

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

Family Court
(New Candidate)

Full Name:

Business Address:

Business Telephone:

*Huntley
Smith Crouch*

1. Why do you want to serve as a Family Court Judge?

Many of my colleagues ask this exact question. As a Family Court judge, I would have some of the greatest opportunities to touch on a significant number of aspects of individuals' lives. People come to Family Court when their lives are in turmoil whether it be a juvenile proceeding, domestic abuse, divorce or custody action, and because their lives are already in turmoil with emotionally charged circumstances, it is imperative that the judge be mindful of the very serious and far reaching consequences of his or her decisions. In Family Court, the judge must be sensitive to the litigants yet firm in his or her rulings. There is no jury to rely upon, and the role of judge is an awesome burden to bear in Family Court. Family law is one of the most challenging areas of the law in which to practice because of the potential for extreme dynamics in each case. I want to be a Family Court judge, because I will be fair, impartial, and ethical in making hard decisions for those who could not make the decisions for themselves. And, on those occasions in Family Court when one is gifted with the joy of a family adopting a child, I will take pride in my role as a judge in bringing together a family, knowing it is a job that is well-done.

2. Do you plan to serve your full term if elected? Yes.

3. Do you have any plans to return to private practice one day? If I retired from the judiciary and was of an age that I was still inclined to practice, I think a private mediation practice would be ideal.

4. Have you met the statutory requirements for this position regarding age, residence, and years of practice? Yes. I am 44 years old. I have resided in Lexington County, South Carolina for the past thirteen (13) years, and I was licensed to practice law in South Carolina in November, 1998.



5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

My philosophy as a practicing attorney in speaking with a judge has always been to be mindful of any circumstance which could be perceived as giving rise to an inappropriate *ex parte* communication and avoiding any such circumstance. The same would hold true if I were a judge. I would anticipate that there could arise an occasion where one party communicated with the Court with regard to scheduling or filing for an emergency or expedited hearing; however, even in the instance of scheduling, I would make immediate efforts to include the other party.

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

A judge must be mindful at all times that the judge is a representative of the judicial system, not a state agency, not a private firm, and as such, the judge must avoid the *appearance* of impropriety. After full disclosure of all of the facts on the record, if there is a possibility that either side could perceive the Court as being partial or biased, then recusal is warranted. In the case of former associates and law partners, I do not believe that one can circumvent the appearance of impropriety/partiality; therefore, I would not hear a case in which attorneys representing the individual groups listed above appeared. Regarding lawyer-legislators, I believe automatic recusal would be improper, as no lawyer-legislator would be able to appear in court. Rather, the situation should be considered on a case-by-case basis with consideration given to the nature of the relationship with the lawyer-legislator.

7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

See my response to #6 above. I believe it is clear that even if I maintained my belief that I could remain impartial, if a party perceived that I was not impartial, then a motion for recusal should be granted. If I were not confident in the decision, I believe I would turn to independent counsel, an ethics advisory opinion, or an expert opinion as to the issue, so that the resulting decision would be clear and concise.

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

I would handle the situation as described in #6 or #7 *supra*. After full disclosure is made on the record, I would recuse myself, because there is always the risk of an appearance that any decision made by the Court was motivated by improper bias even if it is not so motivated. My understanding

is that the standard is not whether you acted improperly but whether you could appear to have acted improperly, and in the case of a spouse or close relative, I cannot perceive of a situation where that appearance would not exist.

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

If the person giving the gift ordinarily gave a gift prior to my being elected as a judge, then so long as the gift was commensurate with the occasion, then I would not refuse the gift. With regard to family members living in my household, the same would hold true. Otherwise, the standard employed by me would be to refuse a gift or offering (i.e. picking up the check for dinner) unless there was a special occasion warranting acceptance which was allowed for under the Judicial Canons and also which would not give rise to an appearance of impropriety. The same would hold true for members of my family.

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

Again, a judge has a duty of impartiality and to perform his or her duties diligently. Judges have a duty to report misconduct to the appropriate authority and a duty to take appropriate action if they receive information regarding the possibility that a violation of the Judicial Canons or Rules of Professional Conduct has occurred. I would consider the source of the information, the factual basis for the information, the actual knowledge of a violation and take appropriate action based on an analysis of the entirety. Appropriate action could range from communication with the attorney or judge to sanctions to reporting the conduct for further investigation.

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

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

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

I anticipate drafting of orders would be handled on a case-determinative basis. For example, in orders on Motions or other routine decisions, I anticipate that I would ask the prevailing party to draft the order, provide a copy to opposing counsel and submit to me within a time frame that would accomplish having the order finalized within thirty (30) days. With regard to more detailed order or matters that were taken under advisement, I anticipate that I would prepare a memorandum as to my ruling, submit the memorandum to counsel for the parties, and request

counsel to submit the proposed order to the Court. After receipt of the proposed order, edits could be made by the Court.

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

First, I would not take Matters Under Advisement unless absolutely necessary. For those cases which required additional time in formulating a decision, I would have a separate MUA list, so the report would be timely submitted to Court administration. Second, organization with a checklist and due dates noted would be critical per file, per term of Court and such list would have the contact information for counsel for the parties noted, so staff could easily contact counsel for all parties to advise if a deadline was approaching.

15. If elected, what specific actions or steps would you take to ensure that the guidelines of the Guardian Ad Litem statutes are followed during the pendency of a case?

With regard to private actions, initially, upon reviewing each file in which a private Guardian ad litem has been appointed, I believe the initial inquiry should be whether the Guardian ad litem has filed the initial affidavit. I believe the Court can determine by the nature of the Court appearance whether the Guardian ad litem is performing his or her statutory duties. If there are gaps in the investigation, the Court is at liberty to direct the Guardian ad litem to include in his or her investigation certain actions or focus on certain aspects of the case which give the Court pause or concern. The Court can and should ensure that the Guardian ad litem has been included in the hearings if a Guardian has been appointed. Oftentimes, attorneys neglect to include the Guardian in scheduling and fail to provide notice to the Guardian. If a Guardian ad litem has been appointed, he or she should be present, and the Court can ensure compliance with that provision, unless, of course, the attendance is excused. Two other statutory provisions that the Court can consider upon reviewing a file or having a Guardian ad litem appear in Court is the billing in relation to the statutory fee cap and timely submissions to the Court. Finally, upon review of the Guardian's final report, at a minimum, the judge should have a checklist to ensure that the Guardian ad litem has complied with the statutorily mandated duties and conducted a full investigation based upon those duties. The final order should relieve the Guardian of any further action or duties.

With regard to child protection cases, the role of the Guardian and the nature of his or her report is different than in private cases. The Court should ensure that the Guardian ad litem is appointed. The Guardian ad litem should receive proper notice of all hearings and orders, because the duty of the Guardian includes ensuring compliance with and enforcement of all Court orders. The Guardian is obligated to the Court until relieved of

his or her duties by the Court, so again, the final order should relieve the Guardian formally.

Specifically, I would incorporate a checklist for files involving Guardians, and I would include in my review of the file the items relating to the Guardian statutes to ensure that the statutory provisions were followed.

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

The role of the judiciary is to interpret and apply the laws, not make the law. My belief is that a judge can and should issue rulings within the confines of the law. Policy considerations are for lawmakers' consideration. I concede that if a statute or case law is broad enough, allowing only the decision and giving no guidance as to what findings the Court must make in reaching the decision, then a judge could consider a public policy argument in conjunction with other factors in reaching a decision thereby setting or promoting public policy. However, at all times a judge must maintain neutrality. My position is that if a judge manipulates the law to achieve an outcome based on his or her policy beliefs, then that judge has not maintained neutrality, demonstrating a critical concern with judicial activism.

17. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities would you plan to undertake to further this improvement of the legal system?

I believe judges can benefit the legal system by engaging in speaking, writing, or instructional activities such as CLE participation. Additionally, I would be inclined to consider improvements in docket management and working with the Office of the Clerk of Court. Further, I would like to serve on committees with other attorneys and judges, such as the South Carolina Family Court Bench/Bar committee.

18. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you plan to address this?

As with any job, there is the reality that the job carries over into one's personal life and has the potential to create strain in personal and family relationships, depending on the issue being dealt with at the time. Currently, practicing as a family law attorney and serving as a Guardian ad litem in many cases, I have learned to deal with the additional stresses that arise out of my work and the cases that I handle. I am very conscious of confidentiality, and thankfully, I have a very supportive network of family and friends who understand that I am unable to discuss what happens at work frequently. I suspect nothing will make one appreciate watching one's children play sports, attend a parent/teacher night or hear a school orchestra concert than sitting through a contested custody battle with allegations of abuse and neglect. I have learned to balance the work load

and level of stress from my job, and because of my line of work, I take time to ensure that I appreciate my life outside of my work, all of which helps me minimize the pressure and strain that working in Family Court can create.

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

As a judge I would give consideration to a *pro se* litigant, but I would not classify that as a special consideration. For example, it is clear that a *pro se* litigant is treated as if her or she were an attorney, held to the same standards. However, taking time to explain those standards, terminology, court room decorum and the process to a *pro se* litigant is appropriate. At all times, I think a judge must maintain the balance between propriety, fairness, and responsibility to all parties to remain neutral while equally applying the rules of Court and the law to all parties in a case, regardless of legal education.

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

21. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved? No.

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

23. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes.

24. What percentage of your legal experience (including experience as a special appointed judge or referee) concerns the following areas? If you do not have experience in one of these areas, can you suggest how you would compensate for that particular area of practice?

a. Divorce and equitable distribution: I would estimate that of the domestic litigation cases I handle, 60% involve divorce and equitable distribution. I have had the opportunity to handle divorce actions involving simple divorces with very little property division to highly contested actions involving grounds for divorce and division of assets exceeding a million dollars. I have brought and defended actions involving military divorces and division of property in military divorces. I have handled divorces involving all statutory grounds except for the ground of desertion. Several of the divorce actions in which I have been involved have involved issues in Magistrate's Court, Probate Court, Bankruptcy Court, and Social Security Disability, and my background working in two general practice law firms has aided me in understanding the issues to be addressed in those legal arenas. Additionally, in multiple cases, I have been required to attend domestic abuse hearings and file for *ex parte* emergency or expedited relief.

- b. **Child custody:** I would estimate that of the domestic litigation cases I handle, 30% involve only child custody. However, typically, a majority of the divorce cases that I have handled also involved issues of child custody and children's issues. I have represented clients whose children ranged from infants to teens, and I have represented parents of adult disabled children and special needs children. I have represented military parents in custody cases. Many of my cases have involved post-divorce modifications based on a substantial change in circumstances. In addition to bringing and defending cases, I also serve as a Guardian ad litem, and as such, I have addressed issues in private cases involving drug and alcohol abuse, parental alienation, mental health concerns, physical abuse and sexual abuse.

- c. **Adoption:** I would estimate that of the domestic litigation cases I handle, 4% involve adoption. I have served as Guardian ad litem and as counsel for a party in private adoption cases and step- parent adoption cases, involving termination of parental rights, both contested and uncontested. One of the more interesting cases that I handled was an adult adoption case in which an adult wished to be adopted by his former step-father and his former step-father's current wife. The case involved issues of notice and military issues.

- d. **Abuse and neglect:** I would estimate that of the domestic litigation cases I handle, 5% involve abuse and neglect issues. I have been appointed in abuse and neglect cases and in those cases have addressed issues such as custody, visitation, child support, and termination of parental rights. Several interesting issues which have been raised and/or litigated in my representation of parties in abuse and neglect cases include: jurisdiction under the UCCJEA and the impact of emergency jurisdiction when South Carolina is not a home state; appointment of an attorney for the minor children when the recommendation/investigation of the Guardian ad litem does not track with the children's wishes under S.C. Code Ann Section 63-7-1620 (2); motion to remove the Guardian ad litem; and motions to return the children and dismiss the action for failure to prosecute and timely comply with statutory requirements in abuse and neglect cases. Some issues related to abuse and neglect have carried over into my private Guardian ad litem cases.

- e. **Juvenile cases:** A very small percentage, approximately 1%, of my practice relates to juvenile cases. I have represented parents of a juvenile and as a result have been involved with DJJ, the solicitors and public defenders, and other state agencies. I have attended hearings related to that action, including detention hearings, adjudication and sentencing hearings, and dispositional hearings. On several cases, I have advised clients regarding truancy issues and hearings. Additionally, my experience and service as a Guardian ad litem in private cases and as representative for parents in abuse and neglect cases has given me insight into some of the concerns and issues arising under the Juvenile Justice Code, ranging from drug and alcohol use by a minor to reports and evaluations relating

to the juvenile. I have taken the opportunity to observe, with the Court's permission, juvenile proceedings to better understand this area of the law and the procedure related to it in Family Court. I have also conferenced with solicitors and public defenders about this area of the law, so that I can educate myself more fully.

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

I feel that a judge should appear controlled, interested, and impartial so as to maintain the decorum of the Court. There is no reason for a judge to be disrespectful. At all times, a judge should be mindful that his or her demeanor will reflect on the judicial office. I approach all of my cases in every Court with a certain formality, and I believe that a judge should maintain formality in proceedings. I further believe that a judge can be courteous and patient and still run an efficient courtroom.

26. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?

I believe the formality should be maintained while on the bench, but the maintenance of decorum so as to positively reflect on the position should be maintained at all times.

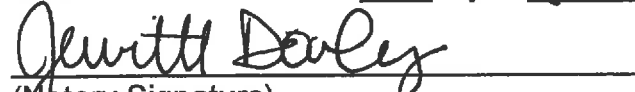
27. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or a pro se litigant?

While frustration can be a normal reaction and unfortunately can occur when dealing with self-represented litigants or members of the public who do not understand the proper court procedures, a judge should maintain his or her patience and dignity. Anger is never appropriate for a judge, regardless of the classification of the individual (i.e. defendant, member of the public or pro se litigant). Once a judge resorts to anger, I am convinced that personal bias will come into play, creating a situation in which the judge can never resume impartiality. Decorum is key in a courtroom, and if the judge is disorderly and discourteous, then decorum cannot be maintained.

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.


(Candidate Signature)

Sworn to before me this 31 day of July, 2016.


(Notary Signature)

DeWitt Doolay
(Print name)

Notary Public for South Carolina
My Commission Expires: 9/1/2019