
7 legislator prior to this date?

8 A. No.

9 Q. Have you sought or have you been offered a
10 conditional pledge of support of any legislator pending
11 the out of your screening?

12 A. No.

13 Q. Have you asked any third parties to contact
14 members of the general assembly on your behalf?

15 A. No.

16 Q. Are you aware of anyone attempting to intervene
17 in any part of this process on your behalf?

18 A. No.

19 Q. Have you contacted any members of this
20 Commission?

21 A. No.

22 Q. Do you understand that you are prohibited from
23 seeking a pledge or commitment until 48 hours after the
24 formal release of the Commission's report?

25 A. Yes, sir.

1 Q. Have you reviewed the Commission's guidelines on
2 pledging?

3 A. I have.

4 Q. As a follow-up, are you aware of the penalties
5 for violating the pledging rules, that is; it is a
6 misdemeanor and upon conviction, the violator must be
7 fined not more than \$1,000 or imprisoned not more 90 days?

8 A. I did see that it is a criminal violation.

9 MR. GENTRY: I would note that the Midlands
10 Citizens Committee reported that Judge Lee is qualified in
11 evaluative criteria of constitutional qualifications.

12 The Committee found Judge Lee to be
13 well-qualified in the remaining evaluative criteria of;
14 ethical fitness, professional and academic ability,
15 character, reputation, physical health, mental stability,
16 experience, and judicial temperament.

17 The Committee stated in summary, Judge Lee enjoys
18 an excellent reputation for her knowledge and excellent
19 demeanor. She has a wealth of experience.

20 As several attorneys have noted, Judge Lee tries
21 to get it right regardless of the parties or the lawyers.
22 She works very hard and obviously cares deeply about being
23 a judge. She is extremely well-qualified.

24 I would just note for the record that any
25 concerns raised during the investigation regarding the

1 candidate were incorporated into the questioning today.

2 Mr. Chairman, I have no further questions at this
3 time.

4 SEN. MARTIN: All right. Any questions, members
5 of the Commission?

6 Senator from Darlington.

7 SEN. MALLOY: Thank you, Mr. Chairman.

8 Judge Lee, thank you for coming.

9 I have had the opportunity to look at the
10 transcripts today and obviously have been part of the
11 discussions all day. I just want to take this time to
12 thank you for your service.

13 And I have looked at these matters of bond, and I
14 think it's very unfortunate that this has come out and you
15 have been questioned about this.

16 From the looks of it, in my 20-some-odd years of
17 practicing law, there's been no laws violated. There is
18 no -- the Constitution has not been violated. We get a
19 certain set of things that is given to a judge, and it
20 looks like you were invited by them, and I want to thank
21 you.

22 I have cases of re-offending in my practice
23 everyday. And so I think that in light of that,
24 obviously, I would end up expressing that to you. And
25 thank you for your explanation today and your diligence in

1 handling the bond.

2 MS. LEE: Thank you very much, Senator. I
3 appreciate that.

4 SEN. MARTIN: All right.

5 Mr. Strom.

6 MR. STROM, JR.: Thank you.

7 BY MR. STROM, JR.:

8 Q. Judge Lee, I was trying to listen to you
9 carefully. And when you went through your analysis, you
10 talked about the flight risk, but I don't recall you
11 saying that you also analyzed the risks to the community.

12 Is that part of your analysis?

13 A. It is. Because you're always concerned about
14 whether somebody is a danger to the community, and it's
15 hard to evaluate what the danger is, on occasion.

16 I will say that I do now pay a lot more attention
17 to the types of crimes and whether they are violent
18 offenses, as defined by the legislature, and I think those
19 are important facts to consider.

20 And so I will say that in -- the situation has
21 been unfortunate, and I'm very sympathetic to what has
22 occurred. I try not to let that effect my ability to be
23 able to clearly and cogently do my job. But I will say
24 that I ask a lot more questions, and I think a lot more
25 carefully before I ultimately make a decision.

1 Q. But you do look at those --

2 A. That is a factor -- that is a factor to consider,
3 yes, sir.

4 Q. And in looking at the transcript -- and Lord
5 knows how you got all of this straight the way it's
6 presented.

7 But it looks to me like at the end of the day,
8 you reduced the bond down to 225,000. Does that -- you
9 reduced one --

10 A. There were three separate bonds. There was one
11 for \$15,000 which remained the same; there was one from
12 \$275,000 that was reduced down to 100- --

13 Q. Seventy-five?

14 A. -- 75. And then there was a \$75,000 bond that
15 was reduced to \$50,000.

16 Q. So we had 175 --

17 A. One- --

18 Q. -- 150 --

19 A. Plus 50, plus 15.

20 Q. Okay. So we are at 200-and --

21 REP. BANNISTER: Two-forty.

22 BY MR. STROM, JR.:

23 Q. -- \$240,000 bond.

24 And I note that the newspaper referenced just one
25 of the bonds that were reduced. But the reality was that

1 this young man was under basically a quarter million
2 dollar bond. It wasn't like you reduced it down to a PR
3 bond or something that was very novel.

4 A. Yes, sir. And as I understand it, unless you
5 consolidate all the bonds together, he's got to meet each
6 separate bond. So he had to meet the \$50,000 bond, plus
7 the \$15,000 bond, plus the 175,000. So he had to post
8 three separate bonds.

9 Q. That's my understanding as well.

10 So at the end of the day, this was a \$240,000
11 bond, and obviously it's unfortunate that -- you know,
12 what happened. But that's still, in any environment, an
13 extremely high bond.

14 A. And I think it's generally been consistent with
15 other bonds that have been set, at least from my
16 experience with other ones that come before me. And the
17 majority of the motions that I hear, with respect to
18 criminal cases, do relate to bond, whether it's setting
19 bond or reducing bond or revoking bond.

20 Q. And regarding the Vereen hearing, I've looked at
21 that transcript as well. And I'd like to first -- if no
22 one objects -- make both of these transcripts part of the
23 record because I don't think they've been transcribed
24 prior to this hearing.

25 I don't see where the solicitor objected to the

1 bond being reduced. Is that your --

2 A. That's my understanding in my review of the copy
3 of it, there was no objection to it.

4 Q. And in my 30 years of practicing criminal law,
5 both as a prosecutor for the state and federal and a
6 defense lawyer, if the prosecutor wants to object to the
7 bond, they make -- they are very capable of letting the
8 judge know, and they do that --

9 A. On a regular basis.

10 Q. -- on a regular basis. And if they are taking no
11 position, they do what they do in this case so that's
12 somewhat a signal to the court that there's not strong
13 opposition --

14 A. That's correct.

15 Q. -- from the other side.

16 MR. STROM, JR.: Thank you. That's all the
17 questions I have.

18 SEN. MALLOY: Well, \$240,000 from where I come
19 from is an effective denial of the bond.

20 SEN. MARTIN: Representative Bannister, do you
21 have a question?

22 BY REP. BANNISTER:

23 Q. Just to make sure I've got it right.

24 The bond, before you reduced it, was 365, right,
25 if you add three up?

1 A. I haven't added them up, but if -- I'll take your
2 word for it.

3 Q. Well, I'm not a finance major, but I am trying
4 to --

5 SEN. MARTIN: We understand.

6 BY REP. BANNISTER:

7 Q. The fellow in question could have made that bond
8 and gotten out; right?

9 A. I don't know.

10 Q. I mean -- sorry. Not -- hypothetically --

11 A. Hypothetically --

12 Q. -- if he would have made bond, he would have been
13 released --

14 A. Yes.

15 Q. -- whether you did anything or not?

16 A. Right.

17 Q. Okay. That was one question.

18 Just to clarify that the bonds were already
19 there. Had he made the higher bond, he would have been
20 released --

21 A. Yes, sir.

22 Q. All right. And then was there anything that
23 you're aware of that was keeping the solicitor from trying
24 these cases and changing the presumption of innocence to
25 guilty?

1 A. As far as I know, no. But I have learned to ask
2 many of those questions now. I don't -- the solicitor
3 calls the case. The solicitor calls it when they are
4 prepared to go forward with it, and we don't interfere
5 with that, other than to -- when they decide to call it,
6 we take it and we go forward with it.

7 But I don't know the reasons why there was a
8 delay in bringing any one of the charges -- any one of the
9 sets of charges into trial.

10 Q. So the Dequan Vereen, do you remember about when
11 that happened? I see the incident where he was arrested
12 was in November of 2012.

13 A. And that was his only -- that was his only charge
14 at the time that I heard his bond was the November
15 incident. And the bond hearing was in February.

16 And then I guess subsequently upon his release,
17 there was some other incidents later on. So I don't know
18 what happened at that particular time or why it hadn't
19 been tried.

20 Q. All right. And then on the Lorenzo Young, same
21 -- same answer as it relates to, they could have tried one
22 of those cases? There was lots to choose --

23 A. Yes, sir.

24 Q. -- which --

25 A. There were some as early as March of 2012 that

1 they certainly could have tried. Or -- then there was
2 there's other charges in July. And then there was other
3 charges in August, I believe it was.

4 Q. And a conviction on any one of those charges
5 would have had the bond issue be a non-issue because he
6 would have been sentenced then; right?

7 A. He would have been sentenced.

8 Q. Versus --

9 A. Assuming that he was found guilty --

10 Q. Right.

11 A. -- the judge would have invoked a sentence, and
12 he probably would have been in the department of
13 corrections.

14 SEN. MARTIN: Any other questions?

15 MR. STROM, JR.: I do.

16 SEN. MARTIN: Yes, sir.

17 BY MR. STROM, JR.:

18 Q. Judge Lee, is it your general practice that the
19 solicitor brings a case before you where someone has been
20 rearrested on new charges that are serious charges and ask
21 that the bond be revoked, that you normally revoke those
22 bonds?

23 A. I consider what the new charges are. And in that
24 particular case, I really do look more closely to what
25 affect it has on the community and what the charges are in

1 determining whether or not it's of significant value to --
2 to revoke and keep them incarcerated until -- him or her
3 incarcerated until such time as the first charge goes
4 forward to trial on one of the other charges.

5 MR. STROM, JR.: Okay.

6 SEN. MARTIN: All right. Any other questions?

7 SEN. MALLOY: I would like to conclude by just
8 saying one, that the -- with all due respect, that the
9 discretion of the judge is not in the process of the
10 Committee. I understand that we're not doing that. If
11 you look at Article 5, Section 27, basically what we're to
12 do is to consider qualifications and fitness of our
13 candidate.

14 And Judge Lee, I mean, I think that you've been
15 given an opportunity as a forum, but I think that, one, as
16 we started out, there really has been nothing violated.
17 There has been no constitutional provisions that have been
18 violated.

19 And so the matter regarding the constitution, and
20 some of my questions I think went to, what was your
21 discretion, and you've method. You've been very gracious
22 in giving us the way that you approached these things.

23 But I think that as far as the qualification and
24 fitness for this body for you to be seated as a judge, I
25 think that still, you have a -- are pretty impeccable.

1 And I would just like to add, my general
2 comments, that protection of the community, that
3 responsibility belongs to the police.

4 SEN. MARTIN: All right.

5 MR. STROM, JR.: Mr. Chairman, I would like to
6 make a motion that these transcripts be -- as well as the
7 recording, be admitted into the record. As I understand
8 it, this is not a certified court transcript, that this
9 was something done by the staff here in preparation of
10 this hearing.

11 So I think having both the tape and the
12 transcript as part of the record would be appropriate and
13 informational.

14 MR. SELLERS: I second the motion.

15 SEN. MARTIN: Second. Any objection?

16 SEN. MALLOY: No, not with that -- with those
17 qualifications.

18 SEN. MARTIN: Yeah, with those stipulations.

19 No objection, it will be done. It will become
20 part of the record.

21 (Exhibits 62 - 64 were marked for
22 identification and attached hereto.)

23 SEN. MARTIN: Any other comment or question?

24 MR. SELLERS: Just one.

25 BY MR. SELLERS:

1 Q. Judge Lee, you have been on the bench since 1999?

2 A. Yes, sir.

3 Q. And unfortunately, bad circumstances always bring
4 up issues like this. But over the course of those 14
5 years that you've been serving, how many bond hearings
6 would you estimate that you've had?

7 A. Oh, gosh, I couldn't even begin to estimate. I
8 mean, whenever I do criminal court, we have motions. And
9 80 percent of the motions that I have relate to some bond
10 issue, whether it's revoking bond or it's setting bond or
11 reducing bond.

12 This year, for example, half of the terms that I
13 had, have been criminal case, criminal court. And so I've
14 had, you know, every time I go to criminal court --

15 Q. So at least hundreds?

16 A. Hundreds. If --

17 Q. Perhaps thousands?

18 A. If not more, yes, sir.

19 MR. SELLERS: Okay. That's all I've got.

20 SEN. MARTIN: All right.

21 Well, Judge Lee, we thank you very much for your
22 service and for your willingness to come this evening and
23 answer questions of the stuff and cooperation with the
24 staff and members of the committee.

25 Really, you know, there is no opposition here, so

1 the 48-hour rule is what it is.

2 And, again, we wish you the very best, and thank
3 you for your service.

4 MS. LEE: Thank you. And I would like to thank
5 the Commission for giving me the opportunity to come and
6 answer some of the questions about these issues.

7 I know that they are important community issues,
8 and I wanted to make sure that I had the opportunity to
9 answer some of the questions that may be in people's
10 minds.

11 And, additionally, I would like to thank the
12 staff as well for their courtesies as they've exhibited to
13 me and assistance that they've given to me in trying to go
14 through all of these issues and working on those issues.

15 SEN. MARTIN: Thank you.

16 MS. LEE: Thank you so much.

17 SEN. MARTIN: All right.

18 MS. LEE: I may be excused?

19 SEN. MARTIN: You may be excused. Thank you.

20 MS. LEE: Thank you very much. Have a good
21 evening.

22 SEN. MARTIN: Thank you. You too.

23 Jane, we need to go into executive session once
24 again.

25 (The members went into executive session.)

1

- - - - -

2

(The members came out of executive session.)

3

SEN. MARTIN: We're back in open session, on the

4

record.

5

Jane, call out the first one.

6

MS. SHULER: Family court, 15th judicial circuit,

7

seat 2, Melissa J. Emery.

8

MR. SELLERS: I move that we find her qualified

9

and nominated.

10

SEN. MARTIN: Any objection?

11

All right. All of those who will be voting in

12

favor?

13

MS. SHULER: Ten.

14

SEN. MARTIN: Yeah, all ten of us.

15

Anybody who wants to record it differently, just

16

let me know.

17

MS. SHULER: Circuit court, at-large, seat 11,

18

The Honorable Alison R. Lee.

19

SEN. MARTIN: All right.

20

MR. SELLERS: Same motion.

21

SEN. MARTIN: Second. All those in favor -- any

22

objection?

23

Hearing none, it will be unanimous.

24

MS. SHULER: Ten.

25

SEN. MARTIN: Ten.

1 MS. SHULER: Family court, retired, The Honorable
2 Jane D. Fender. And she was one of the ones that was not
3 to appear today.

4 SEN. MARTIN: Not to appear. All right.
5 Do we have a motion to second?

6 REP. BANNISTER: Yes.

7 SEN. MARTIN: All right. Any objection?
8 Nominated and qualified.

9 Hearing none, so ordered. All ten voted.

10 MS. SHULER: Ten.

11 SEN. MARTIN: Nominated and qualified.

12 MS. SHULER: Family court, 16th judicial circuit
13 seat 1, an open seat, Thomas H. White, IV.

14 SEN. MARTIN: Any motions?

15 MR. SELLERS: Same motions.

16 SEN. MARTIN: Any objection?

17 Hearing none, Mr. White's nominated and qualified
18 by ten votes of the Commission.

19 MS. SHULER: All right. Moving to the remaining
20 candidates that were waived today -- do you want me to
21 read them as a slate?

22 SEN. MARTIN: Just give them in volume.

23 MS. SHULER: All right.

24 Circuit court at-large seat 12, Judge Thomas A.
25 Russo; circuit court at-large, seat 13, Judge Larry B.

1 Hyman, Jr.; family court, 4th circuit, seat 3, the
2 Honorable Michael S. Holt; family court, 6th judicial
3 circuit, seat 2, The Honorable W. Thomas Sprott, Jr.;
4 family court, 9th judicial circuit, seat 5, The Honorable
5 Jocelyn B. Cate; family court, 15th judicial circuit, seat
6 3, The Honorable Ronald R. Norton; administrative law
7 court, chief administrative judge, seat 1, Judge Ralph
8 King "Tripp" Anderson, III.

9 Then for retired judges, circuit court; The
10 Honorable Thomas W. Cooper, Jr., The Honorable Howard P.
11 King.

12 For family court, retired; the honorable Peter R.
13 Nuessle; The Honorable James A. Spruill, III.

14 And I will leave off Judge Strom, and we'll vote
15 for her separately so that you can make your motion.

16 SEN. MARTIN: All right. We'll leave off Judge
17 Strom. Same motion applies to --

18 REP. BANNISTER: Yes.

19 SEN. MARTIN: -- all the candidates just named.
20 Any objection?

21 Hearing none, all ten vote in favor.

22 Now, Judge Strom with --

23 MR. STROM, JR.: And I am recusing myself.

24 SEN. MARTIN: -- with Commission member, Strom.

25 SEN. MALLOY: I move that the other nine nominate

1 and qualified.

2 MR. SELLERS: Second.

3 SEN. MARTIN: We have a motion to second.

4 Any objection?

5 Hearing none, so ordered.

6 So nine of us will find -- with Commission member
7 Strom recusing himself, nine of us will find Judge Strom
8 nominated and qualified.

9 All right?

10 MS. SHULER: All right.

11 (Ending time: 6:05 p.m.)

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REPORTER'S CERTIFICATE

I, TRACY E. BROWN, CSR No. 13433, Certified Shorthand Reporter, certify;

That the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witness was put under oath by Senator Martin;

That the testimony of the witness, the questions propounded, and all objections and statements made at the time of the examination were recorded stenographically by me and were thereafter transcribed;

That the foregoing is a true and correct transcript of my shorthand notes so taken.

I further certify that I am not a relative or employee of any attorney of the parties, nor financially interested in the action.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct.

Dated this 8th day of December, 2013.

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Lucy E. Brown 