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PROCEEDINGS

November 13, 2018

Judicial Merit Selection Commission, 2018

REPORTER: Jennifer Nottle

1 STATE OF SOUTH CAROLINA)

2 COUNTY OF RICHLAND)

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5 JUDICIAL MERIT SELECTION COMMISSION

6 TRANSCRIPT OF PUBLIC HEARINGS

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8 BEFORE: SENATOR LUKE A. RANKIN, CHAIRMAN
9 SENATOR RONNIE A. SABB
10 SENATOR TOM YOUNG, JR.
11 MR. ROBERT W. HAYES, JR.
12 REPRESENTATIVE J. TODD RUTHERFORD
13 REPRESENTATIVE CHRIS MURPHY
14 MR. MICHAEL HITCHCOCK
15 MS. LUCY GREY MCIVER
16 MR. ANDREW N. SAFRAN
17 ERIN B. CRAWFORD, CHIEF COUNSEL

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20 DATE: November 13th, 2018

21 TIME: 9:30 a.m.

22 LOCATION: Gressette Building

23 1101 Pendleton Street

24 Columbia, South Carolina 29201

25 REPORTED BY: JENNIFER NOTTLE, COURT REPORTER

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1 CHAIRMAN RANKIN: Mr. Hitchcock has made a motion to go
2 into executive session, seconded by Andy Safran
3 so we will now go into executive session.

4 (Executive Session)

5 CHAIRMAN RANKIN: A motion has been made to come out
6 of executive session by Representative Murphy,
7 seconded by Andy Safran. All right, ladies and
8 gentlemen, we're back on the record, and as you
9 know, the Judicial Merit Selection Commission did
10 go in executive session. However, while there no
11 decisions were made. No votes were taken
12 therein. Now let's proceed with the first
13 candidate today.

14 BLAKE A. HEWITT

15 CHAIRMAN RANKIN: Good morning, sir.

16 MR. HEWITT: Good morning, Mr. Chairman.

17 CHAIRMAN RANKIN: Welcome. We'll jump right in right
18 on time almost. Mr. Hewitt, please raise your
19 right hand.

20 BLAKE A. HEWITT, having been duly sworn, testifies as
21 follows:

22 CHAIRMAN RANKIN: You have on the dias there two
23 documents, a personal data questionnaire and a
24 sworn statement. Take a quick look at that.
25 Tell us if they need to be updated or if they are

1 correct, as is.

2 MR. HEWITT: I'm not aware that they need to be
3 updated, Mr. Chairman.

4 CHAIRMAN RANKIN: You don't object to any -- to those
5 being made a part of the record with your sworn
6 testimony?

7 MR. HEWITT: I absolutely consent.

8 CHAIRMAN RANKIN: And Lindi's got them. There will be
9 made a part of the record at this point. You
10 have been here before, so you have heard this.
11 Bear with me, but we've got to put it in the
12 record. And you will affirm this in a moment, I
13 know, but ultimately we have thoroughly
14 investigated your qualifications for this attempt
15 and effort to join the bench. Our inquiry is
16 focused on nine evaluative criteria, which
17 includes one, the ballot box survey, two, a
18 thorough study of your application materials,
19 three, verification of your compliance with state
20 ethics laws, a search of newspaper articles in
21 which your name appears, study of previous
22 screenings and a check for economic conflicts of
23 interest. We've received no affidavits filed in
24 opposition to your election, no witness are
25 present to testify, though there are two young

1 ladies here to make sure that you apparently do
2 it correctly, and you can introduce them if you
3 like shortly. And with that I'll offer to you
4 the opportunity to make a brief opening statement
5 if you choose.

6 (Exhibit Number 1 was marked for identification
7 purposes - (15 pages) - Blake A. Hewitt - Personal
8 Data Questionnaire.)

9 (Exhibit Number 2 was marked for identification
10 purposes - (8 pages) - Blake A. Hewitt - Sworn
11 Statement.)

12 MR. HEWITT: I don't have any opening statement, Mr.
13 Chairman, other than I'd like to thank the
14 Committee for the opportunity to be here and to
15 publicly thank your staff, whom you know are
16 excellent.

17 CHAIRMAN RANKIN: And again, am I going to introduce -
18 -

19 MR. HEWITT: No, I'm -- we all sort of out-punt our
20 coverage, I think, or at least most guys do. And
21 that's true in my personal life as well with --
22 of my law firm, so the two ladies here with me
23 this morning, over my modest objection are my
24 partners, Marti Bluestein and Allison Sullivan.

25 CHAIRMAN RANKIN: Very good, welcome ladies and

1 partners. All right, take it away, please, sir.

2 MR. HINSON: Thank you, Mr. Chairman.

3 MR. HEWITT - EXAMINATION BY MR. HINSON:

4 MR. HINSON: Thank you, Mr. Chairman. Good morning,
5 Mr. Hewitt.

6 MR. HEWITT: Good morning.

7 MR. HINSON: Mr. Chairman, I note for the record that
8 based on the testimony contained in the
9 candidate's PDQ, which has been included in the
10 record with the candidate's consent, Mr. Hewitt
11 meets the constitutional and/or statutory
12 requirements for this position regarding age,
13 residence, and years of practice.

14 **Q. Mr. Hewitt, why do you want to serve as a judge**
15 **on the Court of Appeals?**

16 A. There are two answers to that question, and some
17 of your are familiar with these answers, but I'll
18 say them again. The first is that serving on the
19 Court of Appeals would provide me with an
20 opportunity to do the legal work that I enjoy the
21 most, and that's appellate work. And the second
22 reason is public service. I can think of no more
23 -- I cannot think of a bigger honor than to serve
24 my fellow citizens by becoming a pure public
25 servant. And, of course, serving as a judge on

1 the Court of Appeals would be that. Now I'm
2 happy to unpack both of those reasons if the
3 Committee would like and talk about the values
4 that animate those reasons, but at the same time
5 I know I'm at the beginning of a very long day.
6 And so I'll be happy to leave it there, if that
7 would be helpful or beneficial.

8 **Q. Mr. Hewitt, how do your legal and professional**
9 **experience thus far will assist you to be an**
10 **effective judge on the Court of Appeals?**

11 A. Well, I've spent the majority of my professional
12 life trying to be the best lawyer that I can be.
13 And because a lot of my work has been appellate
14 work in practice what that means, is I've spent
15 most of my time trying to be the best appellate
16 lawyer I can be. The way that plays out on a
17 day-to-day basis is I spend all day every day
18 either trying to become the master of a case that
19 I've taken in from another lawyer, learning the -
20 - learning the trial record, learning what the
21 arguments were, and thinking critically about
22 what arguments to make in the context of an
23 appeal, or trying to master the relevant case law
24 on a particular subject matter. That sort of
25 day-to-day task I think would be bread and butter

1 day-to-day task of being an effective Court of
2 Appeals judge. Because as a Court of Appeals
3 judge, your obligation is to master the records
4 of the cases that come before you and to master
5 the body of precedents or the statutory law that
6 applies in that area. So I'm hopeful that it
7 would be a very similar experience, and I
8 certainly wouldn't have offered to serve on the
9 Court of Appeals if I thought that my experience
10 didn't qualify me to do it capably.

11 **Q. Thank you. Mr. Hewitt, how would you describe**
12 **your general judicial philosophy?**

13 A. You know, I bristle a little bit at labels,
14 because I think all of them are a little
15 imperfect. So I'll talk about some labels in a
16 minute, but foremost I think I would like to be -
17 - I've tried to be a humble and diligent and
18 disciplined lawyer. And I would try to be a
19 humble and diligent and disciplined judge. I
20 would approach cases, I think, with the utmost
21 respect for precedent. I would approach cases
22 with a keen eye towards the text of a statute.
23 So I would consider myself -- again, though, I
24 bristle a little bit at labels -- as a
25 textualist, because the text of a statute is

1 what's been passed by the General Assembly and
2 either signed by law -- signed by the governor
3 into law or passed by the General Assembly over
4 the governor's veto. And so the words of the
5 statute are what was passed, and so that's where
6 as a judge you would focus your inquiry on a
7 statutory case. I consider myself a minimalist.
8 I have not -- I have tried in presenting cases
9 before the appellate courts not to ask the court
10 to go further than was necessary to resolve the
11 case. You'll also hear the term "judicial
12 restraint" thrown around when you -- often I hear
13 people talking about minimalism, and I believe
14 firmly in judicial restraints. All of those
15 things, humility, diligence, discipline,
16 textualism, minimalism are values that I would
17 try to bring to the table as an appellate judge.

18 **Q. Mr. Hewitt, what is your vision for the future of**
19 **our judicial system, and what changes would you**
20 **advocate and why?**

21 A. So the broad vision of the future would be a
22 judicial system that treats every litigant's case
23 as the most important case in the world, because
24 to the people involved it is the most important
25 case in the world, and it tries to make the right

1 calls for the right reasons. Now you probably
2 noticed a couple of things about those
3 statements. Those are aspirational values, so
4 there's -- so you never arrive, you're always on
5 that journey. So in practice, what does that
6 mean? You know, that means, at the appellate
7 level, a system that hears cases in a timely
8 fashion and issues decisions in a timely fashion,
9 and issues those decisions in a way that reflects
10 humility, that convinces lawyers and litigants --
11 and this is very hard to do, particularly to
12 losing litigants. You know, the lawyer and the
13 litigant who wins always feels like they got a
14 fair shake. The one who doesn't prevail is, I
15 think, naturally inclined to say, "Well, those
16 judges are just crooked, or they missed the
17 boat." So the value -- part of the value to my
18 mind of an appellate decision is a decision
19 that's written in a way that at least lays bare
20 for everybody to see that all of the arguments
21 were considered and considered fairly and that
22 everybody got a fair shake. Beyond that, I don't
23 know that I have much to add.

24 **Q. And Mr. Hewitt, to what extent do you believe**
25 **that a judge should or should not defer to the**

1 **actions of the General Assembly. I know you**
2 **deferred to that a little bit, but if you would,**
3 **further expand on that.**

4 A. Well, the decision -- the deference to the
5 General Assembly in most cases, I think, will be
6 paramount. Because a judge's job is to interpret
7 the law, statutory law, and not make it, you
8 know, not enact law of the judge's own creation
9 or, you know, sort of impose the judge's own
10 policy preferences on an area of the law. And
11 so, you know, the bulk of the court system's work
12 I expect consists of statutory cases. This is
13 the relevant provision of the domestic code, the
14 probate code, the comp act, you know, or whatever
15 statute's in play. How does it apply? In
16 deference to the General Assembly and the words
17 the General Assembly puts into positive law
18 through statutes or regulations are paramount.
19 You know, there's a small -- there is an area of
20 law of what's colloquially referred to as the
21 common law, which is judge made law, and, you
22 know, there are court cases that say in the areas
23 of judge made law the supreme court is the final
24 -- the state supreme court is the final arbiter
25 or the common law, but, I mean, there's a

1 relatively small area of common law now. It
2 deals mostly with common law torts. And of
3 course when the General Assembly enacts a
4 specific statute in contrary to the common law,
5 there are canons of construction about how that
6 statute is construed. So in most instances, I
7 would say deference to the General Assembly is --
8 at least is borderline plenary, if not plenary.

9 **Q. Thank you, Mr. Hewitt. Mr. Hewitt, the**
10 **Commission received 432 ballot box surveys**
11 **regarding you with 83 additional comments. The**
12 **ballot box survey, for example, contained the**
13 **following positive comments: Mr. Hewitt would**
14 **make an outstanding jurist. Others stated: Mr.**
15 **Hewitt is superbly qualified, and another stated**
16 **that Mr. Hewitt would be a tremendous asset to**
17 **the bench. Three of the written comments**
18 **expressed concern regarding your lack of trial**
19 **experience. How would you respond to those**
20 **concerns?**

21 **A.** Yeah. You know, a few -- people associate me as
22 principally an appellate lawyer, and some of that
23 is by design. I mean, I've told you that I moved
24 in that direction relatively quickly out of law
25 school, because I thought I liked that area of

1 work, and I thought I might be good at it. Now
2 I've done trial work. I've done probably more
3 trial work than people realize. But I choose to
4 identify as an appellate lawyer, and my firm
5 chooses to advertise me as an appellate lawyer,
6 because they think that's my competitive
7 advantage. And I think that brings out, sort of,
8 the best parts of my best personal qualities.
9 But the fact is, you know, even though I have
10 probably appeared in circuit court and at the
11 agency level more in the time since my last
12 appearance in front of this Committee than
13 appellate courts, you know, if you needed to hire
14 somebody to defend a deposition or take a really
15 important deposition, you would not hire me. If
16 you had a really big personal injury case that
17 you were looking to, you know, have the summons
18 and complaint drafted, you know, from the ground
19 up and, you know, a lawyer take it soup-to-nuts
20 through trial, you would not hire me. You know,
21 there are lawyers in the state that you would do
22 that -- that you would hire to do that. You
23 know, that is the bread and butter part of their
24 practice. But if you had appellate litigation,
25 big appellate litigation, you know, maybe you

1 hire me, maybe you don't, but I think my name
2 shows up on that list, along with a constellation
3 of other lawyers, you know, in parts of the
4 state. I think my experience as principally an
5 appellate lawyer, as well with trial experience,
6 would be an asset to the court, particularly the
7 fact that I would be coming straight from private
8 practice, because I've experienced the
9 frustrations that lawyers experience when dealing
10 with the appellate court system. I know the
11 frustrations that clients have when dealing with
12 the appellate court system, because I have to
13 explain it to the clients myself, and sometimes
14 that's not fun. And again, I would not -- as
15 someone who, you know, sort of makes a lot of his
16 living in that system, I would not offer to serve
17 on the court of appeals if I thought that I would
18 in any way be a detriment to it. I would -- I
19 would hope and aspire to sort of help the team
20 perform a little bit better if I can sort of put
21 it in colloquial sports terms.

22 **Q. Thank you, Mr. Hewitt. Just a few housekeeping**
23 **issues. Since submitting your letter of intent**
24 **to run for this seat, have you contacted any**
25 **members of the Commission about your candidacy?**

1 A. No.

2 Q. Are you familiar with Section 2-19-70, including
3 the limitations on contacting members of the
4 General Assembly regarding your screening?

5 A. Yes.

6 Q. Since submitting your letter of intent, have you
7 sought or received the pledge of any legislator,
8 either prior to this date or pending the outcome
9 of your screening?

10 A. No.

11 Q. Have you asked any third parties to contact
12 members of the General Assembly on your behalf,
13 or are you aware of anyone attempting to
14 intervene in this process on your behalf?

15 A. No.

16 MR. HINSON: I would note for the record that the Pee
17 Dee Citizens Committee reported that Mr. Hewitt
18 is qualified as to constitutional qualifications,
19 physical health and mental ability and was found
20 well qualified in the areas of ethical fitness,
21 professional and academic ability, character,
22 reputation, experience, and judicial temperament.
23 I would also note for the record that any
24 concerns raised during the investigation
25 regarding the candidate were incorporated in my

1 questioning here today. And with that, I have no
2 further questions.

3 CHAIRMAN RANKIN: Okay, Mr. Hinson, thank you.

4 Questions, Mr. Safran?

5 MR. HEWITT - EXAMINATION BY MR. SAFRAN:

6 MR. SAFRAN: Hope you're doing well today. Just for
7 the record, Mr. Hewitt and I are co-counsel on a
8 pending appeal. We were both brought into this
9 case at different times, by somebody else, and he
10 has actually done the lion's share of the work at
11 this stage. So I'm just putting that out there.

12 Q. Just on the thing that you had touched on
13 previously, it just seems that even though it's a
14 very small number, there's still -- appear to be
15 certain concerns that are raised because of this
16 trial experience issue. I guess the practical
17 effect is, is that number one, you do have a
18 pretty substantial amount of experience at things
19 other than the appellate courts. And I think
20 that's correct, isn't it?

21 A. Yes, that's fair.

22 Q. All right. And beyond that, you know, as
23 somebody who started out, you know, not going to
24 court myself a lot and doing appeals early in the
25 career, how can you avoid not having -- by going

1 through the process of preparing an appeal,
2 reading a transcript, making your argument, not
3 have a grasp of what the practical effects of a
4 decision are going to be? I mean, isn't it
5 inescapable that you're going to know that just
6 by working on the appeal?

7 A. I agree with that, and I would add to it the -- I
8 get -- I get -- at the level I get the statement,
9 you know, the concern with, sort of, not being an
10 in-the-trenches trial litigator, you know, every
11 day. I think it actually cuts in the other
12 direction for a couple of reasons. The first is
13 that, to my mind, trial litigation, appellate
14 litigation, are fundamentally different. At a
15 trial it's all about establishing who's got the
16 most credible story. You know, who's telling the
17 truth, who's not telling the truth, because
18 that's what we decide, you know, at trial. And
19 an appeal is just a fundamentally different game.
20 An appeal is all about the law. How does the law
21 apply to this set of facts, and how might the law
22 apply to other sets of facts that aren't
23 necessarily before the court, so that we know
24 when we articulate in a written opinion what the
25 rule of law is, you know, we're articulating the

1 rule of law that reflects the General Assembly's
2 intent or the correct interpretation of
3 precedent. So to my mind, the areas of practice
4 are just completely different. And the second
5 thing I would say on that note may have just
6 flown right out of my mind. So, I'm sorry for
7 that, but --

8 **Q. That's okay. Well --**

9 A. -- and there was another thing I wanted to add to
10 that, but hopefully it'll come back to me.

11 **Q. Hoping it will, but let me just take one next**
12 **step. I mean, you're echoing what Mr. Nicols**
13 **said a couple of years ago, that really to do a**
14 **credible job as an appellate lawyer you have a**
15 **different skill set than somebody who is a trial**
16 **judge or a family court judge or even a regular**
17 **daily court practitioner. I mean, isn't that**
18 **really true?**

19 A. I agree completely. You know, what I do -- and
20 it came back to me, so thank you for the hint
21 because that was related to it -- I spend the
22 overwhelming majority of my time, you know -- I
23 get to work about 8:00 o'clock in the morning, I
24 hit it pretty hard until 5:00. And I'm either
25 trying to digest a trial record and master all of

1 the salient facts about what happened at trial,
2 or I'm reading cases, you know, for eight hours,
3 trying to say, "Okay, well, this case said this.
4 This next case said that. What is the
5 discernible principal of law? How does that
6 apply?" And I sort of live my professional life
7 in that area of critical thinking and digesting
8 material. And then trying to regurgitate,
9 articulate in the form of a written brief, you
10 know, a concise and coherent argument that says
11 this is what this case is. This is what this
12 case is about. This is the -- these are the
13 operable principals of law. This is how they
14 apply, and if you're concerned about x, y, and z
15 over here, this is how the principal of law takes
16 care of those concerns. I mean, that is what I
17 do. And I sort of live my life in sort of --
18 I've heard about lawyers who try a lot of cases
19 describing the area of the time period before
20 trial as a pressure cooker. You know, you're
21 trying to master all this material so you can get
22 ready and have complete command of it when you
23 get up in front of the judge for a bench trial or
24 a jury. I live my life doing that same thing.
25 It's just in a different environment. It's in

1 the environment of my office preparing to write
2 an appellate brief that I'm going to have to live
3 and die by in front of the Court of Appeals of
4 the Supreme Court. Or master it for the term --
5 for purposes of an oral argument that I'm going
6 to have to live and die by in front of the
7 Supreme Court or the court of appeals. And that
8 sort of work, I think, is every bit as demanding
9 as what the trial practitioner goes through in
10 preparing a case for active litigation. And it's
11 exactly what a good appellate court judge, I
12 think, has to do. Because for the appellate
13 process to be what it's supposed to be, which is
14 a conversation about the law, a conversation
15 between equals, the advocate and the member of
16 the judiciary on the bench, both the lawyer and
17 the judge have to have spent a substantial amount
18 of time preparing. You can't go in and wing this
19 stuff and have it come out well. So that's the
20 second way I would answer that concern, and
21 hopefully that is germane to the question that
22 you were asking.

23 **Q. Let me just close with one other question. While**
24 **I would never ignore the fact that any experience**
25 **in the system is a positive, really what you see**

1 and what you do as a trial judge, whether on the
2 family bench or on the circuit bench, is really
3 fundamentally different from what you're
4 requested to do at an appellate level in terms of
5 your focus, your time, and really kind of the
6 abilities that you're calling upon, because
7 there's so much that involves the research and
8 the writing. And at those levels, because of the
9 sheer volume of cases, you don't have the
10 opportunity to do that. So while I would never
11 say that it was a bad experience being there, I
12 just want to make sure -- and I'm not necessarily
13 asking you to comment negatively -- but just --
14 you don't -- no there's no prerequisite to be a
15 good appellate court judge through having have
16 been a trial court judge. I mean, they don't
17 necessarily -- they're not mutually exclusive.

18 A. We have in this state, you know, great appellate
19 judges who are not, you know, former Chief Judge
20 Alex Sanders, Judge Bert Goolsby --

21 **Q. Randy Bell.**

22 A. -- there are others. That's correct. Judge and
23 Justice Randy Bell. You know, appellate court
24 judging requires a lot of reading. I know trial
25 court judging requires a lot of reading, too, but

1 appellate court judging also requires a lot of
2 writing. And the thing about writing is, at
3 least for me, it's very hard to do well, and it
4 takes a lot of time, and it takes a lot of
5 practice. You know, I don't know how much trial
6 court judges write. I mean, I'm not speaking
7 critical of their experience, but I write all the
8 time.

9 **Q. Thank you very much.**

10 CHAIRMAN RANKIN: Senator Hayes?

11 MR. HEWITT - EXAMINATION BY MR. HAYES:

12 **Q. I enjoyed reading your background. Now on your**
13 **appellate, how much of your appellate work is**
14 **criminal versus civil?**

15 A. So I don't remember exactly what -- my knee jerk
16 is probably ten percent criminal, and the other
17 90 percent split between civil and domestic, less
18 domestic than civil.

19 **Q. Do you have any -- is your other experience --**
20 **have you done any criminal work?**

21 A. Are you talking about at the trial court level?

22 **Q. Yes.**

23 A. You know, the last criminal case I actively
24 participated in at trial was a murder case a
25 couple of years ago, but that's it. And I was

1 co-counsel. A colleague was lead counsel.

2 Q. Okay. But would you say of the other practice
3 outside the appellate work, how much of it would
4 be criminal?

5 A. Oh, a very little. Most of it is civil.

6 Q. But do you feel confident -- because I understand
7 the court of appeals would have to deal with
8 criminal as well as civil and domestic -- so do
9 you feel comfortable in all areas that you'd be
10 called upon to rule on?

11 A. I think so, Senator. Now, of course, you know,
12 where the rubber meets the road is how you
13 prepare. And I would certainly approach all
14 cases -- and I don't mean to give you a
15 circuitous answer, but to kind of give you a
16 little bit of a circuitous answer, I hadn't done,
17 for whatever reason, any probate work until the
18 last couple of years now. It just so happens
19 that right now I have a constellation of three or
20 four probate cases, you know, which is
21 interesting to learn -- you know, try to learn a
22 new area of the law. But what that's required me
23 to do is to sort of jump in over my head and, you
24 know, try and master all of this material. And
25 I've enjoyed doing that, and so I'm certain that

1 there would be, in addition to some issues in
2 criminal law -- I mean, there will be issues in
3 civil law or domestic cases, even though I've
4 done plenty of civil and domestic work -- that
5 I'll have to say, "Never run across this before,"
6 you know, but that's okay, you know. That's one
7 of the great things about this job is it's the
8 opportunity to learn something. You know, you
9 never stop learning.

10 **Q. I notice you went undergraduate at Georgia Tech;**
11 **is that right?**

12 A. That's right.

13 **Q. In civil engineering?**

14 A. Yes.

15 **Q. Do you think that's a good background for the**
16 **law?**

17 A. I don't know. It's -- to a lot of people, and I
18 think it's reasonable to say, that those look
19 sort of divergent. You know, civil was so heavy
20 math and science, I might have written one paper
21 in undergraduate school in a marketing class, and
22 I'm sure it was not well done. And then, of
23 course, law school all I do is write and read
24 now. I think, sort of, the same things about
25 engineering that -- or the same parts of my

1 personality that attracted me to engineering
2 probably attracted me to focus on appellate work.
3 You know, an engineer's view of the world -- and
4 I may have even said this before -- is that
5 there's no problem you can't solve if you just
6 get all the data, you know. If you want me to
7 build a cell phone tower that's 5,000 feet tall,
8 I can do it, you know, just give me all the data
9 about how steel behaves under certain conditions
10 or wind loads or ice loads, that sort of thing.
11 And the thing I like about appellate work is, you
12 know, every case comes to you in a box, and the
13 facts are set, you know, except for in family
14 court cases where the standard review is de novo,
15 the facts are set. So I don't have to worry
16 about who's telling the truth or not, all that
17 sort of thing, the facts are set. How does the
18 law apply to these facts. And then I've just got
19 to get in all the data, all the relevant
20 statutes, all the precedents from other cases and
21 say, "How do these apply? What legal principles
22 make this case work?" That's the only way I've
23 come up to -- with to explain it that makes sense
24 to me, you know. That same part of my brain that
25 thinks linearly, I think, attracted me to this

1 sort of work.

2 Q. My father, who was a circuit judge, was always of
3 the opinion that math majors and/or engineers
4 made good lawyers because of the same thing you
5 articulated there. If you've got a problem, they
6 find a solution. Sometimes they may have a
7 problem there's no solution to that, but he could
8 find a solution to it, so, thank you. Appreciate
9 it.

10 CHAIRMAN RANKIN: All right. Other questions?

11 SENATOR YOUNG: Mr. Chairman.

12 CHAIRMAN RANKIN: Senator Young.

13 MR. HEWITT - EXAMINATION BY SENATOR YOUNG:

14 Q. Thank you, Mr. Chairman. Mr. Hewitt, thank you
15 for your interest in serving on the South
16 Carolina Court of Appeals, and I will state for
17 the record that I have been -- currently not, but
18 I have been in the past co-counsel with Mr.
19 Hewitt on a case that was on appeal. And I do
20 have some questions for you. First of all, I
21 applaud you on the bar comments. You have a lot
22 of very favorable bar comments that were
23 obtained. One of the questions I have for you is
24 -- and you may have addressed this some earlier,
25 but I want to just be very pointed and ask you to

1 **explain, how has your law practice prepared you**
2 **for serving on the Court of Appeals?**

3 A. You know, what I may have said, probably
4 inarticulately a few minutes ago is, you know,
5 I'd -- what I do every day is to try and master
6 the case that's in front of me. Most times that
7 case was -- no, all the time that case had been
8 to some sort of conclusion in a trial court,
9 either been tossed out on a dispositive motion or
10 tried to a verdict, either a bench trial or a
11 jury trial, and so I try to master that material.
12 You know, what was this dispute that these
13 parties had. And then I try to identify the
14 legal issues that I think are operable, either to
15 have the judgment affirmed in my client's favor,
16 if my client prevailed, or to have it reversed if
17 my client was on the losing end. And I do that
18 through a process of outlining the trial court
19 record, trying to pick out what I think is
20 important, and then I dive into cases for what
21 tends to be at least two days, sometimes more,
22 reading the relevant precedents that the parties
23 presented to the trial court. And then I go
24 beyond what the parties presented, because, you
25 know, there's a lot of precedents out there.

1 Sometimes people leave important stuff out. So
2 all that is geared towards mastering the
3 material. Because only then, you know, sort of
4 when you have internalized everything that's
5 important to a case, can you come up with a way
6 or at least am I able to come up with a way to
7 develop a written brief to present to the court
8 that says this is what this case is, and this is
9 what this case is about, this is why I think that
10 my client should prevail, and the judgment should
11 be affirmed if they won below or reversed. And
12 then I think a good part of presenting an
13 appellate case is to say, and if you have
14 concerns, if you're skeptical about this case,
15 this is what I think your skepticisms would be,
16 and this is how I answer those concerns.
17 Because, you know, the judge who's going to be
18 predisposed to agree with you is the low hanging
19 fruit. You know, you're not concerned really
20 with making inroads with them, because they're
21 with you already. The judge you want to engage,
22 the person you want to persuade, is the one who
23 comes into the argument or comes to your brief
24 saying, I don't know about this case, you know.
25 He says this and such, but I think maybe it

1 should go the other way. That's the person that
2 you want to engage and have a meaningful
3 discussion with, because as lawyers our job is to
4 persuade, you know. It's not to count noses in a
5 case. It's to persuade people aren't with you to
6 join to your side. And so much of that, I think,
7 is what being a good appellate judge would
8 require doing, because there's a reason trial
9 courts just have to issue judgments. They don't
10 have to issue any reasoning explanation. They
11 often do, but they don't have to. But appellate
12 cases require written opinions, and that's
13 because, as the great constitutional scholar,
14 Alexander Bickle said, "The future cannot be
15 ruled, it can only be persuaded." So you have at
16 the end of every appellate case a written opinion
17 that says, this is what this case was about.
18 These were the operative facts. This is the
19 principle of law that drove the lower courts
20 decision or that drives our decision. These are
21 what we think the other arguments are. This is
22 why we don't think they're persuasive. You know,
23 that's why appellate opinions have precedential
24 value, and trial court orders do not, because
25 they contain statements of rules of law, how they

1 apply not just to that case but to other cases.
2 To my mind, the work that I undertake, day to
3 day, when I'm being an appellate lawyer, I think
4 it precisely the same work that I would have to
5 undertake as an appellate judge. I would just be
6 doing it as a member of a collegial panel,
7 because at the Court of Appeals your case is in
8 panels of three and Supreme Court panels of five.
9 So I'd be obligated to listen to and consider the
10 views of others and reach a collective decision,
11 because a broken clock is right twice a day and
12 nobody's right all the time.

13 **Q. You mentioned in your opening statement that you**
14 **are a textualist and a minimalist. And what I**
15 **would like for you to do is to state in layman's**
16 **terms how you would describe your judicial**
17 **philosophy so that someone who is reading this**
18 **transcript, who is not a lawyer, can understand**
19 **what you mean by a textualist and a minimalist,**
20 **and anything else you want to say for a layman as**
21 **to your judicial philosophy?**

22 **A. Sure. So a textualist is you enforce the law as**
23 **the General Assembly wrote it, not as you would**
24 **write it. And the minimalist is if it's not**
25 **necessary to decide it as a part of a case, then**

1 it's necessary not to decide it as a part of a
2 case. And to give credit for the second
3 statement, that's -- I heard that from Chief
4 Justice Roberts.

5 **Q. So you would exercise judicial restraint?**

6 A. Absolutely. No more issues decided in a case
7 than necessary.

8 **Q. And as a textualist you would interpret the law**
9 **the way it is written on the page before you?**

10 **Q. Yes. Now that leads me to my next question,**
11 **which is, are there any circumstances when a**
12 **judge should allow his or her personal views to**
13 **influence a decision that the judge, especially**
14 **an appellate judge, would make serving on the**
15 **court?**

16 A. No. In fact, former Justice Scalia was fond,
17 when he would talk about his judicial philosophy,
18 which was textualism and originalism and some
19 other isms in there -- but he would tout cases,
20 including the flag burning case, for example,
21 Texas against Johnson, as a case where he hated
22 the outcome allowing, you know -- declaring
23 unconstitutional the Texas statute prohibiting
24 the burning of the flag, but he thought it was
25 compelled by his judicial philosophy and his

1 understanding of the first amendment. So there
2 are people -- and I think there's some merit to
3 it -- who would say, you know, reaching an
4 outcome that you disagree with is one of the
5 things that should tell you that you're judging
6 the right way.

7 SENATOR YOUNG: Mr. Chairman, I have no further
8 questions at this time.

9 CHAIRMAN RANKIN: Anything else? Mr. Hitchcock.

10 MR. HEWITT - EXAMINATION BY MR. HITCHCOCK:

11 Q. Mr. Hewitt, thank you for offering yourself up
12 for this position again. I know this is not the
13 most comfortable or easiest process to go
14 through. And I believe this is your third time
15 going through it, so we certainly appreciate your
16 willingness to serve. One thing that I --
17 question that I want to ask you is, you know, I
18 agree with my colleague, Mr. Safran, that being a
19 trial court judge is not necessarily a
20 prerequisite to being an appellate court judge.
21 I think, you know, attorneys who have extensive
22 practice in the appellate courts can certainly
23 make the transition. However, I would submit
24 that, you know, you have spent your life, your
25 judicial career, as an advocate, zealously

1 advocating for the positions of your clients,
2 and, you know, as you said, you look at the case
3 below, you attempt to, I guess, pick it apart and
4 try to formulate the best argument that you can
5 on behalf of your client, taking into
6 consideration all of the vagaries of the case and
7 the decisions below. And although being a trial
8 court judge doesn't -- I don't necessarily think
9 it's a pre-requisite, it is -- it can provide a
10 way point, so to speak, where you can make the
11 transition from being an advocate to being much
12 more of an arbiter to -- you know, instead of
13 advocating on behalf of your client you're, in
14 essence, judging -- you become a -- you know,
15 it's a much different position to be in, and you
16 have to weigh and consider the arguments of both
17 sides. How do you feel that you would be able to
18 make that transition from, I would submit,
19 zealous and, quite frankly, effective advocate to
20 the much more objective role of being able to
21 consider both sides and give each argument equal
22 weight and consideration in making your rulings?
23 A. Yeah. I don't think I would find it that much
24 different. I, of course, started out my career,
25 you know, with experience doing that very thing.

1 I mean, clerking at the state level and also for
2 the district court. And, you know, I don't mind
3 saying I struggled for a little bit when I
4 transitioned from a law clerk to private practice
5 because, you know, we had two rules in chambers
6 that were, treat every case is the most important
7 case in the world, and make the right call for
8 the right reasons. And it takes -- that takes on
9 a little bit of a different dimension when you
10 have a client who -- you know, I told the
11 Citizens Committee that, you know, the rule I
12 impose, my obligation to my clients, is to win
13 their case in an intellectually honest fashion.
14 And the clients really don't care about the
15 intellectually honest fashion. They'd just like
16 their case to be won, but that's a constraint
17 that I impose on them. You know, I'd say to an
18 extent I've tried to approach my private practice
19 that same way, recognizing that my job is not
20 just to win my client's case, but to also help
21 the appellate court system be a good steward of
22 its own precedent. And so I have tried to
23 present cases as an advocate in a way that I
24 thought was also faithful to the court's role of
25 stability and being -- and objectivity. But of

1 course I would have no client, as you correctly
2 observed, serving as a judge. You know, the
3 cases would come to me in a different way. You
4 know, rather than having to prepare a brief, I
5 would -- a case would come to me with both sets
6 of briefs. And so I would be coming to -- as I'm
7 coming to a case cold, I would have everybody's
8 hopefully fully ripened, you know, arguments
9 right there in front of them. And so rather than
10 focusing on everything coming to the case as an
11 advocate and focusing on it as an advocate, you
12 know, I would -- my process of digestion and
13 trying to master the material, would necessarily
14 include everybody's arguments, not just the ones
15 -- you know, not just the ones that I've
16 developed, you know, on my own behalf. But I
17 will grant you that it will certainly be
18 different and in a meaningful way, maybe a
19 colloquial way, to what I hope to be the case --
20 I think might perhaps best be illustrated by a
21 colloquial example. When I leave today to go
22 home to Conway, I know that I can get home to
23 Conway by jumping up 77, hopping on 20 and
24 running over and cutting through Florence. I
25 also know that I can get there by going 378. Now

1 both routes are fine routes, you know, depending
2 on how fast you go, one will get you there a
3 little faster and avoid Turbeville. So I know a
4 lot of people make to the Court of Appeals by
5 traveling through the trial court first. And I
6 don't have any -- and I think an appellate body
7 is enriched by having people with a variety of
8 backgrounds. Trial experience as a trial judge
9 is certainly no detriment. What I hope is that
10 there is a place in the appellate court system --
11 it doesn't have to be me -- you know, whether
12 it's me or not, but there is a place in an
13 appellate court -- in the appellate court for
14 someone who has devoted themselves to being the
15 best appellate lawyer they can be, you know, to
16 serve as an appellate judge. If there's not a
17 place for someone like that, take me out of it.
18 I think that's a bad thing, objectively a bad
19 thing.

20 CHAIRMAN RANKIN: Senator Sabb?

21 MR. HEWITT - EXAMINATION BY SENATOR SABB:

22 MR. SABB: Thank you, Mr. Chairman. And I really just
23 want to make a comment more than anything else.
24 And in the interest of disclosure, the
25 Bluestein/Nichols firm represented me and the

1 Williamsburg County Legislative Delegation. John
2 Nichols began it, and then he ascended to a new
3 position, and then Blake did a fine job coming in
4 afterwards. And I just think that Blake Hewitt
5 is an extraordinary individual who has
6 established himself in a significant way and is
7 having an impact on the citizens of South
8 Carolina through his good work. And I -- Blake,
9 you'll need to correct me if I'm wrong, but of
10 course since you offered the first time, there
11 have been consistent comments on your
12 qualifications, almost all of which have been
13 excellent, but then the one mark has been the
14 notion of lacking trial experience. But correct
15 me if I'm wrong, you've actually done more in
16 that area to beef up that part of your resume.
17 Is that an accurate statement?

18 A. I feel -- yes, I feel like I've done more trial
19 level work since the last time I was before this
20 Committee, and that was not on purpose. That's
21 just sort of the way things played out. Then I
22 have appellate work in the last couple of years,
23 but it's --

24 Q. And then I'd simply say that regardless to
25 whether -- and I think there are some things that

1 work as a result of fate, but I would just say
2 that experience is experience regardless to what
3 the motivating factors were that lent itself to
4 the experiences being had. And so I just really
5 want to congratulate you on what has been an
6 extraordinary career. And I'm sure that
7 regardless to whether or not you ascend to this
8 position or others, you'll continue to make the
9 same impact that you're making, so
10 congratulations.

11 A. Thank you, senator, very much.

12 MR. HEWITT - EXAMINATION BY CHAIRMAN RANKIN:

13 Q. Okay. Mr. Hewitt, I obviously know you. We're
14 in the same Sertoma Club, and you have helped me
15 in numerous appellate like issues, so disclosure
16 as well. While not getting to the appellate
17 level, thank the Lord.

18 A. There is no money to be made in Columbia. You
19 need to stay out of Columbia.

20 Q. We are witnessing in evidence of that today, but
21 we're glad to be here. And two years ago and
22 three days you were here before this very
23 Committee -- Commission. A number of us were
24 not, Senator Hayes, Senator Young, Senator Sabb,
25 Mr. Murphy, and Ms. Lucy Grey McIver were not

1 present. But I've gone back, and I've looked,
2 just to refresh my memory on the postscript from
3 that effort and your run then for the appellate
4 branch, and that, too, was for the Court of
5 Appeals, correct?

6 A. Yes.

7 Q. Okay. And what the record contains and then what
8 the chatter, post-report, centered on were two
9 areas, and I want to kind of briefly touch back
10 on those. And one may be more housekeeping
11 perhaps, but there was some concern that perhaps
12 your testimony in regard to your separation from
13 the armed services was not fully explained. You
14 may have heard that, you may not have heard it,
15 but I've read what was testified to I think in
16 the response to questions from Mr. Hitchcock.
17 What happened with your service in the military,
18 and how did it end?

19 A. Sure. I went off to officer candidate school
20 after I graduated from Georgia Tech. I had a
21 grandfather who served in the Marine Corps,
22 another grandfather who served in the Navy, and
23 that was something I'd always sort of thought
24 about, and frankly wasn't really sure what I
25 wanted to do after undergraduate school. So I

1 went to OCS, and I went with a contract to
2 eventually become a JA, a judge advocate, which
3 is what they call them -- or they called them at
4 that time in the Marine Corps. I found out about
5 halfway through boot camp that I didn't get into
6 law school. And so then I had the opportunity to
7 either transition to a ground contract, which is
8 what everybody else went through, or a flight
9 contract. And I thought pretty seriously about
10 that, because I struggled the first two weeks in
11 boot camp. I don't mind telling you that. It
12 was a shock, but I ended up liking boot camp very
13 much. And the way it played out was you have --
14 there's a process in boot camp where you evaluate
15 the other members of your platoon. And so we
16 were evaluating other members of our platoon, and
17 a friend of mine wrote on his evaluation of me
18 that I was not sure whether I was going to accept
19 my commission. I had confided in him that I
20 really wasn't sure what I was going to do. And
21 so to make a long story short, which is probably
22 already not that short, the company commander --
23 the platoon commander, called me in his office
24 and sort of read me the riot act, what are you
25 doing. And I said, "Well, I'm just not sure, you

1 know, whether this is something that I should
2 do." And his response to that was to take me in
3 front of a board of the commander of the base and
4 the leadership staff, and they sort of braised me
5 for a little, and, you know, I was there again
6 sort of noncommittal and quite frankly felt like
7 a fish in a frying pan. You know, like I'm
8 really just not sure what I want to do. I'd like
9 to go back to the platoon where I'm happy and
10 finish training. I don't know. And this is like
11 the Thursday or Friday. Training was done. We'd
12 finished our evaluation. We were finally ranked,
13 and we were going to be commissioned the next
14 Thursday. And so I think this was the period
15 where they let all the bruises heal and everybody
16 get better before everybody's mom and daddy comes
17 to see them get commissioned. And then they said
18 -- somebody said, well, we see your grandfather
19 was a lieutenant colonel. You know, what do you
20 think he would think about all this. And that
21 just sort of rubbed me the wrong way. And so as
22 we're walking back to the platoon, the platoon
23 commander's, again, reading me the riot act. And
24 I said, you know, I just don't need this. I
25 think I'll take a walk. And so the way it was

1 characterized on my separation from the service
2 was drop on request. I think it -- I was
3 previously under the impression that it was
4 administrative separation, but I went back and
5 pulled the paperwork, and it was drop on request.
6 So I dropped on request from the Marine Corps,
7 you know, less than a week when we were going to
8 be commissioned. And as you might expect, you
9 know, in the period immediately afterwards and
10 even, you know, for a period of years I would
11 have dreams about being back in boot camp. I
12 would wonder -- not necessarily good dreams, but
13 wonder whether I made the right decision, but you
14 know, you just can't do that to yourself. I
15 mean, I went on, you know, to accept a job at an
16 engineering firm there in Atlanta. I studied for
17 the LSAT. Got a higher LSTAT score, went to the
18 University of South Carolina where I made really
19 some of the best friends of my life. My best
20 friend from law school introduced me to my wife.
21 So I mean, if I'd of stayed in the service, I
22 mean, I might be married, but not to the same
23 person, you know. So I will always be -- that
24 experience will always be sort of a mixed bag for
25 me because of how it ended, but it shaped a large

1 part of my work ethic, and I'm a much better
2 person for having had at least that limited
3 interaction with the Marine Corps.

4 **Q. You were not discharged dishonorably?**

5 A. No, I didn't -- I wasn't there long enough to be
6 dishonorably discharged.

7 **Q. And so the record reflects your separation as**
8 **again official --**

9 A. Yeah, drop on request.

10 **Q. Drop on request, okay.**

11 A. Yeah. Which it was not really on my request. I
12 wanted to stay and make up my mind, and they
13 wanted me to fish or cut bait.

14 **Q. Okay. All right. The second area, and again,**
15 **for those who were here and recall it, forgive my**
16 **re-plowing this, but you listed in your initial**
17 **PDQ and whatever, and the actual screening report**
18 **includes five significant cases that you listed**
19 **yourself, one of which was the Bone case.**
20 **There's a lot of exchange about that. You were**
21 **hired then by the bar, correct, or --**

22 A. I was hired in the Brown case by the bar.

23 **Q. The Brown. Not Bone, but Brown, you were hired**
24 **by the bar?**

25 A. Yes.

1 Q. So the association that represents all lawyers
2 hires you to represent it before the appellate
3 court, correct?

4 A. To be fair, I think they hired John Nichols, and
5 I was the ride-along.

6 Q. Okay.

7 A. But I ended up doing the work.

8 Q. Okay. All right. But then in exchange with one
9 of the Commission members you also cited a case,
10 which is of great note and at the point that you
11 offered it had not been decided, and that being
12 the Episcopal Diocese case?

13 A. Yeah.

14 Q. Are you sad that you took a case and won? Do you
15 wish that you had lost that case? I mean, is it
16 -- because there was some criticism --

17 A. Yeah.

18 Q. -- from some camps that you should not have taken
19 that case?

20 A. Yeah. So a couple of things about the PDQ
21 question and about that discussion, which I
22 appreciate you raising. I dislike that PDQ
23 question, because my world view is that every
24 case I've ever taken is important, because it's
25 the most important case to the people involved.

1 And so, you know, if I could -- there are three
2 arguments you give in every case, the one you
3 practice, the one you give, and the brilliant one
4 you think of when it's over. You know, so as I
5 was leaving that day I was like, why did I say,
6 you know, any cases, because that's just such an
7 anathema to the way I think about it. Because I
8 truly, you know, try to give every single case my
9 best. That case, I think, had been argued -- so
10 I was here in November of -- was it '15 or '16?

11 **Q. '16, November the 16th --**

12 A. Yeah.

13 **Q. -- of 2016 is this record.**

14 A. Yeah. I don't know if that case was argued
15 September of '16 or had been argued September of
16 '15, you know. If it's -- if it's -- it's easy
17 to explain it if it was 16, because it would have
18 still been fresh on my mind. You know, when I
19 think about that case, the first thing -- the
20 first thing that comes to mind is I really just
21 want to cry, because it's an awful case. You
22 know, nothing is more heart breaking than a
23 church in litigation with itself. When I was
24 talking about it in the context of the committee
25 hearing, you know, what I was thinking about was

1 the experience I just had as a lawyer. I mean,
2 that was the hardest I've worked on a case in my
3 life. And I had the opportunity to work with and
4 on the other side of some really bright brothers
5 and sisters in the bar. I mean, Mitch Brown is a
6 good friend of mine, personally and
7 professionally. He was one of the lead lawyers
8 on the other side. I have tremendous respect for
9 him, would walk through fire for him. So I was
10 thinking about that when I made those comments.
11 I was proud of hard work, because, of course, if
12 you can't be proud of hard work, what can you be
13 proud of. But on a personal level the case makes
14 me want to throw up, because it -- there's just
15 nothing but bad about it. But I was talking to a
16 friend who is a lawyer and a very distinguished
17 lawyer, you know, after -- long after that case
18 was over and after that hearing, and I said to
19 this friend, I said, "Did I do the wrong thing in
20 getting involved in that case." And this friend
21 whose ideological valance was completely against
22 my position, completely, said, "Absolutely not.
23 Every case needs good lawyers on both sides."
24 So, you know, there you go.

25 **Q. Okay. Finally, the -- one of the three people -**

1 - out of 432 folks that participated in the
2 ballot box survey 83 folks made comments, only
3 three of whom had something negative in the -- of
4 the stripe that you've not served on the trial
5 level yet. We've heard from a judge yesterday,
6 and then last round, last year, the advent of ADR
7 mediation and how effectively cases are being
8 settled more and more and that there's less and
9 less and civil trial work. So if your cases are
10 settling, but you're sitting on the circuit
11 court, how is that an advantage for trial
12 experience to get you prepared for the civil --
13 or rather the appellate level?

14 A. I don't know that it is. And, you know, what I
15 hear from my friends who do active trial
16 litigation is that a trial litigator's business
17 model would like to be, you settle your bad cases
18 and try your good ones, but it plays out in
19 reverse. You can't get a good case to trial.
20 Instead you end up with just the dogs being
21 there. And when I worked at the U.S. District
22 Court the lament among district judges was that
23 all they hear is discovery disputes, discovery
24 disputes and summary judgment motions. And
25 that's not a whole lot of -- you know, when we

1 did try cases it took on a new dimension, because
2 then you're managing a lot of pots on the stove
3 at once. You're working on jury charges. You're
4 handling evidentiary objections, that sort of
5 thing, but there's not a whole lot of that going
6 on. You can't get a good case to trial is what I
7 hear.

8 Q. And that, on the criminal side as well, in terms
9 of negotiated pleas we are hearing, so -- and I'm
10 about to wind it up on my end. Real quick, in
11 terms of your experience, you have clerked with a
12 federal judge?

13 A. Yes.

14 Q. You have clerked with a supreme court chief judge
15 in South Carolina?

16 A. Yes.

17 Q. And then you have participated in how many
18 appeals to the point of drafting, arguing --
19 well, for example, on the arguing itself,
20 presenting before either the civil -- I mean, the
21 court of appeals or the state supreme court --

22 A. I think I argued my 51st case this last month.

23 Q. Okay.

24 A. And I've had a lot of cases decided just on
25 briefs. I've participated in private pract- --

1 I've been lead counsel in private practice on, I
2 think, slightly north of 80 appellate cases and
3 consulting counsel on, I believe, twice that
4 many.

5 Q. Thank you. Unless there are any other questions,
6 I want to join with the others in saluting your
7 effort to do this again, participating again, two
8 years later in three days. Also remind you that
9 pursuant to the criteria, the Commission expects
10 you to follow the spirit of the law as well as
11 the letter of the law, particularly the ethics
12 laws. And that we will view any violations of
13 the appearance of impropriety as very serious and
14 deserving of significant and heavy weight
15 considerations in any deliberations. On that
16 note, the record will remain open until the
17 formal release of the report qualifications, and
18 you may be called back as needed, hopefully not,
19 if the need were to arise. Thank you again for
20 your willingness to serve and for your host of
21 **atta-boys from the atta-girl chorus in the back.**

22 A. Thank you, Mr. Chairman, and thank you members of
23 the Committee.

24 (Off the Record)

25 HONORABLE ALISON RENEE LEE

1 CHAIRMAN RANKIN: We saved the prettier day for you.

2 JUDGE LEE: Thank you so much.

3 CHAIRMAN RANKIN: Come on up. I'm going ask you to
4 raise your right hand and ask --

5 HONORABLE ALISON RENEE LEE, having been duly sworn,
6 testifies as follows:

7 CHAIRMAN RANKIN: And you have before you two
8 documents, the PDQ, personal data questionnaire,
9 and sworn statement. Are they correct as is? Do
10 they need to be amended or changed?

11 JUDGE LEE: I don't believe that there's anything in
12 them that needs to be revised.

13 CHAIRMAN RANKIN: All right.

14 JUDGE LEE: They're correct.

15 CHAIRMAN RANKIN: Okay. And you don't object to those
16 being made a part of the record with your sworn
17 testimony?

18 JUDGE LEE: No, I do not.

19 CHAIRMAN RANKIN: If you'll hand those left, they'll
20 be made a part of the record. Judge Lee, you
21 participated in screening how many times?

22 (Exhibit Number 3 was marked for identification
23 purposes - (15 pages) Honorable Alison Renee Lee -
24 Personal Data Questionnaire.)

25 (Exhibit Number 4 was marked for identification

1 purposes - (6 pages) Honorable Alison Renee Lee -
2 Sworn Statement.)

3 JUDGE LEE: Too many to count.

4 CHAIRMAN RANKIN: All right. So --

5 JUDGE LEE: I don't want to show my age.

6 CHAIRMAN RANKIN: That's all right. This -- the next
7 few lines you've heard however many times you've
8 been here, but we have thoroughly investigated
9 your qualifications for service and your
10 candidacy for the Court of Appeals. Our inquiry
11 is focused on nine evaluative criteria, which has
12 included the ballot box survey, a thorough study
13 of your application materials, verification of
14 your compliance with state ethics laws, a search
15 of newspaper articles in which your name appears,
16 a study of previous screenings, and a check for
17 economic conflicts of interest. You'll be glad
18 to know we've received no affidavits filed
19 opposition to your election, and there are no
20 witnesses present to testify against you or for
21 you today. You now have the opportunity to make
22 a brief statement, if you want. It is not
23 required.

24 JUDGE LEE: I don't have anything other than to say
25 thank you for your time and your efforts. I

1 appreciate the opportunity to come before you and
2 to answer any questions that you may have.

3 CHAIRMAN RANKIN: Very well. If you'll answer Mr.
4 Gentry's questions.

5 JUDGE LEE: And also, thank you, Mr. Gentry, for his
6 patience in dealing with me over the past couple
7 of months.

8 JUDGE LEE - EXAMINATION BY MR. GENTRY:

9 MR. GENTRY: Mr. Chairman, I note for the record that
10 based on the testimony contained in the
11 candidate's PDQ, which has been included in the
12 record with the candidate's consent, Judge Lee
13 meets the constitutional and/or statutory
14 requirements for this position regarding age,
15 residence, and years of practice.

16 **Q. Hi, Judge Lee. Why do you want to serve as a**
17 **judge on the Court of Appeals?**

18 A. The Court of Appeals is basically where I started
19 out. I started out as a law clerk to two judges
20 on different courts of appeal, and from there I
21 liked the research and writing. I don't get a
22 chance to do as much of that as I used to get to
23 do, but I think I have something to offer being
24 in the Court of Appeals. I like the ability to
25 be able to take a little bit of additional time

1 to handle some matters, and I'd like to be able
2 to serve with them and finish out my legal
3 career, my judicial career, with the Court of
4 Appeals.

5 **Q. How do you feel your legal and professional**
6 **experience thus far will assist you to be an**
7 **effective judge on the Court of Appeals?**

8 A. I've been in some judicial capacity for almost 25
9 years. Five of those years were spent as an
10 administrative law judge, in which a lot of the
11 jurisdiction now that the Court of Appeals has is
12 jurisdiction that I presided over at the time
13 that I was an ALJ. I've been almost on the
14 circuit bench for about 20 years, and so we've --
15 we have appeals that we used to handle until the
16 legislature transferred that jurisdiction to the
17 Court of Appeals. Examples, workers' comp, PSC,
18 so -- and then I think I have the experience with
19 having presided over both civil and criminal
20 cases. That gives me an opportunity to see and
21 to take that knowledge with me to the Court of
22 Appeals and to be able to do that work. Finally,
23 and to me most importantly, is that I had the
24 opportunity to serve as an acting judge on the
25 Court of Appeals a year or so ago and spent three

1 months as a full-time acting judge with the Court
2 of Appeals, so I had the jurisdiction responsible
3 for writing the orders on behalf of the panel.
4 And so I got an up-close and firsthand view of
5 what it was like to serve as a Court of Appeals
6 judge.

7 **Q. How would you describe your general judicial**
8 **philosophy?**

9 A. To try to do the best that I can. I also want to
10 make sure that I do the right thing. I'm there
11 to resolve disputes between residents and
12 citizens within the state and the county. I made
13 sure that I tried to listen to what they have to
14 say, then I apply the law fairly, and to do
15 what's right within the bounds of the law.

16 **Q. What is your vision for the future of our**
17 **judicial system, and what changes would you**
18 **advocate and why?**

19 A. Everything that I have thought about changing
20 requires funding, and so that seems to be the
21 limit for a lot of things these days. What I've
22 noticed is that there may be some need for some
23 changes to the rules of procedure. It's very
24 hard to see a case that will actually come to
25 trial within the one year period of time, or go

1 on the roster after a year and then be able to be
2 reached. I find that it's very difficult for
3 people to schedule mediations within the 300 days
4 that's allotted by the rules of procedure. And
5 so I think that may need to be tinkered with a
6 little bit. I also think that having the
7 opportunity to send the judges to travel to
8 counties more frequently and giving the judges
9 the opportunity to be able to have a little bit
10 more time spending time with the issues,
11 particularly the non-jury issues that come up
12 before them. I think that would be very helpful
13 as well. The biggest problem seems to be in the
14 criminal area where there's generally a backlog
15 of cases. If there's an opportunity to be able
16 to use the digital recording system more for
17 motions within the court system to free up the
18 court reporters to be available for trials and
19 for other matters. As far as the criminal system
20 is concerned, to be able to find a way to have
21 those individuals who are incarcerated to be able
22 to have access in a more timely manner, either
23 through video display, video conferencing. Those
24 are just a few of the things, but most of it all
25 -- of course, it all depends on the funding

1 that's available to the court system.

2 **Q. To what extent do you believe that a judge should**
3 **or should not defer to the actions of the General**
4 **Assembly?**

5 A. Generally, I think that comes up when you are
6 interpreting statutes. If the statutes are well
7 drafted and well written, then I think the
8 legislative intent would be apparent from the
9 wording of the statute. So I think it comes up
10 more frequently when you have a conflict that's
11 not clear. You need to interpret it. That's
12 when you rely on legislative intent, and I think
13 you should defer to the legislature's view at
14 that particular point in interpreting those
15 statutes.

16 **Q. The Commission receive 805 ballot box surveys**
17 **regarding you with 85 additional comments. The**
18 **ballot box survey, for example, contained the**
19 **following positive comments: very professional,**
20 **fair, intelligent, and articulate. Judge Lee is**
21 **well qualified and would make an excellent**
22 **appellate judge. Seventeen of the written**
23 **comments expressed concerns. Four concerns**
24 **indicated that you have a rigid method of**
25 **courtroom policies. What response would you**

1 **offer this concern?**

2 A. I set up -- I have rules, I guess, in two
3 different areas. One's for courtroom decorum,
4 and one is in criminal matters -- or not
5 necessarily criminal matters, but for being a
6 chief administrative judge. For chief
7 administrative judge, I think there -- it helps
8 when everyone knows what the rules are. And so I
9 try to provide rules that would make it more
10 efficient for people to get their cases heard and
11 moved along. They're not necessarily rigid. I
12 think I'm very open to people who have any issues
13 or need to have status conferences. I do require
14 that motions for continuance be filed, because
15 that's one of the ways we fund the court system,
16 and that's a requirement under the rules. So I
17 don't handle a lot of motions to continue that
18 are not actually filed in court. And I think
19 those are just basically so that everybody knows
20 what the ground rules are, and we all play off of
21 the same page, and there are no surprises and
22 everybody knows what's going on. The second part
23 is in courtroom decorum, and it's most often in
24 criminal cases, because I do have a rule about
25 telephones in the courtroom. And that was done

1 primarily for safety. I learned early on that
2 oftentimes defendants or their family members
3 would be in court filming or taking pictures of
4 the litigants or their -- of the solicitors or
5 the court and posting items on Facebook or other
6 portions of social media. So that became a
7 safety issue for me. And so I just said, at
8 least in criminal court, no cell phones. The
9 other thing I found is that most of the time when
10 you have the solicitors and the public defenders
11 that are all sitting in court, and while they're
12 waiting for their cases to come up, there's a lot
13 of -- you know, when you sit on the bench you're
14 kind of up high, you see what's going on, and
15 there's a lot of conversations going back and
16 forth. And for me it was distracting. They --
17 you could tell they were having conversations or
18 doing other things, and I felt that they were not
19 respecting their colleagues. They were not
20 respecting those who were appearing before court
21 in criminal court. And it kept the chatter down
22 between the parties. Because basically what I do
23 in criminal court is I advise them their rights
24 at the beginning. And so to me that's a very
25 important time. That's one of the few times I

1 lock the courtroom doors to keep people from
2 going in and out, so that I can focus on them
3 while they're -- while I'm advising them of their
4 rights, because that's a very important part. I
5 need to make sure that they understand that and
6 that I'm not distracted and that they're not
7 distracted at the same time. So those are
8 basically the rules that I've plotted in the
9 system. I certainly hope that people feel that
10 I'm still open and available to be able to have
11 conversations. And I think those of you who may
12 have appeared before me, or who've had questions
13 or needed something, you know, I do have status
14 conferences. And that gives me the opportunity
15 to talk about your cases so I can find a way to
16 be able to help you get to the point where you're
17 either able to resolve them or get them to trial.
18 And that's what the rules for me are designed to
19 do.

20 **Q. Six comments indicated concern with your ability**
21 **to rule in a timely fashion. What response would**
22 **you offer to this concern?**

23 **A.** I acknowledge that I do have some issues
24 sometimes getting those orders done. It's not
25 something new. I think every time I've been here

1 that's been one of the comments that's been made.
2 I do set high standards for myself.
3 Unfortunately I don't always meet my own
4 standards, and I try to set aside time to do
5 that. I try to read everything and listen to the
6 arguments that are made before me and then to go
7 back and study the briefs again and to be able to
8 look at those before I make any decisions.
9 Sometimes with the court schedule, being in
10 Richland County, one of the busiest counties in
11 the state court-wise. I have good intentions.
12 They don't always come to fruition. I do report
13 everything that I have under advisement to court
14 administration, as I'm required to do. But I do
15 try to set aside time to be able to meet those,
16 and to the extent that -- you know, I have a law
17 clerk that can help with some matters. I usually
18 save the heavy ones for myself, and I do need to
19 do a better job of getting those done. And I try
20 to do that.

21 **Q. Seven comments indicated concern with your lack**
22 **of legal knowledge. What response would you**
23 **offer to this concern?**

24 **A.** I hope I'm keeping up with what's going on. I
25 understand you don't -- under Chief Justice Ness

1 he always believed that your orders should be
2 short. Over the years I think the opinions from
3 the Court of Appeals and the Supreme Court have
4 gotten longer and longer. So I do look at the
5 synopses that are provided in the Bar Blast. I
6 also -- court administration also notifies us
7 when there's something of particular interest
8 that we need to be aware of. I do try to go
9 through and skim those cases, particularly if
10 it's a criminal case that relates to what may be
11 going on, and I pull those. So I try to keep up
12 with it as best I can. I admit that sometimes I
13 get a little behind, but hopefully I haven't
14 missed anything that has really affected someone.

15 **Q. Thank you, Judge Lee. Since submitting your**
16 **letter of intent to run for this seat, have you**
17 **contacted any members of the Commission about**
18 **your candidacy?**

19 A. No, I have not.

20 **Q. Are you familiar with Section 2-19-70, including**
21 **the limitations on contacting members of the**
22 **General Assembly regarding your screening?**

23 A. Yes.

24 **Q. Since submitting your letter of intent, have you**
25 **sought or received the pledge of any legislator,**

1 either prior to this date or pending the outcome
2 of your screening?

3 A. I have not.

4 **Q. Have you asked any third members -- or parties to**
5 **contact members of the General Assembly on your**
6 **behalf, or are you aware of anyone attempting to**
7 **intervene in the process on your behalf?**

8 A. I have not asked anyone to contact any members,
9 and I'm not aware of anyone, to my knowledge,
10 who's done that.

11 **Q. Thank you, Judge Lee.**

12 MR. GENTRY: I would note that the Midlands Citizens
13 Committee reported that Judge Lee is qualified as
14 to the constitutional qualifications, physical
15 health, and mental stability and well qualified
16 as to ethical fitness, professional and academic
17 ability, character, reputation, experience, and
18 judicial temperament. The Committee commented
19 that all committee members were impressed and
20 that she is a well qualified and one of the most
21 experienced, a great asset to the bench. I would
22 just note for the record that any concerns raised
23 during the investigation regarding the candidate
24 were incorporated into my questioning of the
25 candidate today. Mr. Chairman, I have no further

1 questions.

2 CHAIRMAN RANKIN: All right, thank you, Mr. Gentry.

3 Questions by Commission members. Senator Young.

4 JUDGE LEE - EXAMINATION BY SENATOR YOUNG:

5 Q. Thank you, Mr. Chairman. Judge Lee, thank you
6 for your interest in serving on the Court of
7 Appeals. You have served how many years on the
8 circuit court?

9 A. It'll be 20 years in March of next year.

10 Q. And before that you were on the administrative
11 law court?

12 A. For five years.

13 Q. For five years. And so for 25 years you've been
14 a judge so far in South Carolina; is that
15 correct?

16 A. Yes, sir.

17 Q. And I read the transcript of the hearing, I
18 think, from the 20 -- I guess two years ago this
19 month when you were before this Committee, and
20 several of us, including myself, were not on the
21 Commission at that time. One of the things I
22 noticed in the transcript was that you were asked
23 about some of the challenges facing the judicial
24 system, and you mentioned court reporters. And
25 you stated in the testimony that one of the --

1 that you thought in some circumstances a court
2 reporter would not necessarily be needed.

3 A. Yes.

4 Q. To hear certain types of motions. Could you
5 please elaborate on what types of motions, and do
6 you still hold that belief?

7 A. I do. As I understand most appellate work, very
8 few motions are actually transcribed and go
9 forward to make a record on appeal. There may be
10 some exceptions, but I don't -- I believe that
11 those types of hearings in which there's simply
12 an argument that's being made could best be
13 served by having digital reporting because it is
14 -- it's not necessarily a question and answer
15 period. And so I think that those are the types
16 of hearings along with any uncontested, say,
17 damages hearings, and -- I think probably the
18 summary judgements would be the ones that would
19 be the most important appellate wise. Most of
20 the other motions are really motions to compel or
21 motions, you know, to change venue or, you know,
22 the more -- what I call the more mundane motions.
23 They're not directly appealable, number one, and
24 that there's really -- if you write an order,
25 you've covered the issues. And so there's less

1 of a need to have those preserved for appellate
2 purposes. Motions for summary judgment, as you
3 know, if you deny one, it doesn't get appealed
4 until the end of the case, unless there are
5 certain circumstances where it may apply
6 otherwise. But I genuinely believe that it's
7 more efficient to be able to use a court reporter
8 for trial work where they're -- you're taking
9 down testimony, there are exhibits that are being
10 offered throughout the court hearing, and that
11 those would be more important than -- in terms of
12 preserving a record with a live court reporter.
13 I think having a record is important, but I think
14 that there's more efficient use of the court
15 reporter's time in an actual trial situation or a
16 non jury trial.

17 **Q. You were asked about your judicial philosophy**
18 **earlier this morning by staff counsel. One of**
19 **the questions I have on that is, do you believe**
20 **there are any circumstances where a judge should**
21 **allow his or her personal views to influence the**
22 **decision that the judge makes, especially on the**
23 **Court of Appeals?**

24 **A. No, not your personal opinions. We are -- our**
25 **code of ethics requires that we serve**

1 impartially, that we consider the law and the
2 facts, that there's no room for your personal
3 opinions within your rulings. And I adhere to
4 that, and I try to make sure that I follow that.

5 **Q. Is there any circumstance where a judge should**
6 **allow empathy to influence the judge's decision?**

7 A. I don't believe that empathy should necessarily
8 determine the judge's ruling, but I do think that
9 you can't help but feel empathy at times. I
10 don't think that should be a direct factor. It
11 may be a way to -- and I'm thinking more in
12 criminal cases -- that there's empathy for both
13 sides. It should not determine exactly how you
14 proceed, but certainly it's a factor that you
15 consider along with other factors, but it's not a
16 driving factor. And I say that -- it's -- I
17 don't want it to be mistaken as if some
18 particular facts or circumstances are so
19 overwhelming and so -- or so heinous or that that
20 should direct how you feel personally and
21 therefore how you rule on your particular case.
22 But I think we're all human, and you can't help
23 but feel empathy, and you have to recognize that.
24 Just make sure that if you are -- if that is
25 coloring your view, and you cannot fairly and

1 impartially make a decision, then you should step
2 back from that and acknowledge that and indicate
3 that's an overwhelming factor that you think
4 would affect your ruling, and you should recuse
5 yourself.

6 **Q. Thank you. That's all the questions.**

7 JUDGE LEE - EXAMINATION BY CHAIRMAN RANKIN:

8 **Q. Judge Lee, I want to likewise thank you and just**
9 **add a little bit more comment about your stellar**
10 **reputation within the legal community, not that**
11 **you aren't without some negative, but the**
12 **negative is incredibly the exception and wouldn't**
13 **be negative. It would just be comments perhaps**
14 **that they might have had a bad day and chose --**
15 **not you, but the litigant perhaps had a bad day.**
16 **So I -- overwhelming in terms of the comments**
17 **that you have, 805 ballot box survey responses,**
18 **83 making comments, and again few with the -- on**
19 **the negative versus the positive, so. I'm**
20 **curious, this is kind of a theme you've offered**
21 **or I'm inquiring about it, but last year, I don't**
22 **recall which judge told us this, but I verified**
23 **it, how few cases actually now try, go to trial**
24 **in the civil context. And with the advent of**
25 **ADR, now most areas, if not all, certainly in my**

1 area, the bigger counties have it, and Greenville
2 is what we heard about last go round. I don't
3 recall who that judge was that offered it, but
4 are you seeing that as well? Are you trying
5 fewer and fewer cases on the civil side?

6 A. Yes. From the time I started on the bench 20
7 plus years ago, or almost 20 years ago, there
8 used to be -- I could do three -- you know, three
9 trials a week, depending on what they were. Some
10 -- the last couple of years of maybe no trials at
11 all. They've all resolved. It may be some still
12 need additional work, and so they're not ready to
13 be tried. But I'm finding that most of the
14 trials are being resolved through ADR, which is
15 why I saw the 300 days that's allotted is not
16 sufficient. My experience -- I'm currently chief
17 administrative judge for the 11th circuit. So
18 what I'm finding now is that the attorneys want
19 to save as much -- as much money for their
20 clients as they possibly can, so they delay some
21 of their discovery, thinking that if they're able
22 to resolve it early on, that they'll try that.
23 So they'll go ahead and schedule mediation early,
24 and then if the mediation is not successful, then
25 they'll want to finish their discovery. And I

1 think the way the rules are written was with the
2 idea that you would do your discovery and then go
3 to your mediation. And so then the next step
4 would be that at 365 days you'd be ready for
5 trial. That's not always the way it's happening
6 at this particular point. And a lot of cases are
7 being resolved through mediation, and that's a
8 good thing. If everyone can come -- if you can
9 come to an agreement that everybody is fine with,
10 then that's certainly the best way to be able to
11 resolve a particular issue. And I encourage
12 mediation, and I tell people -- I know that in
13 court I've been known to say I will not continue
14 your case just for you to mediate. That is done
15 with the idea to push them along to get their
16 mediation done before they come to court. I have
17 had the attorneys, and I've learned from them,
18 because of being a chief administrative judge,
19 that they're not finishing their discovery before
20 they mediate. So even if they're not ready for
21 trial, they want some time to be able to mediate.
22 And so they come to me and we talk about it, and
23 I'm happy to accommodate them so that they can
24 make sure that they've done everything that need
25 to do in order to move their case forward.

1 Q. In terms of the criminal trial docket, do you see
2 that fewer cases are being tried and that more
3 pleas are being negotiated than when you first
4 started?

5 A. Most of my criminal dockets are pleas. For
6 whatever reason, I don't know, I think it depends
7 on the county. I think it depends on the
8 preparedness of the particular solicitor's
9 office, since the solicitor still controls the
10 docket, even though at this particular point
11 there's some discussion about moving that to a
12 judge-controlled docket. I think that there is
13 an extraordinary delay in getting cases to trial,
14 and some of that has to do with the inability of
15 SLED to do the testing that they need to have
16 done because of their backlogs or the counties
17 who have labs, they have a backlog as well. So
18 it's taking longer for those trials to go forward
19 as well. And so the idea is to resolve it
20 through a plea, if possible. I think as a whole,
21 that there are -- I'm seeing less of the cases
22 that are coming for trial in criminal court.

23 Q. Pardon me for analogizing that state of the
24 circuit court judiciary to workers' comp
25 administrative law judge context, but we in that

1 category, or in that context, have mediations as
2 well. And there's kind of this growing sense,
3 perhaps right or wrong, that we have more judges,
4 more commissioners, with fewer cases to actually
5 try. Dispel that on the circuit court, if you
6 will, that if you don't have cases to try, that
7 you're --

8 A. That we're sitting around twiddling our thumbs?

9 Q. You have something else to do other than motions
10 or whatever?

11 A. Well, we do. It's -- I think it's -- there's
12 still non-jury cases that need to be tried. So
13 while there may be less in the jury trial side,
14 there is still a very active non-jury roster.
15 And that's what I'm administering now is that
16 they may be ready for court, but it's generally
17 the jury trials that take a precedent. So if
18 there are jury trials going, then we don't get to
19 the non-jury roster. If there are no jury
20 trials, then we come up with a non-jury roster
21 that we're working at the same time, and so we're
22 still involved in doing that as well. I think
23 that the court reporter issue has also tempered
24 how much court is going on. And when I say that
25 I think that we need more judges in terms of --

1 there's a -- the motion practice has increased
2 quite a bit. And so there are a lot more cases
3 on the motions roster that need to be heard. And
4 in the larger counties, you know, there's just
5 not enough time to get the cases through the
6 motions docket without causing some type of
7 backlog. So I think that there's the opportunity
8 for judges to still continue to be active, and I
9 think the judges still are active. And then for
10 those of us who have matters under advisement
11 that we need to take care of, that down time
12 gives us an opportunity to be able to go back and
13 address those, so there's still an efficient use
14 of the court time.

15 **Q. All right. Any other questions. Judge Lee,**
16 **thank you very much. I'm sorry. No, Mr. Safran.**

17 **JUDGE LEE - EXAMINATION BY MR. SAFRAN:**

18 **Q. Just very quickly. I echo what the chairman**
19 **says. I mean, the comments are really**
20 **outstanding. Over the course of the number of**
21 **years you've been a judge you certainly have the**
22 **-- and anybody would have more than ample time**
23 **for people want to come up and say bad things**
24 **about you, because you've ruled against people**
25 **over a period of time. And the fact that you**

1 still have such strong ones certainly tells us
2 that even the people who may not come out on the
3 winning end are still feeling like they've been
4 treated fairly, and I get the sense you really
5 strive to do that.

6 A. Yes, sir.

7 Q. Let me ask you also, like you were just touching
8 on, just because cases aren't trying, doesn't
9 mean that, as you pointed out, there can be a
10 substantial non-jury and motion roster that has
11 to be addressed; is that fair?

12 A. That is true. And in fact, at least in Richland
13 County, there have been complaints about why is
14 it taking so long for the motions to get heard.
15 And so I know that they've been trying to work on
16 that. And I think there are at least one or two
17 motions rosters every month in Richland County.
18 And if you've ever -- I'm sure -- I know you've
19 been on that motions roster, so it is a jam-
20 packed roster.

21 Q. Well. And isn't it true that basically not every
22 motion on a motions roster is something that
23 you're going to be able to make a decision on in
24 five minutes?

25 A. No. And my policy is I usually try to go them a

1 week in advance to see what's there, so that I
2 can move them along efficiently. But, you know,
3 the summary judgments and some of the other ones
4 require a little bit more time and a little bit
5 more effort. And I try to get the briefs in
6 advance if I can. I cannot -- I'm at least
7 familiar with the issue. I may not know all of
8 the legal explanations, but at least I'm familiar
9 with what the motion is about and can be able to
10 listen and then go back with the briefs and fill
11 in the blanks.

12 **Q. Well, and oftentimes you'll get briefs or things**
13 **that'll be supplemented with exhibits and all**
14 **that can be quite voluminous, isn't it?**

15 A. Yes.

16 **Q. And I guess what, more or less, I'm trying to**
17 **point out really is -- and I think we've heard it**
18 **from some other judges, is that really it's not a**
19 **matter of doing nothing, that effectively if**
20 **you're trying to do justice, you want to be able**
21 **to go through everything you're provided, and in**
22 **many instances it may be a substantial amount of**
23 **materials to review?**

24 A. Exactly.

25 **Q. And those things can't be done in five minutes.**

1 I mean, and I'm assuming that again in the time
2 that you get really in between all of the active
3 things that may go on in a day, it may be hard to
4 get more than one case really to spend a few
5 hours on, and then you're maybe looking at
6 another 25 that you want to get to. But again,
7 it takes time.

8 A. It does.

9 Q. All right. Thank you very much.

10 A. And one last -- I'm sure you're probably familiar
11 that in Richland County we get a lot of the phone
12 orders from SLED. So I may be in my office, but
13 I'll have SLED agents and other officers coming
14 to my chambers frequently to talk to me about
15 orders that need to be signed in order to be able
16 to find a fugitive or to track down some other
17 information. And so if they can't find the chief
18 administrative judge, they'll look for whoever is
19 there and not in court. And sometimes if I'm in
20 my office, either on a break or even if I'm done
21 for the week or the day for what I've got going
22 on, I'm still in the office, and I'm still
23 available to them. A couple of them even have my
24 cell phone, and they'll call me and say, you
25 know, "I need an order. Can I come and see you

1 about it." So you -- I pride myself in knowing
2 that I'm working hard and I'm diligently working
3 and I'm trying to do the business of the state,
4 and I'm trying to do it efficiently.

5 CHAIRMAN RANKIN: Very well. Thank you very much.

6 And this concludes this portion of our screening
7 process unless there are other questions. And I
8 will remind you again that pursuant to the
9 criteria that we talked about earlier that you're
10 familiar with, that we expect -- the Commission
11 expects candidates to abide by both the spirit
12 and the letter of the South Carolina ethics laws.
13 And any violation or appearance of impropriety
14 will be considered very serious and deserving
15 potentially of heavy deliberation. On that note,
16 as you know, the record will remain open until
17 the formal release of the report of
18 qualifications, and if need be, we will call you
19 back but I don't think that will happen.

20 JUDGE LEE: I will be very mindful of that.

21 CHAIRMAN RANKIN: Very well. Thank you again for your
22 25 plus years service and your willingness to
23 offer for --

24 JUDGE LEE: Thank you all very much. And I appreciate
25 your kindness and courtesies to me today. Thank

1 (Exhibit Number 5 was marked for identification
2 purposes - (15 pages) Honorable Michael S. Holt -
3 Personal Data Questionnaire.)

4 (Exhibit Number 6 was marked for identification
5 purposes - (4 pages) Honorable Michael S. Holt - Sworn
6 Statement.)

7 JUDGE HOLT: 2009, I was elected to the family court
8 bench. And then in 2014, I believe the
9 Commission waived the hearing, so this would
10 actually be my second time appearing in front of
11 the Commission.

12 CHAIRMAN RANKIN: This is best one you'll ever have.

13 JUDGE HOLT: Well.

14 CHAIRMAN RANKIN: But we have thoroughly investigated
15 your candidacy and your qualifications. And we
16 have nine criteria, evaluative criteria, which we
17 use to consider your candidacy. They include:
18 the ballot box survey, a thorough study of your
19 application materials, verification of your
20 compliance with state ethic laws, a search of
21 newspaper articles in which your name appears, a
22 study of previous screenings and a check for
23 economic conflicts of interest. We have received
24 one affidavit by Peter Robert Foreman, filed in
25 opposition to your election. We'll take care of

1 that shortly. He, I do not believe, will appear.
2 And so to my knowledge there is no witness here
3 to testify in favor of or opposition to your bid
4 for a Court of Appeals seat. You are welcome at
5 this time to make an opening statement. It is
6 not required. It is not necessary, but you have
7 that opportunity. If not, I'll turn it over to
8 Ms. Crawford to ask you some specific questions,
9 and then there may be questions that the
10 Commission has.

11 JUDGE HOLT: All right. Thank you, Senator. Ms.
12 Crawford?

13 JUDGE HOLT - EXAMINATION BY MS. CRAWFORD:

14 **Q. No opening statement?**

15 A. If it would be an appropriate time to respond to
16 Mr. Foreman's (sic) --

17 **Q. Why don't we field a few questions, and then
18 we'll get into that.**

19 A. Okay. All right, thank you.

20 **Q. Thank you, Judge. Mr. Chairman, I note for the
21 record that based on the testimony contained in
22 the candidate's PDQ, which has been included in
23 the record with the candidate's consent, Judge
24 Holt meets the constitutional and/or statutory
25 requirements for this position regarding age,**

1 **residence, and years of practice. Judge Holt,**
2 **why would you -- why do you now seek this**
3 **position on the Court of Appeals?**

4 A. That's a good question. I think that -- a
5 variety of reasons. I've always -- certainly
6 service is important to me. Most of my
7 professional life I've offered myself for
8 different service roles. I think the -- the
9 Court of Appeals is intriguing to me. It offers
10 sort of an academic, intellectual stimulation
11 that I'm intrigued by. I feel like I have
12 something to offer, like I have some practical
13 aspects to my background and to my career. And I
14 want to -- I believe, and my peers on the family
15 court bench would agree, that we would -- we want
16 family court judges in these positions because we
17 feel like family court judges are needed. And so
18 those are a variety of reasons of why I do. I
19 mean, I am certainly very excited, and like I
20 said, intrigued by the opportunity.

21 **Q. And judge, besides your family court experience,**
22 **obviously, how do you feel like your legal and**
23 **professional experience would assist you in being**
24 **an effective judge on the Court of Appeals?**

25 A. Well, I've got nine years on the family court

1 bench. And when we try cases we are -- you know,
2 we go through the same analysis as we are trying
3 our cases with the expectation that our decisions
4 have to be -- have to stand up to scrutiny. And
5 so nine years of that, I believe, in my opinion,
6 does put me in a position to where I feel like I
7 can an effective member of the Court of Appeals.
8 We deal with a whole range of issues, and they're
9 real issues that -- such as when you have to tell
10 a child that they're not going to be a child to
11 that parent anymore, you have to make a decision
12 as to termination of parental rights. Or when
13 you have to deal with a judicial bypass, which is
14 incredibly difficult and something that you carry
15 with you for a very long time, whether it's --
16 when you have waiver hearing and you waive a
17 child up to general sessions. Those are just
18 things that I think that -- those experiences, I
19 think, you need if you're going to be in a
20 position where you are making these decisions. I
21 don't know how I could do it if I did not have
22 that experience. I don't think that I would be
23 prepared, if that answers your question.

24 **Q. Thank you, Judge. How would you describe your**
25 **general judicial philosophy?**

1 A. Well, I think that -- I think I take a fairly
2 conservative or strict approach to the law. I
3 try not to deviate, and I think that my -- the
4 decisions that have been -- that have gone before
5 the appellate courts -- I've got a -- I feel like
6 I've got a good record in that regard. I don't
7 abuse my discretion, and I try to follow the law
8 the best that I can. So, you know, just a very
9 consistent, thorough following of the law I would
10 say.

11 **Q. And Judge, we've asked other candidates, what is**
12 **your vision for the future of our judicial**
13 **system, and what changes would you advocate and**
14 **why?**

15 A. Vision for the future of the judiciary, well,
16 there's certainly no way to get around technology
17 is changing everything. And one of the things
18 about technology is that things are happening
19 that just a few years ago I couldn't even have
20 foreseen. So I know that technology is going to
21 continue to change the way that the judiciary
22 operates. Was the second part of the question
23 challenges that we're facing?

24 **Q. Well, what changes would you advocate?**

25 A. Oh, changes to advocate. We have a lot of

1 lawyers. And those lawyers are appearing before,
2 you know, the various courts in our state. And I
3 think a lot of us are concerned -- who are
4 members of the bar are concerned about, you know,
5 lawyers flooding through who are not prepared.
6 We do have systems in place to try to -- to try
7 to mentor them, but that's just a big area. And
8 I'm concerned, because there are a lot of -- and
9 I used to count myself as one of the younger
10 lawyers, but that's not really the case anymore.
11 But we have a lot of young lawyers, and I think
12 we've got to figure out a way to address that.
13 Because we don't want to lose the -- we have a
14 wonderful bar, and South Carolina's a very unique
15 place. We don't want to lose what we have, that
16 unique culture that we have. And so if we become
17 such an adversarial -- we're an adversarial
18 industry in some respects, but we don't want to
19 become adversarial to one another. And we're all
20 seeing more and more of that. I would certainly
21 want to be an advocate of resisting that tide and
22 not -- and that not becoming the norm. We have
23 enough adversarial relationships in public life
24 now and don't want that to start happening on
25 members of the bar.

1 Q. Thank you, Judge. What extent -- to what extent
2 do you believe that a judge should or should not
3 defer to the actions of the General Assembly?

4 A. Could you repeat the question?

5 Q. To what extent do you believe that a judge should
6 or should not defer to the actions of the General
7 Assembly?

8 A. Well, the General Assembly is the makers of the
9 law, so I certainly would always defer to the --
10 to members of the General Assembly as to what the
11 law is. We're to interpret, but we're to apply
12 it and not to -- not to try to remake it and not
13 try to change what they've done. And so I would
14 certainly be very resisting to ever assert the
15 role of the General Assembly. I mean, I clearly
16 know -- I know where the defined lines are and
17 respect those. And I think I've done that
18 throughout my career.

19 Q. Thank you, Judge. Judge, you have conceded that
20 you have no direct experience in appellate work,
21 and you've never appeared before the South
22 Carolina Supreme Court or the Court of Appeals.
23 How would you respond to concerns that this lack
24 of experience leaves you unprepared to sit on the
25 bench of the Court of Appeals?

1 A. It's a fair question. And I think just to know a
2 little bit about my history, as to how it kind of
3 came about, but when I got out of law school I
4 went to work for Senator Ed Saleeby, who some of
5 you may remember. And we had a litigation firm.
6 Now there was appellate work going on there, not
7 a tremendous amount, but there was some appellate
8 work going on. And I was on the periphery of it,
9 but I was never a central character or figure in
10 that. And so it wasn't that I was completely
11 removed from it, but I don't want to be
12 disingenuous and suggest that I was, you know,
13 the lead attorney. And then through that time I
14 spent most of my time in litigation, and then
15 whenever -- continue?

16 **Q. Yes.**

17 A. And then I spent most of my time in litigation.
18 When I was in private practice I had to focus
19 mostly on things that were coming in the door.
20 You know, if appellate work's not coming in the
21 door, you just didn't do it. And I didn't market
22 myself for that. The last nine years I've been
23 on the family court bench and certainly not able
24 to, but I do -- kind of to go back to one of my
25 opening responses is, is that I understand that

1 that could be a criticism. But when you're on
2 the trial bench you are still having to go
3 through a similar analysis, and you're still
4 having to decide cases. And so whereas they're
5 very different courts, I recognize that. One's a
6 trial court, but there -- I believe that there is
7 some carryover between the two. And to have sat
8 there in the line of fire dealing with issues --
9 especially -- because we deal with the public a
10 great deal in the family court, more so maybe
11 than any of the other courts. And sitting in the
12 line of fire, I think, prepares you for that.
13 And so I've -- I believe that, you know, I would
14 be an effective member. I've got a very hard
15 work ethic. I work, you know, every day, and I
16 uphold my responsibilities. And I think that I
17 would do that on the Court of Appeals. I'm a
18 team player. I'll do what's required of me and
19 certainly would be respectful of the court.

20 **Q. Thank you, Judge. Mr. Chairman, the Commission**
21 **received 249 ballot box surveys regarding Judge**
22 **Holt, with 47 additional comments. There were 42**
23 **positive comments, including many that compliment**
24 **Judge Holt for his temperament, dedication, and**
25 **leadership on the family court bench. One**

1 comment specifically mentions that he is an
2 absolute pleasure to appear before and lauds him
3 as professional, knowledgeable, respectful and
4 kind, and that he exhibits a genuine passion and
5 respect for his role in the judicial system.
6 Several comments express that he will make an
7 excellent appellate judge, and one says, "simply
8 the best judge I've seen before." Five of the
9 written comments express concern. One comment
10 indicated that you were -- you may be influenced
11 by attorneys who are legislators or have -- and
12 that you give lawyer/legislators special
13 treatment. How do you respond to that?

14 A. Well, I certainly do. I'm mindful of their
15 legislative schedule. So if they need something
16 scheduled during the chamber's term, I'm going to
17 accommodate them. I mean, I think that's what
18 we're supposed to do. I do not give -- I don't
19 curry favor in terms of making a decision. And I
20 think that the ones who appear in front of me
21 would agree with that. And that's a hard dec- --
22 I mean, that's -- let's be honest. That's
23 difficult, but you do what you have to do. But I
24 strongly deny that I make decisions based upon,
25 you know, their role. But I certainly try to

1 make accommodations for their schedule. I
2 respect what they do. I appreciate what they do,
3 and the lawyer/legislators are some of our best
4 legislators, and so I -- as a matter of fact,
5 I've got a trial over the Thanksgiving break that
6 I'm taking a chambers day to try a case because
7 the lawyer/legislator is going to be in session
8 very soon. And we won't have any -- it'll be
9 June before we can get to it. So I do try to
10 make accommodations and, however I can, certainly
11 within the bounds of, you know, certainly my
12 ethical responsibilities.

13 **Q. Thank you, Judge. Relating back to your**
14 **temperament, there was a concern that you're**
15 **generally considerate of those who appear before**
16 **you, but that you have a level of familiarity**
17 **with litigants that borders on maybe being overly**
18 **familiar and condescending. A comment goes on to**
19 **relate that your tendency to call male defendants**
20 **"bo" is disconcerting. What response would you**
21 **offer to these concerns?**

22 **A.** You know, I don't have a -- it's difficult to
23 answer a question when you don't have a specific
24 context to put it in. I was made aware of that
25 and that somebody had made the comment regarding

1 a colloquialism that I may have used during the
2 course of either on the record or off the record.
3 I don't even know what the context was, but I was
4 made aware of it. I didn't realize I'd done it,
5 and certainly would be mindful of that in the
6 future. I am from the Pee Dee of South Carolina,
7 and I'm guilty on that, but I do not believe that
8 I'm condescending to litigants. I feel like I've
9 -- I feel like I have a good reputation for being
10 patient and bending over backwards to hear
11 people, especially those who are unrepresented.
12 And so I -- and I've worked hard to -- I've
13 worked hard to do that and to make people feel
14 like they've been heard when they come in. Even
15 if they take a very irrational approach that's
16 not based on anything, I still want to give them
17 a chance to be heard. They know that they've
18 come to court, that they've had a chance to tell
19 the judge what they wanted to tell the judge.
20 And so that's what you do when you're a family
21 court judge. But I will certainly be mindful of
22 any colloquialisms in the future.

23 **Q. Thank you, Judge. A concern was raised, perhaps**
24 **about your work ethic and knowledge of the law.**
25 **How would you respond?**

1 A. Well, I would certainly -- my work ethic, I
2 believe there was maybe one comment to that
3 effect. And so I would deny that vigorously,
4 because the chief justice wants us in the -- in
5 our offices on Fridays. I'm routinely in my
6 office or in a courtroom on Friday afternoons
7 working. If the court administration calls and
8 says, "We need a trial judge in Dorchester County
9 to try a very difficult case that no one else
10 wants to try," I always raise my hand. And I've
11 always done that, because this is a privilege
12 y'all gave me to do this job, and I do honor it.
13 And so any time that it's requested of me, I
14 volunteer. I don't think that's lazy. And
15 certainly I don't know what they're referring to,
16 but I strongly deny that. You know, certainly
17 the knowledge of the law is very broad, and I do
18 the best I can. I use all the resources that I
19 have, and I feel like for nine years members of
20 the bar would support me that I do a good job.

21 **Q. Thank you, Judge.**

22 MS. CRAWFORD: Mr. Chairman, members of the
23 Commission, as you know there's one formal
24 Complaint that was filed against Judge Holt.
25 This was filed on October 24th, 2018. We

1 received a witness Affidavit form from Mr. Peter
2 Robert Foreman. You should have that Complaint
3 and summaries of the Affidavit, two S.C. Now
4 articles Mr. Foreman would like you to consider
5 and Judge Holt's written response to the
6 Affidavit. Y'all have that in front of you. I
7 note for the record that Mr. Foreman is not here
8 to appear.

9 **Q. Judge Holt, you've been provided and have**
10 **responded in writing about this Complaint. Would**
11 **you like to address Mr. Foreman's allegations, I**
12 **guess?**

13 A. I'll be happy to if the Commission would like to
14 hear from me on that. Mr. Foreman was a litigant
15 in a family court hearing before me in
16 Chesterfield County, and he failed to disclose
17 any of that until the end of his Complaint. He
18 also failed to disclose that he's appealed my
19 decision. I heard a temporary hearing. I heard
20 a rule to show cause. I heard a final hearing,
21 and then I heard a motion for reconsideration.
22 On final analysis, I gave Mr. Foreman a fairly
23 favorable ruling. I treated him with dignity and
24 respect, as you would expect me to do. Mr.
25 Foreman fired his lawyer at the motion for

1 reconsideration hearing, after she had gotten him
2 to that point. And she'd also made a very
3 persuasive argument to keep the Court from
4 holding him in contempt at that rule hearing. So
5 I was -- a year and a half later I had moved on.
6 And when I was made aware of this Complaint --
7 he's filed no grievance against me, and I believe
8 he doesn't even make reference to the ruling that
9 -- any of my rulings dealing with his case as
10 being disgruntled about any of that. The things
11 that he brings up, and he doesn't know me
12 personally and has no -- we've had no personal
13 interaction, and I never knew of him before I
14 heard those cases. So the things that he's
15 brought to your attention through this Complaint
16 have really no bearing as to anything that I've
17 done on the court. He makes reference to things
18 I should be doing outside of court as maybe a --
19 I don't really know what he wants me to do,
20 after-hours helping people. I have -- y'all give
21 me a very defined job to do, and I do it. And we
22 have to be very careful about creating conflicts
23 and acting outside of our responsibilities. He
24 mentioned something about when I was mayor of
25 Hartsville, which was bizarre. When he made the

1 al- -- he -- we were trying to get a downtown
2 hotel in Hartsville, and I was the mayor. And we
3 negotiated with the developer to build a Hampton
4 Inn in downtown. It was a big deal for us. And
5 so my counsel and I -- we had -- we worked out an
6 agreement, and we sold some land that we owned to
7 this developer. Things were kosher. I leave
8 office because I was elected to this position,
9 and then there was some issue with the developer.
10 Well, they didn't build the hotel. The City had
11 to then engage -- I don't know if it was
12 litigation or what they did, because I was not a
13 part of the process. They reacquired the
14 property, and then they negotiated with another
15 developer. And there's a Hampton Inn exactly
16 where we had planned to build it. And so he's
17 trying to suggest that somehow I profited from it
18 or something to that effect. It's bizarre.
19 Everything happened above board, certainly within
20 the confines of my duties and my office that we
21 were -- I had a city manager. We had a city
22 attorney, and I was a -- we were a -- we were not
23 a strong mayor form of government. We -- I had
24 the same vote that my council had. So I don't
25 really know his motivation, and as I indicated, I

1 have no relationship with him outside of just
2 that litigation. But I'm happy to answer any
3 questions that might be raised from that. I was
4 rather frustrated when I got it.

5 Q. Okay. Judge Holt, I will ask you a few
6 housekeeping questions, and my questioning is
7 done. Submitting your letter of intent to run
8 for this seat, have you contacted any members of
9 this Commission?

10 A. No, I have not.

11 Q. Are you familiar with Section 2-19-70, including
12 the limitations on contacting members of the
13 General Assembly regarding your screening?

14 A. Yes.

15 Q. Since submitting your letter of intent, have you
16 sought or received the pledge of any legislator,
17 either prior to this day or pending the outcome
18 of this screening?

19 A. No.

20 Q. Have you asked any third parties to contact
21 members of the General Assembly on your behalf,
22 or are you aware of anyone attempting to
23 intervene in this process on your behalf?

24 A. No, I have not, and I know of no one.

25 Q. Okay. I would note for the record that the Pee

1 Dee Citizens Committee found Judge Holt to be
2 well qualified in the field of ethical fitness,
3 professional and academic ability, character,
4 reputation, experience, and judicial temperament.
5 The Committee found Judge Holt qualified in the
6 fields of constitutional qualifications, physical
7 health, and mental stability. And Mr. Chairman,
8 I note any concerns raised during the
9 investigation regarding this candidate were
10 incorporated in the questioning of the candidate
11 today. And I have no further questions.

12 CHAIRMAN RANKIN: Okay. Commission members.

13 Representative Rutherford?

14 JUDGE HOLT - EXAMINATION BY REPRESENTATIVE RUTHERFORD

15 Q. Good morning, Judge Holt. Our chief counsel
16 posed the question to you about a remark that
17 someone had made that you had called someone,
18 "bo". And I just wanted you to know that that,
19 even though it comes from our chief counsel, it
20 is not our position that that should not be done.
21 It's just anytime someone writes something that
22 may be perceived as a negative we went to give
23 you the chance to respond, as someone who comes
24 in the family court every so often due to
25 juvenile issues, I believe that if you called

1 someone "bo" in an effort to move their behavior
2 where you wanted it to go so that you didn't have
3 a problem with them again, that that is perfectly
4 fine. Again, that's my opinion, not that of the
5 committee. I just wanted you to know that
6 because it comes from our chief counsel doesn't
7 mean that you did anything wrong so that you need
8 to stop or think about what you say to people. I
9 think you do a fine job as a jurist. I've seen
10 you in action, so I just wanted you to know that
11 nobody's accusing you or doing anything wrong
12 because you used that term. There's nothing
13 wrong with and that you do a great job, so thank
14 you.

15 A. I appreciate it. Thank you.

16 CHAIRMAN RANKIN: All right, Mr. Safran.

17 JUDGE HOLT - EXAMINATION BY MR. SAFRAN:

18 Q. Judge, happy to have you here today. Let me ask,
19 because when I read the comments I get the
20 impression that people perceive you as somebody
21 who sincerely tries to turn what could be a very
22 intimidating experience in court into an
23 environment where people feel comfortable and
24 feel like, you know, they're where they're going
25 to get listened to, where they're going to be

1 treated fairly. And so I'm thinking, you know,
2 to take what Representative Rutherford said, I'm
3 sure you're doing whatever you can to make people
4 at ease; is that a fair statement?

5 A. Yes, sir, we try. If you -- when people come to
6 family court they're not happy to be there, and
7 the only time that we do anything that really
8 brings joy is when we preside over an adoption.
9 Those are fun days. There are a lot of sad days.
10 And so when people come in, especially those
11 litigants who are unrepresented, they're just
12 very apprehensive. And if you can calm them down
13 and let them know -- you smile, you let them know
14 that, you know, you're going to listen to them
15 and, you know, you care about what they have to
16 tell you, it'll go a long way. Suddenly the
17 deputy doesn't have to be standing up ready to
18 pounce if something goes wrong. It's all about
19 how you make them feel. And if they know that
20 you -- you know, that you're genuinely interested
21 in them, it'll settle things down. I try to do
22 that. Like I indicated, in family court we deal
23 with the public -- not to wear out the phrase,
24 but we're on the front line with the public
25 probably as much as -- maybe not as much as

1 magistrate court, but certainly, you know, the
2 other courts in our state. And so when you are
3 they don't understand. And their view of what's
4 right is fixed in their mind. And so if you do
5 not give them a chance to be heard, they will
6 leave incredibly disgruntled, frustrated, angry,
7 and it only leads to more problems. So I do try
8 to do that.

9 Q. Well, and again, I look at this, and when they
10 talk about down to earth, and you know, truly
11 cares, I mean, I do get the impression that you
12 really do make a connection with people and that
13 you like what you do. I mean, is that accurate?

14 A. I do love my job.

15 Q. Well, and I understand that professionally we all
16 basically look at a track, so to speak, and say,
17 you know, this is where I wouldn't mind being,
18 this is, career-wise, where I'd like to go. And
19 I'm sure you've given a lot of thought to doing
20 this. I don't have any doubt. The reason I even
21 think about is, you know, I've known people who
22 have gone from doing what you do where it was
23 passionate and going into an appellate level
24 where you don't have that interaction with people
25 anymore, where it's a different environment

1 altogether. And I'd be lying if I didn't say
2 I've heard from a couple. They said, you know,
3 this isn't quite what it cracked up to be. I
4 don't -- I miss that exchange.

5 A. Yeah.

6 Q. I mean, is that something that you've thought
7 about in terms of just how different the
8 scenarios would be sitting as an appellate judge
9 as opposed to something that you've kind of grown
10 very fond of doing as far as with the people?

11 A. I enjoy working with lawyers, especially lawyers
12 that you see routinely and you've developed a
13 rapport and relationship with, and -- but to go
14 back a little bit, when I left being mayor, I was
15 incredibly active in my community. I was
16 involved in so many aspects of it. And I was a
17 sole practitioner, but I was hustling every day
18 working, trying to make a living for my family.
19 And it took an adjustment to go to the bench,
20 because suddenly the phone stopped ringing. And
21 suddenly you couldn't be involved in things that
22 you were once involved in, things that you were
23 really passionate about, public service
24 opportunities. You know, I'm envious of a lot of
25 you folks who have the opportunity to do that. I

1 do miss it, and I appreciate you doing it. I
2 worked here as a page when Senator Rankin came to
3 the Senate. I think I was the senate doorkeeper
4 that held the door. And so --

5 REPRESENTATIVE RUTHERFORD: In 1993?

6 A. Probably 1993. I believe it was somewhere right
7 in there.

8 CHAIRMAN RANKIN: He's not under oath.

9 A. So that is a part of my personality, and -- but
10 there's a part to the Court of Appeals that is
11 very intriguing to me. And like I indicated, the
12 academic, the intellectual component of that I
13 find very intriguing, and that's another part of
14 my personality that I want to engage. And so pro
15 se divorces on Friday I won't -- I love my job,
16 but I won't miss those. But certainly I do
17 appreciate the opportunity to be around people
18 and work with people. I think that's part of my
19 personality. So you do hit on something, and I
20 have thought about it. I feel like I've prepared
21 myself. I've had to do this once before in
22 another way.

23 **Q. Thank you very much.**

24 A. Thank you. Thank you for serving.

25 CHAIRMAN RANKIN: Ms. McIver.

1 JUDGE HOLT - EXAMINATION BY MS. MCIVER:

2 Q. Thank you, Judge Holt. I practiced some in the
3 family court when I was in private practice. I
4 have a tremendous amount of respect for you and
5 the other family court judges who are constantly
6 dealing with emotionally charged issues. You
7 mentioned the TPR hearings earlier, and I know
8 there is nothing more difficult than hearing
9 issues in cases like that. You also mentioned,
10 when you contemplate being on the Court of
11 Appeals, handling cases with similar analysis and
12 deciding cases in the same type of manner as you
13 do now while you're on the family court bench.
14 How is your experience prepared you to apply
15 complexities in the law, such as intellectual
16 property or antitrust law, outside of family law
17 issues?

18 A. That's a fair question and a good question, and
19 there's really -- there's no easy answer for that
20 that I can just give you that's going to sound
21 good. There are areas of law that even when I
22 was in private practice I did not venture into.
23 And certainly I've been confined to a specific
24 area the last nine years. I would just try to do
25 the best that I could and try to read and to

1 consider as much information as I could and to
2 lean on the resources that were available. I
3 would venture to guess there would be a lot of
4 folks who would be similar, that they have not
5 been exposed to other areas that I've been
6 exposed to. But that's part of the challenge and
7 that's part of growing in any job. You want to
8 have candidates that are ready to hit the ground
9 running. And I would like to think that I was
10 that way nine years ago, but nobody told me what
11 a judicial bypass hearing was. I had no idea,
12 until one showed up on my bench. And so there
13 are going to be things I know that I'll encounter
14 that are going to be hard, and I will take a
15 certain amount of time devoted to it. I feel
16 like I have the work ethic to take on those
17 things, and that's all I can give you is I'm
18 going to work hard. And I think that's --
19 despite the one complaint that I had, I feel like
20 that is -- that is a part of -- you know, my
21 parents are very hard working, and I hope that
22 they instilled that in me. I've tried to do that
23 on the family court bench.

24 **Q. And the comments we've received certainly support**
25 **that. So thank you for your service.**

1 A. Thank you. Thank you.

2 JUDGE HOLT - EXAMINATION BY CHAIRMAN RANKIN:

3 **Q. Briefly, Judge, mediation in family court,**
4 **ordered? Is that ordered by the state by the**
5 **Supreme Court, or is that --**

6 A. We have mandatory mediation now in family court.
7 So after your temporary hearing you can do it a
8 couple of ways. Some judges will order mediation
9 and select the mediator. I typically will allow
10 the lawyers to figure out who they want to use.
11 Because sometimes they've had a lot of success
12 with certain mediators, and I don't want to take
13 that away from -- you know, away from the
14 lawyers. I want to give them that opportunity.
15 But yeah, they'll mediate the case before it can
16 be scheduled for a final hearing.

17 **Q. And that, equitable distribution, custody, not a**
18 **TPR?**

19 A. Well, any contested case, and yes, technically a
20 TPR. But really what's the point when there's
21 either an up or down, and not many people are
22 able to negotiate a TPR. And generally the way
23 that they're -- typically a TPR, by the time it
24 gets to the court, you don't generally have
25 somebody who has been engaged, doing all the

1 things, represented, fighting it, because
2 otherwise they wouldn't be there in the first
3 place. They would have been involved in their
4 child's life. But certainly TPRs a part of it,
5 it's not exempt, and we -- they don't -- they're
6 not successful mediations. I think I've seen one
7 where the person showed up and just threw up
8 their hands and said I'm not going to contest it
9 anymore.

10 **Q. Since '09 when you first started serving on the**
11 **family court bench, what's the difference in the**
12 **case load that you have day in, week in, month**
13 **in, now versus then? Do you see a lessening of**
14 **your actual contested hearing caseload?**

15 **A.** I do not. Personally I don't think that I do. A
16 lot of cases do get settled through mediation as
17 opposed to being settled on the day of court. So
18 if you have a three day trial, and the lawyers
19 get there and their clients are there and now
20 they're finally -- their clients are saying we're
21 here, and they start talking, they might burn up
22 half the morning of the first day of trial trying
23 to figure out some things that they can settle.
24 That's not taking place. Those cases are
25 settling earlier in the process. I'm still

1 trying a lot of cases, and I still have a very
2 full docket Monday through Friday. Family court
3 judges are going to be on the bench every day of
4 the week. And so I would not say that I'm seeing
5 less litigation, but cases are being settled in
6 mediation. I was skeptical because I didn't
7 know. I wasn't sure how that was going to work,
8 and I didn't want to take work away from lawyers.
9 They'd know and ask me, though, about mediation
10 and what my thoughts were on it. But I would
11 have to say that there's been a benefit to it,
12 because lawyers are mediators. So if they're not
13 handling the case, a lawyer's there mediating the
14 case. And they do a good job. The mediators do
15 a really good job in South Carolina that I've
16 seen. And it brings -- and it allows those
17 people to then say, you know, they settled their
18 case. They made those decisions about their
19 child as opposed to a complete stranger making a
20 decision that's never met their child, has never
21 held their child's hand. They made the decision
22 as to, you know, how they were going to deal with
23 their child going forward.

24 **Q. Very well. One last comment. And I think in the**
25 **family court realm that you have a "very even**

1 temperament and great poker face" is an
2 incredible asset.

3 A. Well, I'm nervous today, so I don't know that --

4 Q. That's an anonymous comment, and I would amen
5 that, though my glasses aren't on totally I do
6 get to see. Unless there are other questions?
7 Senator Young.

8 JUDGE HOLT - EXAMINATION BY SENATOR YOUNG:

9 Q. Judge Holt, I appreciate your interest in
10 continuing your judicial career in a different
11 capacity. Just a few questions. It's my
12 understanding you've been on the family court for
13 nine years now?

14 A. Yes, sir.

15 Q. And how do you think your -- I need -- I would
16 like for you to address how your prior experience
17 in your private pra- -- you know, what you did
18 before you were on family court, plus your family
19 court experience, has prepared you for serving on
20 the Court of Appeals. And in particular, how
21 would you -- do you feel like you're adequately
22 prepared for civil cases that don't involve
23 family law issues as well as criminal cases?

24 A. Well, my -- when I was in private practice I did
25 a fair amount of criminal work, and so I

1 certainly have a stronger base there. My
2 practice was -- I had a real estate practice. I
3 had a domestic practice. I had Social Security
4 disability, and I had certainly a criminal
5 practice. I did some other stuff. If somebody
6 needed a will, things of that nature, but I also
7 had a civil practice. I did not -- and certainly
8 full disclosure, I didn't have a lot of personal
9 injury cases, because those were difficult to get
10 into your office, and I didn't advertise. I
11 didn't do any of that. So it just did not have a
12 high volume of things of that nature but I still
13 ventured into civil court, common pleas, you
14 know, enough that I felt comfortable and do feel
15 comfortable. And certainly -- workers'
16 compensation, full disclosure. I did not have a
17 workers compensation practice. That was
18 specialized, and I had a lot of things that I was
19 trying to do. I did not add anything else to the
20 plate. At some point you risk -- as you folks
21 know, you risk spreading yourself too thin if you
22 try to do too many things, and that's -- and so
23 that was sort of -- those were the areas that I
24 practiced in. And Senator, I think that what I
25 just suggest is that I know that I have a strong

1 foundation in family law, but I felt like I was
2 well rounded, and I felt like I was well rounded
3 as a citizen to begin with. So there are going
4 to be areas of law that I did not practice, and I
5 recognize that. And I imagine that's true of
6 most candidates, but I felt like I had a pretty
7 strong foundation. I worked in -- I worked in
8 the Saleeby and Cox law firm for a number of
9 years before I practiced on my own, and they had
10 a very broad practice. I was going -- I did a
11 little bit of everything, whether it was federal
12 court or going to a probation parole hearing at a
13 state correctional facility, or whether I was,
14 you know, going to the county jail to meet with
15 clients, whatever it was, I mean, I was doing.
16 We had a very broad practice. All the lawyers
17 kind of had their niche. And so I feel like I
18 was exposed pretty well to the broader areas of
19 the law in South Carolina, and I'm comfortable.
20 I mean, I would not offer myself if I felt like I
21 could not handle the job and the challenges of
22 the job and just the volume of work required,
23 because I do understand. No one has suggested
24 it's an easy job. Everybody said it's laborious,
25 and you have a lot of work to do.

1 Q. As to your judicial philosophy, just briefly tell
2 us again clearly what your judicial philosophy is
3 in terms of how you would apply the law to the
4 facts?

5 A. Well, I feel like my judicial philosophy is that
6 I take a very strict approach to what the law is,
7 what you tell us the law is, I'm going to follow
8 that. I'm not going to liberally interpret it,
9 and I'm not going to try to stretch it. So I
10 would suggest that I'm conservative in that
11 approach. If it needs to be changed, that's
12 going to be y'all's responsibility and not the
13 court's.

14 Q. Are there any circumstances when a judge should
15 allow his or her personal views to influence the
16 legal decision that the judge is going to make?

17 A. I don't think so, but I don't know how you -- I
18 don't know how you extract who you are from your
19 role as a judge. I mean, you are who you are. I
20 mean, you -- we go through this process, and
21 y'all make a decision based upon the whole -- the
22 totality of who we are. When you have a judicial
23 bypass as a judge, when a child comes to you and
24 wants the court to give her the right to seek an
25 abortion outside of their parents' consent, that

1 is a hard decision to make for a lot of reasons,
2 but you still follow the law. That is your job,
3 and that's what I do. And so I would say that
4 I'd never been confronted with decisions like
5 that before, but -- and never thought I would
6 have to, but I did what I thought the law told me
7 to do. I followed it.

8 **Q. Thank you.**

9 CHAIRMAN RANKIN: All right. If there are no other
10 questions. Judge, again, thank you for your
11 willingness to serve --

12 JUDGE HOLT: Thank you.

13 CHAIRMAN RANKIN: -- and for participating in this
14 process. And you -- having done this before, you
15 are to be reminded that we are very focused on
16 the candidate's abiding by both the spirit and
17 the letter of the South Carolina Ethics Law.
18 That that any violation of the appearance of
19 impropriety will be deemed serious and considered
20 most heavy in any screening deliberations, so
21 this record will remain open until the formal
22 release of the report of qualifications. And if
23 we need to speak with you, we would call you
24 back, if the need would arise. I trust that will
25 not happen. And with that, I will close this

1 record and again thank you and wish you God speed
2 in all that you do for South Carolina.

3 JUDGE HOLT: Thank you, Senator, and that y'all for
4 your service. And this is a difficult process,
5 but it's been -- the staff, they make it very
6 smooth, and I appreciate their help throughout
7 this process.

8 CHAIRMAN RANKIN: Do they maintain a poker face, too?

9 JUDGE HOLT: They do. They do. Thank you.

10 (Off the Record)

11 HONORABLE JERRY DEESE VINSON, JR.

12 CHAIRMAN RANKIN: Judge, let me ask you to raise your
13 right hand.

14 HONORABLE JERRY DEESE VINSON, JR., having been duly
15 sworn, testifies as follows:

16 CHAIRMAN RANKIN: You have prepared and given to us a
17 PDQ, personal data questionnaire, and a sworn
18 statement. I want to ask you if they need to be
19 updated, or are they ready to be submitted?

20 JUDGE VINSON: They are ready to be submitted. I did
21 make that change as noted and amended my answer
22 to number 10.

23 CHAIRMAN RANKIN: And you have no objection to that
24 becoming part of your record in this sworn
25 testimony?

1 JUDGE VINSON: Absolutely not.

2 CHAIRMAN RANKIN: In a moment Lindi will get that and
3 hand that to the court reporter. Let me ask you
4 or tell you that we have as a commission
5 thoroughly investigated your qualifications for
6 the bench and your candidacy in the race for
7 Court of Appeals. Our inquiry is focused on nine
8 evaluative criteria, which have included the
9 ballot box survey, a thorough study of your
10 application materials, verification of your
11 compliance to state ethics laws, a search of
12 newspaper articles in which your name appears, a
13 study of previous screenings, and a check for
14 economic conflicts of interest. We have received
15 no affidavits filed in opposition to your
16 election, no witnesses are here to testify, and
17 you have the opportunity, though it's not
18 required or recommended, but you can make a brief
19 opening statement, if you would like, at this
20 time.

21 (Exhibit Number 7 was marked for identification
22 purposes - (17 pages) Honorable Jerry Deese Vinson,
23 Jr. - Personal Data Questionnaire.)

24 (Exhibit Number 8 was marked for identification
25 purposes - (2 pages) Honorable Jerry Deese Vinson, Jr.

1 - Amendment to Personal Data Questionnaire.)
2 (Exhibit Number 9 was marked for identification
3 purposes - (5 pages) Honorable Jerry Deese Vinson, Jr.
4 - Sworn Statement)

5 JUDGE VINSON: Well, obviously thank you for allowing
6 me to appear here today before the Commission.
7 Always a little bit intimidating, but it's an
8 opportunity for y'all to talk to me and for me to
9 talk to you, and so I appreciate that
10 opportunity. And I know obviously one question
11 that people have is why are you offering yourself
12 for the Court of Appeals. And I want to say that
13 it's been a great privilege and honor. And I'm
14 very grateful for the opportunity to serve on the
15 family court for over 14 years now. It is a job
16 that I've absolutely loved. More time -- more
17 often than others, but it's a wonderful job, and
18 I really have enjoyed that opportunity. It's
19 challenging. It's rewarding, and -- but after
20 being on the family court for over 14 years and
21 being of a certain age, I thought that perhaps
22 some new challenges and new opportunities might
23 be something to consider. And this opportunity
24 has come open to serve on the Court of Appeals,
25 and I've thought about that before. And it does

1 present some unique challenges and opportunities.
2 I'd like to have that opportunity to do that, and
3 as much as I've loved being on the family court,
4 I think that those opportunities to serve on the
5 Court of Appeals would be something that I would
6 love as well. All of the judges on the Court of
7 Appeals bring their unique experiences as
8 practitioners and as judges to the court. It's
9 what makes them appropriate, the best people to
10 hear the cases that come before them. And I
11 would hope that my opportunities as a
12 practitioner and as a family court judge would be
13 of some benefit to the court.

14 CHAIRMAN RANKIN: Very well. Well, let me turn it
15 over to the most intimidating inquisitor we have,
16 Paula Benson.

17 JUDGE VINSON - EXAMINATION BY MS. BENSON:

18 MS. BENSON: Thank you, Mr. Chairman. Mr. Chairman, I
19 note for the record that based on the testimony
20 contained in the candidate's PDQ, which has been
21 included in the record with the candidate's
22 consent, Judge Jerry Deese Vinson, Jr. meets the
23 constitutional and/or statutory requirements for
24 this position regarding age, residence, and years
25 of practice.

1 Q. Judge Vinson, after your almost 15 years of
2 service as a family court judge, you've expressed
3 already some reasons why that you want to serve
4 as a judge on the Court of Appeals. Is there
5 anything that you'd like to add to what you've
6 already said?

7 A. Well, one thing about the Court of Appeals I'd
8 note. Obviously they sit most of time in three
9 panels, and there are only two family court
10 judges on the Court of Appeals right now. And
11 I've thought that perhaps having a family court
12 judge on each panel might help balance the
13 experience that each panel brings as they hear
14 the cases that come before them.

15 Q. Thank you, Judge. Judge, how do you feel your
16 legal and professional experience thus far, both
17 before and since that you've been on the bench,
18 will assist you to be an effective judge of the
19 Court of Appeals?

20 A. Well, obviously, I began my career working with a
21 small practitioner in Florence doing mostly
22 mortgage foreclosure, which was something I
23 really did not enjoy. But then I had the
24 opportunity to clerk for Judge Johnny Waller and
25 enjoyed a year and a half of Judge Waller before

1 I spent five and a half years with Turner,
2 Padget, Graham, and Laney, a defense firm. And I
3 practiced out of their Florence office. I
4 remember having a couple of cases with Senator
5 Sabb on occasion down in Kingstree, and -- but
6 had a wealth of experience practicing with
7 Turner, Padget handling some appellate work, but
8 mostly litigation in the Pee Dee area primarily.
9 And then my wife and I had our own firm together
10 for a number of years, and that's when I began
11 doing family court work, and that kind of led to
12 my being on the family court. So all of those
13 experiences have given me kind of a fairly well-
14 rounded opportunity to be involved in a lot of
15 areas of the law.

16 **Q. Judge, how would you describe your general**
17 **judicial philosophy?**

18 A. I guess the best way to say it would be to say
19 that I always try to treat the litigants and the
20 lawyers who come before me the way that I would
21 want to be treated if I were in court. And I
22 never wanted to be one of the what I call the
23 groan judges, when people when they hear they're
24 going to be in front of you they groan. And so
25 I've always prided myself on trying to be the

1 kind of judge that people enjoy being in front
2 of, that tried to be fair and appropriate at all
3 times and to be impartial and hear what they have
4 to say. When lawyers -- when I have a problem
5 with lawyers, I try never to criticize them in
6 front of their clients. It just leads to a lot
7 of bad things for a lot of different reasons. If
8 I have something strong to say, we leave the
9 courtroom. If it's just something I need to
10 correct, I invite them to come forward, and we
11 speak out of the hearing of their clients, but --
12 and I try to be the same way, especially with the
13 self-represented litigants who can be a little
14 challenging and maybe a little trying sometimes,
15 because they don't quite understand and they get
16 very frustrated. And so that's been one of the
17 harder things to have to adapt to. And as the
18 court kind of changes a little bit, it's dealing
19 with self-represented litigants. But they're
20 here, and they're in all of our courts. And so
21 trying to be mindful of what it's like to be
22 where they are is something I try to practice
23 every day.

24 **Q. Thank you, Judge. Judge, what is your vision for**
25 **the future of our judicial system, and what**

1 **changes would you advocate, and why would you**
2 **advocate those changes?**

3 A. The entire practice of law is changing, and it's
4 something that we're all having to grope with. I
5 remember going to a seminar one time, and there
6 was a legal futurist there. And he was talking
7 about the way the practice of law would be in ten
8 years, in 20 years, and 50 years, and he even
9 projected out to 500 years. And I have to say as
10 a lawyer from the 20th century, it was
11 terrifying. And it really does worry me a lot
12 about how we are adjusting to the way things are
13 developing in our legal system and how we address
14 those changes. The biggest changes, obviously,
15 I've mentioned already is the number of self-
16 represented litigants who come into our system
17 now and how to deal with those self-represented
18 litigants to make them feel that they're being
19 treated fairly when they don't really understand
20 the system. You know, everybody can get on the
21 internet and read about a case and say, that's
22 the way my case should end right there without
23 knowing all of the facts. And so when things are
24 not going exactly the way they think they should
25 because of something they've read or something

1 they've heard, they get very frustrated and
2 sometimes angry. Trying to figure out how to
3 deal with self-represented litigants in the
4 judicial system right now I think is one of the
5 biggest challenges. Of course, the other problem
6 that we have obviously is always funding in our
7 judicial system and trying to figure out how to
8 provide the services that our system provides in
9 a way that's efficient, in a way that doesn't
10 diminish in any way what we're doing as judges
11 and continues to earn the respect of the people
12 who come into our court system. Those are the
13 challenges I see for the future of our judicial
14 system, and analyzing those, thinking about
15 those, and there are different committees. I've
16 been on a couple of committees that have looked
17 at those issues of the challenges of self-
18 represented litigants, of the challenges of money
19 for our judicial system and how we deal with
20 things as simple as having court reporters in the
21 courtroom and things like that. All of those
22 things present challenges for the future. And
23 those are the ways that we have to address them
24 is putting our minds together, working, looking
25 at what other jurisdictions are doing, seeing if

1 it's working for them, if it's not working for
2 them and then adapting that.

3 **Q. Thank you. Judge, to what extent do you believe**
4 **that a judge should or should not defer to the**
5 **actions of the General Assembly?**

6 **A.** A loaded question. Obviously, the General
7 Assembly makes the law. And so to the extent
8 that they make a law and they say, "This is what
9 the law is," then as a judge I am bound by that
10 law. I'm not there to enact law or create law.
11 I'm there to apply the law and on occasions
12 enforce the law as required by the acts of the
13 laws that the General Assembly passes.

14 **Q. Thank you, Judge. Judge, the Commission received**
15 **approximately 359 ballot box surveys regarding**
16 **you, and there were 61 additional comments in the**
17 **survey. You had quite a lot of positive**
18 **comments. I believe one of them mentioned that**
19 **you applied the golden rule in your courtroom,**
20 **but they characterized you as smart, brilliant,**
21 **competent, experienced, respectful to lawyers and**
22 **litigants, tough but fair, excellent temperament,**
23 **and would be an asset to the appellate bench.**
24 **Six of the written comments expressed some**
25 **concerns. One comment expressed some puzzlement**

1 that you had turned over a complex case to a
2 brand new judge that you were mentoring. Could
3 you reply to this comment?

4 A. Yeah, I think I know exactly where that comes
5 from. It's a case that's relatively famous in
6 South Carolina, the baby Veronica case. And I
7 was assigned to Charleston that week and had
8 Judge Deborah Malphrus, who was having her second
9 week sitting with a judge, to sit with me that
10 week. When I found out that -- and I'd asked for
11 a varied docket that week so I'd have a lot of
12 different things to work with. And for reasons I
13 don't understand I was given the baby Veronica
14 case. And so I talked with Judge -- I sent Judge
15 Malphrus an email as soon as I knew it was
16 assigned to us and explained to her that it would
17 involve the Indian Child Welfare Act, and it
18 would be maybe complicated from that standpoint
19 because it's not something we deal with very
20 often in family court, certainly not litigating
21 issues related to the Indian Child Welfare Act.
22 And I invited her to think about it and decide
23 whether or not she wanted to do that. Now I
24 talked with her that morning. She told me she
25 was -- "I'll do it." And that's what every new

1 judge says, they're ready to try anything. But I
2 talked with her that morning at length about it,
3 and I explained to her that the case was a little
4 more complicated. I explained to her that I
5 understood that she wanted to try it. And I
6 asked her what her experience had been the week
7 before when she sat with a training judge. And
8 she said all she did was observe. And I've
9 always been, kind of, of the mind set that you've
10 -- it's kind of like driving a car. You've
11 watched people drive cars for a long time. And
12 until you actually get behind the wheel, you
13 don't know what it's like to drive a car. And
14 they only have two weeks to train. And I said,
15 "You know, I know that you didn't really have an
16 opportunity last week to try cases. This is kind
17 of a weird case to start out with, but if you
18 want to try it, this is the deal. I will sit
19 with you the whole time. I will never leave the
20 bench. We'll leave the bench -- when we leave
21 the bench we'll leave together. I'll read
22 everything you read. We'll talk about
23 everything. If you're making a ruling about
24 something or are asked to make a ruling about
25 something, and you want to talk with me about it,

1 you stop, we talk. If you're doing something
2 that I see that I don't think you should be doing
3 or we need to think about or talk about, I'll tap
4 my pencil or pen, and we'll take a break, and
5 we'll talk about it." So the baby Veronica case
6 lasted for about three and a half days. We did
7 get a lot of materials. Every night we get two
8 copies of everything. She would read it. I
9 would read it. We'd meet the next morning, talk
10 about it, decide what it meant, how to apply it,
11 and we worked through the case that way. I
12 thought she did an excellent job. She really
13 did. She was affirmed by the South Carolina
14 court -- or Supreme Court when it went up, and of
15 course it went to the United States Supreme
16 Court. I went to those arguments. I was a
17 little bit amazed at the arguments and some of
18 the things that were said, but she really did an
19 excellent job. When it came time to make the
20 decision, we talked about that. We talked about
21 what she would place on the record, because she
22 did it the next week, and we went over
23 everything. I went over her notes with her. We
24 talked specifically about the things to put into
25 the order. And then I looked at the written

1 order when it was submitted before she signed it.
2 I got some criticism even from our chief justice
3 at the time, Chief Justice Toal, for letting her
4 do that. And I explained to her exactly what I
5 just told you. About the third time I explained
6 that to her, she kind of left me alone after
7 that. But I will say that -- the rest of the
8 story is after that week, the next week, on
9 Monday and Tuesday by herself in a small county
10 with no other judges around she had a two-day
11 custody case to try. So if I'd just let her
12 watch that week and do nothing that week, on
13 Monday morning she would have gone and sat down
14 on the bench, never ruled, never thought about,
15 never heard anything herself and been faced with
16 a two-day custody case.

17 **Q. Judge, a second concern questioned your judicial**
18 **temperament, indicating that you can be**
19 **condescending and exhibit robitis. What response**
20 **would you offer to that comment?**

21 A. I can remember when I clerked for Judge Waller
22 that they would occasionally get a letter from
23 Chief Justice Ness complaining about robitis. So
24 I've been very aware of what robitis is and what
25 it means for a long time. I don't know where

1 those comments come from. I try never to be
2 condescending. As I said, I try to remember what
3 it's like to be in front of that bench as a
4 litigant, to be in front of that bench as a
5 lawyer, and I try not to be condescending. And I
6 try never to bark or be angry. You know, one of
7 the things that I learned early on at the
8 National Judicial College is if you feel yourself
9 getting angry, you stop, you leave the bench, you
10 take a breather, and then you go back out. I've
11 only had to do that maybe two or three times
12 since I've been on the bench. And I've found it
13 is effective to go back and say what I want to
14 say in the privacy of my chambers to the wall,
15 and then walk back out and sit down and calmly
16 deal with the issues. I don't what else to say
17 other than that.

18 **Q. Thank you, Judge. One final concern was about**
19 **your knowledge and experience. And while this**
20 **comment recognized that you had great expertise**
21 **in family law, it questioned that if you had the**
22 **knowledge and experience necessary to serve as an**
23 **appellate court judge. And if you would, respond**
24 **to that, please.**

25 **A. Well, I don't know how anyone could practice law**

1 and have a practice that was so varied that they
2 could do everything that an appellate court
3 hears. I daresay there are very few people who
4 have -- or lawyers who regularly appear in front
5 of the administrative law courts in this state.
6 I daresay that very few people can say they've
7 tried a juvenile case and dealt with the issues
8 in a juvenile trial or any number of things. My
9 practice was varied until about, I guess maybe,
10 the last five or six years I was in practice. I
11 still tried cases in common pleas court. The
12 last case I tried, Flo and I tried in the United
13 States district court for two or three days. And
14 so I've had varied experience. Now granted it's
15 been 14 and a half years almost since I practiced
16 law. And so I really have been focused on family
17 law for the most part. But I will say this about
18 family law; family law touches on more areas of
19 practice than almost any other court. I mean, in
20 a family court case you'll have property issues,
21 both real property, personal property. You'll
22 have issues that concern taxes. You'll have
23 issues that concern debt, bankruptcy, creditor
24 issues. So all of those issues come into play in
25 addition to issues concerning children and

1 concerning custody issues, issues concerning
2 abuse and neglect. And so all of those issues
3 come into play. And also criminal law, because
4 as family court judges we still deal with
5 criminal matters. The same kind of motions that
6 are heard in general sessions court are heard in
7 family court concerning these issues, and so
8 that's my response. That's the only thing I can
9 say about -- to address that particular concern.

10 **Q. Thank you, Judge. Judge Vinson, just a few**
11 **housekeeping issues. Since submitting your**
12 **letter of intent to run for this seat, have you**
13 **contacted any members of the Commission about**
14 **your candidacy?**

15 A. Not that I'm aware of.

16 **Q. Are you familiar with Section 2-19-70, including**
17 **the limitations on contacting members of the**
18 **General Assembly regarding your screening?**

19 A. Yes, I am.

20 **Q. Since submitting your letter of intent, have you**
21 **sought or received the pledge of any legislator,**
22 **either prior to this date or pending the outcome**
23 **of your screening?**

24 A. No, I haven't.

25 **Q. Have you asked any third parties to contact**

1 **members of the General Assembly on your behalf,**
2 **and are you aware of anyone attempting to**
3 **intervene in this process on your behalf?**

4 A. I haven't, and I am not.

5 **Q. Thank you.**

6 MS. BENSON: Mr. Chairman, I would note for the record
7 that the Pee Dee Citizens Committee reported
8 Judge Vinson to be qualified as to the criteria
9 of constitutional qualifications, physical
10 health, and mental stability and well qualified
11 as to ethical fitness, professional and academic
12 ability, character, reputation, experience, and
13 judicial temperament. I would just note for the
14 record that any concerns raised during the
15 investigation regarding this candidate have been
16 incorporated into the questioning today. And Mr.
17 Chairman, I have no further questions.

18 CHAIRMAN RANKIN: Judge, was that intimidating enough?

19 JUDGE VINSON: I was really overwhelmed. I've known
20 Paula since law school when she was in the
21 library there, so we've been good friends for a
22 long time.

23 CHAIRMAN RANKIN: Very good. All right, members of
24 the Commission, any questions that y'all have.
25 Senator Young?

1 JUDGE VINSON - EXAMINATION BY SENATOR YOUNG:

2 Q. Thank you, Mr. Chairman. Judge Vinson, thank you
3 for your interest in continuing your judicial
4 service on the South Carolina Court of Appeals.
5 I have a few questions. One of which is, would
6 you please expand upon your judicial philosophy
7 and under what circumstances you would exercise
8 judicial restraint?

9 A. I'm not sure if I understand the judicial
10 restraint portion. If you're talking about in
11 terms of examining any laws that are before the
12 court that I'm asked to interpret or to enforce,
13 I do feel strongly about that. We're not a
14 legislative court. There is no such thing or
15 shouldn't be such a thing. I don't believe
16 that's my responsibility as a judge. My
17 responsibility as a judge is simply to interpret
18 the law as it has been presented and to apply
19 that law as it has been written.

20 Q. Do you believe that there any circumstances under
21 which a judge should apply his or her personal
22 views to a decision?

23 A. No.

24 Q. Are there any circumstances where a judge should
25 allow empathy to influence the judge's decision?

1 A. No.

2 Q. I don't have any further questions at this time.
3 Thank you.

4 CHAIRMAN RANKIN: All right. Anyone else? Senator
5 Sabb.

6 JUDGE VINSON - EXAMINATION BY SENATOR SABB:

7 Q. Thank you, Mr. Chairman. Judge, I guess you've
8 commented on the fact that we had some good
9 intellectual wars in the courtroom way back in
10 the day. And I will tell you that as I read your
11 -- the comments that were made about you, the
12 positive ones in particular -- I didn't really
13 recognize the negative ones, but the positive
14 ones that I've read and that Ms. Benson have
15 shared have all been consistent with my contacts
16 with you over the years. And I've got nothing
17 but respect of how you've conducted yourself.
18 And I wanted to make a comment to you. Of
19 course, you and I were both present at Deputy
20 Farrah Turner's home going services, and you were
21 one of the persons selected by the family to make
22 comments. And for the edification of those may
23 not have followed it that close, at least in
24 terms of the names of some of the officers,
25 Farrah Turner was one of the officers that we

1 lost in the shooting over in Florence, and Judge
2 Vinson was selected by the family to make
3 comments. And I will just tell you that your
4 comments were such that for me, if I were a
5 layperson, I think I would have developed a deep
6 appreciation for how judges view the importance
7 of having good relationships with everybody
8 involved. And so I just thought you did an
9 excellent job and did our profession a great
10 service, because of the bird's eye view that you
11 gave some who otherwise would not know what goes
12 on in chambers and in the courtroom. So thank
13 you for all of that.

14 A. Thank you. It was a great honor to be asked by
15 Farrah's mom to speak at the funeral. It was one
16 of the most difficult things I've had to do, and
17 she was a good friend. She was my courtroom
18 deputy for about two years before she became an
19 investigator, and so her loss was deeply felt by
20 all of us in the court.

21 Q. Yes, she's extraordinary and has an extraordinary
22 family. And of course, when we look at some of
23 your experience as it relates to this job, I'm
24 very familiar, of course, with your skill as a
25 trial lawyer in the civil arena, very familiar

1 with your skill as a trial lawyer in the family
2 court arena. Would you share with us, though,
3 your experience as it relates to criminal law and
4 what experiences you've had and to the extent
5 that it's not that extensive, can you share with
6 us how you believe your other experiences lend
7 itself to not having -- the lack of criminal
8 experience as being a crutch when it comes to you
9 in qualifying for this position?

10 A. Well, you know, I did not have a lot of criminal
11 experience. Just when I practiced law you would
12 occasionally get appointed on a criminal case,
13 occasionally appointed on a juvenile criminal
14 case, and I had the experience of doing that in
15 general sessions courts on a few occasions and in
16 family court on a few occasions. So my
17 experience was somewhat limited in that regard in
18 terms of practicing. Of course, I spent a lot of
19 time as a law clerk watching and researching
20 criminal matters when I clerked for Judge Waller,
21 including sitting through three death penalty
22 cases. And so that was a unique experience to go
23 through the entire process and watch that being
24 done. Coming on to the bench, that was the area
25 I felt least experienced in, particularly as it

1 related to the juvenile aspect of what we do on
2 family court. And so I spent more time studying
3 that than anything else and preparing for that.
4 I had the experience of doing abuse and neglect
5 as a contract lawyer for DSS, and I'd practiced
6 in family court for a number of years, and so I
7 felt comfortable with that. So juvenile is where
8 I felt like I needed to focus most of my
9 attention and learn as much as I could and I
10 attended appropriate seminars and things related
11 to juvenile matters as I began working as a
12 judge.

13 **Q. Thank you for all that you've done and for**
14 **offering for this position.**

15 **A. Thank you.**

16 JUDGE VINSON - EXAMINATION BY CHAIRMAN RANKIN:

17 **Q. Anyone else? I want to likewise compliment you**
18 **for your service thus far, and whether favorable**
19 **or unfavorable, there is a theme that these**
20 **anonymous survey respondents give. Again, in**
21 **your case, highly favorable, and in terms of**
22 **temperament, in terms of all the criteria that**
23 **we're looking for here, and in terms of your**
24 **academic ability, your ability -- if you take**
25 **that time out, you go into your chambers, you**

1 talk to the wall, apparently you're pretty adept
2 at coming back out a changed man, at least with a
3 changed attitude if there's some heat in that
4 room that you're exuding, perhaps.

5 A. You can imagine sometimes it's very hard when
6 people are upset or angry or emotional, and they
7 lose their temper, and sometimes they say things
8 that they would not ordinarily say. My wife
9 always says that general sessions court is people
10 on their best behavior -- bad people on their
11 best behavior and family court is good people on
12 their worst behavior, and so there's a lot of
13 truth in that. And it happens to the lawyers
14 sometimes too. I rarely get upset with the
15 litigants. It's usually the lawyers who kind of
16 overstep their bounds that have caused me to have
17 to stop and pause and then -- and respond. And I
18 recognize sometimes they get caught up in it too,
19 and that's difficult not to do sometimes.

20 Q. Mediation in your practice, in your walk as a
21 judge, how has that lightened your load, or has
22 it?

23 A. Immensely. Immensely. Mediation has been
24 probably the best thing that has happened to all
25 of the courts, not just family court, but to all

1 of the courts in terms of reducing the load, of
2 helping people reach agreements and make
3 decisions. It's especially important in family
4 court. I always tell litigants at the temporary
5 hearing, that first hearing that we have in the
6 process, that I encourage them and I talk about
7 mediation with them, and I tell them what it's
8 about. And I tell them that it's a lot easier to
9 live by the decisions you make than to have a
10 judge tell you what you're going to do. And I
11 will say that mediation has been very effective.
12 We even have self-represented litigant mediation
13 which we do. We were having some difficulty
14 doing our self-represented litigant mediation,
15 and we do our -- in Florence County we do our
16 self-represented litigants on Monday, Monday
17 morning, Monday afternoon. We switch off who
18 gets it. You just get a half a day. And we set
19 mediations on contested cases at that time. And
20 we met with the mediators and they wanted to do
21 it this way. And so they come in on Friday, and
22 they have up to three mediations. And we've
23 found that that is immensely helpful as well. We
24 get most of those cases settled, put it on the
25 record and have a final order in those, even

1 those contested cases. So it's been an extremely
2 effective tool, even for the self-represented
3 litigants. You just have to find a way to
4 present it to them, and do it in a way that makes
5 them feel comfortable, and being in the
6 courthouse usually has that effect. And the
7 mediators love doing it at the courthouse,
8 because they feel a lot better. They're not
9 dealing with two people they have no idea who
10 they are, they're unrepresented. So they're in a
11 safe environment, so that they can do what they
12 need to do. And so it's an effective way to deal
13 with self represented litigants. And the lawyers
14 -- I don't know any lawyers who don't find the
15 process of mediation to be helpful in helping
16 them dispose of cases in a way that's satisfying
17 to their clients, so.

18 **Q. And one last comment. You offered initially in**
19 **response to the inquisitor that -- your desire to**
20 **bring some balance perhaps from the family court**
21 **experience on the Court of Appeals. And there**
22 **was a comment that invoked the golden rule**
23 **attribute to you or a quality that you have that**
24 **also wrote, though, that the only reservation**
25 **that this person had would be that the family**

1 **court appeals are such a tiny portion of the**
2 **cases at the Court of Appeals. How do you**
3 **respond to that?**

4 A. Well, there is some truth to that. There -- I
5 looked at the numbers, and they are about, I
6 think, around 15 percent of what the court hears,
7 but as I mentioned in talking about family court
8 in general, there are so many areas that family
9 court touches on. The impact of a decision in a
10 property case that's decided by the Court of
11 Appeals from the common pleas court could have an
12 impact on what happens with that same property
13 issue in family court. And so there's -- all of
14 those areas kind of become one, so to speak, when
15 you bring it into application in whatever court
16 you're in.

17 CHAIRMAN RANKIN: Very well. Any other questions.

18 All right, Judge Vinson, thank you again for
19 participating in this today, and hopefully you
20 didn't need a shot of Novocain.

21 JUDGE VINSON: No.

22 CHAIRMAN RANKIN: It wasn't that bad, and I want to
23 remind you that pursuant to our evaluative
24 criteria that we expect candidates to follow the
25 spirit as well as the letter of the law regarding

1 South Carolina ethics laws and that any violation
2 or the appearance of any impropriety are deemed
3 serious and potentially deserving of heavy weight
4 in screening deliberations. I understand you're
5 aware of that. And the record will remain open
6 until the formal release of the report of
7 qualifications, and you may be called back if the
8 need arises. We trust that will not be the case.

9 JUDGE VINSON: I understand.

10 CHAIRMAN RANKIN: Again, thank you for your service
11 and your continued service and your offering for
12 this position.

13 JUDGE VINSON: Thank you. And thank y'all so much for
14 taking the time to do this very difficult task.

15 CHAIRMAN RANKIN: And thank you for getting here
16 earlier.

17 JUDGE VINSON: My pleasure. My pleasure. Thank you.

18 CHAIRMAN RANKIN: Representative Murphy has made a
19 motion to go into executive session, seconded by
20 Andy Safran.

21 (Executive Session)

22 CHAIRMAN RANKIN: Thank you. We are now back on the
23 record, and for the record I'd like to make sure
24 that the record contains the fact that while in
25 executive session no action has been taken. No

1 votes were taken. And now we will proceed to the
2 vote for the Court of Appeals seat one and Erin
3 to poll the members, please.

4 MS. CRAWFORD: Just a quick reminder. I'll call the
5 names of the --

6 SENATOR SABB: Mr. Chairman, I think I'd like to make
7 a couple of motions.

8 CHAIRMAN RANKIN: We have a motion.

9 SENATOR SABB: If the Chairman pleases, I would make a
10 motion that we dismiss the Complaint filed by
11 Robert Foreman against the Honorable Michael S.
12 Holt.

13 CHAIRMAN RANKIN: All right, so moved. Seconded?

14 MR. SAFRAN: Second.

15 CHAIRMAN RANKIN: All in favor say, aye.

16 (Ayes are heard.)

17 CHAIRMAN RANKIN: The ayes have it.

18 SENATOR SABB: Mr. Chairman, I would also like to make
19 a motion that we find that all four of our
20 candidates are qualified.

21 CHAIRMAN RANKIN: Second?

22 REPRESENTATIVE MURPHY: Seconded.

23 CHAIRMAN RANKIN: All in favor say, aye.

24 (Ayes are heard.)

25 CHAIRMAN RANKIN: All right, thank you, Senator Sabb.

1 Now we'll proceed to a vote.

2 MS. CRAWFORD: Mr. Chairman, just a quick reminder.

3 I'll call the names of the qualified candidates
4 in alphabetical order. Each Commission member
5 has three votes. Any candidate that receives, I
6 believe, five or more votes, will be considered
7 qualified and nominated. At the end of that
8 vote, unless there's a tie, any candidate that
9 does not get any votes will be removed from
10 consideration on any subsequent ballots that
11 occur. In this case I don't believe we have a
12 subsequent ballot. And I would like to note for
13 the record that Vice Chairman Smith has recused
14 himself from today from this race and has
15 abstained from voting -- will abstain from voting
16 in this race.

17 CHAIRMAN RANKIN: All right.

18 MS. CRAWFORD: Okay. The first candidate for the
19 Court of Appeals seat one, Blake A Hewitt.
20 Please raise your hand. Eight votes. The second
21 candidate is the Honorable Michael S. Holt. Four
22 votes. The third candidate would be the
23 Honorable Alison Renee Lee. Nine votes. And the
24 fourth candidate will be the Honorable Jerry
25 Deese or Jay Vinson, Jr. Mr. Chairman, those

1 receiving votes were Mr. Hewitt, eight votes, Mr.
2 Holt, four -- Judge Holt, four, Judge Lee, nine,
3 and Judge Vinson, six. So the three nominated by
4 the Committee would be Blake -- Mr. Hewitt, Judge
5 Lee, and Judge Vinson.

6 CHAIRMAN RANKIN: All right, and with Mr. Smith
7 abstaining for the record.

8 MS. CRAWFORD: For the record.

9 CHAIRMAN RANKIN: Okay. All right. Now we will go
10 off the record and get our 12:30 lunch.

11 (Off the record.)

12 HONORABLE DONALD BRUCE HOCKER

13 CHAIRMAN RANKIN: Thank you, Judge Hocker. You've
14 been out there waiting.

15 JUDGE HOCKER: That's fine.

16 CHAIRMAN RANKIN: And got here early, so I want to
17 tell you we appreciate your adjusting your
18 schedule, and we'll try to make this as painless
19 as possible.

20 JUDGE HOCKER: Sounds good.

21 CHAIRMAN RANKIN: If you will raise your right hand,
22 please.

23 JUDGE DONALD BRUCE HOCKER, having been duly sworn,
24 testifies as follows:

25 CHAIRMAN RANKIN: You have completed what you're being

1 shown again, the personal data questionnaire and
2 a sworn statement. Are they correct?

3 JUDGE HOCKER: They are, sir.

4 CHAIRMAN RANKIN: Any additions to those that you'd
5 like to make?

6 JUDGE HOCKER: None.

7 CHAIRMAN RANKIN: And do you have any objection to
8 those being made a part of the record with your
9 sworn testimony?

10 JUDGE HOCKER: No objection.

11 (Exhibit Number 10 was marked for identification
12 purposes - (11 pages) Honorable Donald Bruce Hocker -
13 Personal Data Questionnaire.)

14 (Exhibit Number 11 was marked for identification
15 purposes - (6 pages) Honorable Donald Bruce Hocker -
16 Sworn Statement.)

17 CHAIRMAN RANKIN: Judge, you've been down this road
18 before, so you know what we're doing. And for
19 the record I have to state that we have
20 thoroughly investigated your candidacy and your
21 bid to continue on the bench. We focused on nine
22 criteria, including the ballot box survey, a
23 thorough study of your application materials,
24 verification of your compliance with state ethic
25 laws, a search of the newspaper articles in which

1 your name might appear, a study of previous
2 screenings, and finally a check for economic
3 conflicts of interest. To your credit, we've
4 receive no affidavits in opposition, no witnesses
5 are here to testify against you, and you may have
6 folks, if you'd like to introduce. If not --

7 JUDGE HOCKER: I'm here by myself.

8 CHAIRMAN RANKIN: Standing tall. You have the
9 opportunity to make a brief opening statement, if
10 you'd like, though it's not required.

11 JUDGE HOCKER: I'll waive that.

12 CHAIRMAN RANKIN: Okay. I'm going to turn you over to
13 Bob Maldonado, who will ask you a few questions
14 and then open it up for the Commission.

15 JUDGE HOCKER: Okay, very good. Thank you.

16 JUDGE HOCKER - EXAMINATION BY MR. MALDONADO:

17 **Q. Thank you, Mr. Chairman. Judge Hocker, after**
18 **serving the last five years on the circuit court,**
19 **can you tell this Commission why you want to**
20 **continue to serve on the circuit court?**

21 A. Well, first of all, it's an honor and a privilege
22 to be a part of the judiciary for South Carolina.
23 And I thoroughly enjoy what I do. I'm humbled
24 every single day that I put on the robe. And I
25 think I can truly make a difference in peoples'

1 lives, and that's what I strive to do, to be as
2 fair as I possibly can, show respect to the
3 lawyers and the litigants who appear before me.

4 **Q. Thank you. Judge Hocker, can you please explain**
5 **one or two brief accomplishments that you feel**
6 **you have completed during your tenure and then a**
7 **goal you would like to accomplish if reelected?**

8 A. Okay. Well, I've been fortunate. I've only been
9 reversed one and a half times. When I say one
10 and half, there was a case where I was affirmed
11 on one issue and reversed on the other, so I say
12 one and a half times. One other case that the
13 Supreme Court did not agree with the position
14 that I took in the case. So I've been very
15 fortunate to have been affirmed on multiple
16 occasions. I attribute that probably more so to
17 luck than intellect, but nonetheless I have been
18 fortunate in that area. One goal I would like to
19 accomplish is -- and I've given this a lot of
20 thought over the last year -- you know, young
21 lawyers who get out of law school, unless they go
22 to work for the solicitor's office or PD's
23 office, they don't get that opportunity to get
24 trial experience. And then when they are thrown
25 into a trial, they're at a serious disadvantage.

1 What I'd like to see, and this is something that
2 I'm going to work on, is get young lawyers to
3 agree to represent people in small claims
4 contested cases, represent them pro se, and allow
5 them to get some trial experience, whether it's
6 in a small claims civil court or a misdemeanor,
7 small misdemeanor criminal case. But give them
8 the opportunity to get some trial experience,
9 because otherwise, as I stated, unfortunately
10 these young lawyers just are unable to get any
11 experience that they need to try a case. So
12 that's something that I've been thinking about
13 and want to try to get off the ground.

14 **Q. Thank you. Judge, how have you handled, and what**
15 **kind of suggestions would you offer to improve**
16 **the backlog in the docket?**

17 A. Well, I know that there has been a lot of
18 discussion with Langford and a lot of committee
19 review as far as who's going to control the
20 docket. I know that our chief justice just
21 recently told us in a meeting that we had that we
22 probably will go to a judge-controlled docket. I
23 would like to give that a chance to see. I know
24 that in other circuits judges have more of an
25 input in docket control and management. We don't

1 necessarily do that in the eighth circuit, but
2 that's something that I think would be of some
3 benefit to everyone involved and would help with
4 the backlog of cases that we have.

5 **Q. Thank you. Judge, your SLED report indicated**
6 **that there was a lawsuit filed against you, both**
7 **you and a co-defendant, A&M Automotive, in 2013**
8 **that didn't show up in your last screening by a**
9 **Ms. Linda Sweats in the magistrate's court of**
10 **Laurens County. Can -- well, the case was later**
11 **dismissed by the magistrate, but can you explain**
12 **the nature and the circumstances of this?**

13 **A.** You know, after you and I met and you brought
14 that to my attention -- I represented the
15 automotive company, and for some reason the
16 public index just showed me as a co-defendant,
17 but I in fact represented that garage. Because I
18 was curious after we met and you brought that to
19 my attention. I was curious why that was, and
20 that's the case. I was the lawyer.

21 **Q. You were not a party to this lawsuit?**

22 **A.** No, sir.

23 **Q. The Commission reviewed -- received 418 ballot**
24 **box surveys regarding you with 22 additional**
25 **comments. The ballot box survey, for example,**

1 contained the following positive comments: Judge
2 Hocker is thoughtful, fair, and an asset to the
3 judiciary, great temperament, great understanding
4 of the law, and when he doesn't have an immediate
5 answer, he does the legal research needed. He
6 listens to everyone and does the right thing.
7 Two of the written comments expressed concerns.
8 One comment stated that some of Judge Hocker's
9 rulings were contrary to binding authority and
10 issued for the sake of appearing fair. What
11 response would you offer this concern?

12 A. Well, again, I don't recall the specific case or
13 cases involved. I don't -- I try to be fair. I
14 try to be as fair as I possibly can to both sides
15 in every case. However, I'm not going to
16 completely disregard what the law tells me for
17 the sake of fairness. So I would have disagree
18 with that particular attorney who made that --
19 who made that comment.

20 Q. The second concern indicated that in a recent
21 case, which was -- which your ruling was later
22 reversed by the Supreme Court, there was an issue
23 with a sheriff's deputy who lied on the stand.
24 "The dishonesty by the officer did not seem to
25 phase him at all, nor did he inquire into the

1 **contradictory testimony. This is concerning."**

2 **How would you reply to this concern?**

3 A. Well, that was the one case that I indicated I
4 was reversed on. And I can assure this
5 Commission that if I at any time -- and it was a
6 city police officer, not a county deputy -- I can
7 assure this Commission that if at any time I
8 thought the officer was being dishonest, then
9 certainly I would have given that every
10 consideration and probably would have changed my
11 ruling. It was a situation where the officer did
12 not recall how some evidence got from the scene
13 to the evidence locker at the police department.
14 After reviewing an in-car video of what
15 transpired at the scene, he recalled that it was
16 himself and not another police officer who
17 actually transported the evidence to the evidence
18 locker at the police department. Again, I
19 thought it was purely a -- you know, a memory
20 issue and certainly not a dishonesty issue.

21 **Q. Thank you, Judge Hocker. I'll finish up with**
22 **some housekeeping issues. Judge Hocker, since**
23 **submitting your letter of intent, have you**
24 **contacted any members of the Commission about**
25 **your candidacy?**

1 A. I have not.

2 Q. Are you familiar with Section 2-19-70, including
3 the limitations on contacting members of the
4 General Assembly regarding your screening?

5 A. Right, I'm fully aware of those rules.

6 Q. Since submitting your letter of intent, have you
7 sought or received the pledge of any legislator,
8 either prior to this date or pending the outcome
9 of your screening?

10 A. I have not.

11 Q. Have you asked any third parties to contact
12 members of the General Assembly on your behalf,
13 or are you aware of anyone attempting to
14 intervene in this process on your behalf?

15 A. I have not.

16 Q. Have you reviewed, and do you understand, the
17 Commission's guidelines on pledging and South
18 Carolina Code § 2-19-70(E)?

19 A. Yes, I understand them.

20 MR. MALDONADO: I would note that the Piedmont
21 Citizens Committee reported that Judge Hocker is
22 well qualified as to ethical fitness,
23 professional and academic ability, character,
24 reputation, experience, and judicial temperament.
25 The Committee found Judge Hocker to be qualified

1 as to constitutional qualifications, physical
2 health, and mental stability. I would note for
3 the record that any concerns raised during the
4 investigation regarding the candidate are
5 incorporated into the questioning of the
6 candidate today. Mr. Chairman, I have no further
7 questions.

8 CHAIRMAN RANKIN: Okay, thank you. Questions from the
9 members of the Commission. Mr. Safran?

10 JUDGE HOCKER - EXAMINATION BY MR. SAFRAN:

11 Q. Judge, we're happy to have you here.

12 A. Thank you.

13 Q. I'm kind of perplexed. How would you basically,
14 you know, do a ruling, you know, somehow be
15 criticized for trying to be fair?

16 A. Right.

17 Q. And I saw how that was characterized, and it had
18 me scratching my head. I mean, obviously you've
19 been doing this a long time. And I'm assuming
20 that if you have a question as it relates to what
21 the law might be, it's like they said, either --
22 and if you don't know it, you go look it up. Has
23 that been pretty much your practice?

24 A. Right, yes, sir.

25 Q. Would you ever think, you know, you're trying to

1 do anything that would somehow twist the law in
2 order to be fair?

3 A. I certainly try not to.

4 Q. Well -- and you know, that one comment seems to
5 stand out as being very atypical of everything
6 else I see in here. And the thing we've kind of
7 talked about the time I've been on here is
8 judicial temperament, and it seems like to me you
9 get high marks in that. And so from what I'm
10 hearing is you aren't so far removed from
11 practice to have lost the recognition of what
12 it's like to be a lawyer.

13 A. Right. And I think a judge needs to remember
14 what it is like to be a practicing attorney,
15 because the practice of law is difficult. It's a
16 hard job, and I try to keep that in the forefront
17 of how I think and act on the bench as much as I
18 possibly can.

19 Q. Thank you very much.

20 A. Thank you.

21 CHAIRMAN RANKIN: Other questions?

22 JUDGE HOCKER - EXAMINATION BY CHAIRMAN RANKIN

23 Q. Judge Hocker, I, too, want to ditto the surveys,
24 the 400 and some odd folks who have taken the
25 time to comment about you. With the exception of

1 the outlier we'll call it in terms of the
2 criticism, things that you don't hear, but you
3 want to hear, I would think. It's hard to
4 imagine a judge who strives harder to do the
5 right thing, patient, polite, also firm, and
6 decisive. South Carolina is a better place
7 because of the service of people like Judge
8 Hocker. And then from someone who appeared
9 before you on a difficult case that you
10 ultimately ruled against their client: gave an
11 outstanding trial, and I know he closely examined
12 the facts and the law before he ruled. While he
13 disagreed he understood -- or she -- could
14 understand and follow your thought process in the
15 order. Your demeanor was courteous yet in
16 command of the courtroom, and despite the result,
17 trying the case before him was a pleasure, an
18 outstanding trial judge. Can you say anything
19 better than that?

20 A. I really appreciate that comment.

21 Q. And that's not just -- there are multiple
22 affirmations or endorsements and/or -- going out
23 of their way to say, again, you are doing what
24 this Commission, I think, and what the good Lord
25 requires of us.

1 A. Thank you, Senator, and I'm very humbled by those
2 comments and similar comments.

3 Q. You've heard it said, and so I got close, but I'm
4 going to go ahead and say it, Micah 6:8. You
5 must know it, "Do justly love mercy and walk
6 humbly with thy God."

7 A. Right.

8 Q. Apparently you're putting that into practice as
9 well.

10 A. I try to every day.

11 Q. Very good. I have nothing else. And with that,
12 unless there are other questions. We thank you.

13 A. Thank you.

14 CHAIRMAN RANKIN: This concludes this portion of the
15 screening process, and thank you for getting here
16 earlier and in waiting. And just to remind you
17 that pursuant to the rules and our criteria, we
18 expect all candidates to follow the spirit as
19 well as the state ethics law, the letter of the
20 law. Any violations or appearances of
21 impropriety that would arise hereafter we would
22 take very seriously that and give it heavy weight
23 in the screening deliberations. This record will
24 remain open, and until the formal release of the
25 report of qualifications is made, we could call

1 those being made part of the record?

2 JUDGE KELLY: I do not.

3 (Exhibit Number 12 was marked for identification
4 purposes - (14 pages) Honorable R. Keith Kelly -
5 Personal Data Questionnaire.)

6 (Exhibit Number 13 was marked for identification
7 purposes - (6 pages) Honorable R. Keith Kelly - Sworn
8 Statement.)

9 CHAIRMAN RANKIN: If you will hand them over to your
10 left, that'll be done. And Judge, you've been
11 here -- you've been screened a number of times,
12 so you are familiar with this process and what
13 we're looking for. And that being specifically a
14 thorough investigation of your candidacy and your
15 qualifications for continued service on the
16 bench. Our inquiry focuses on nine particular
17 areas, including the ballot box survey, a
18 thorough study of your application materials,
19 verification of your compliance with state ethics
20 laws, a search of newspaper articles in which
21 your name appears, a study of previous
22 screenings, and a check for economic conflicts of
23 interest. No affidavits have been filed in
24 opposition to your election, and you have no
25 witnesses to testify against you or for you,

1 other than yourself. And with that, I will
2 invite you to make any brief comments that you so
3 choose. You're not required to. You don't have
4 to, but if you'd like to.

5 JUDGE KELLY: I will just tell Mr. Chairman thank you
6 and members of the Committee. But I've enjoyed
7 my tenure on the bench, and if this General
8 Assembly sees fit, to serving another term.
9 Thank you.

10 CHAIRMAN RANKIN: Very well. Answer any questions Ms.
11 Benson has for you, please.

12 JUDGE KELLY: I will.

13 JUDGE KELLY - EXAMINATION BY MS. BENSON:

14 **Q. Thank you, Mr. Chairman. Judge Kelly, did I**
15 **count right? You've been six years on the**
16 **circuit court bench, or did I not --**

17 A. I'm in my sixth year.

18 **Q. You're in your sixth year?**

19 A. Yes, ma'am.

20 **Q. Why do you want to continue serving as a circuit**
21 **court judge?**

22 A. Well, as many of the members of this Committee
23 know having served with some of them, I enjoyed
24 my service with the state in the General
25 Assembly. And I'd look forward to serving -- I

1 have looked forward to serving as a circuit court
2 judge. I mean, it -- certainly it's a job, it's
3 an employment, but it's also service to the State
4 of South Carolina.

5 **Q. Thank you. Judge Kelly, could you explain one or**
6 **two brief accomplishments that you feel that**
7 **you've completed during your tenure?**

8 A. I think that I bring some energy or have brought
9 some energy -- not that we didn't have any
10 already in the seventh circuit, but I think I've
11 brought some fresh blood, some fresh energy to
12 the seventh circuit and to the bench. I don't
13 brag, but these are just numbers, but you can
14 check them for yourselves. Cherokee County,
15 which is where I'm the resident judge -- I mean,
16 I'm chambered there. I'm at large, but I'm
17 chambered there. They consider me their judge,
18 if you will. We lead -- in common pleas court we
19 have led the state for close to two years, 18
20 months in moving cases. We were at the 97th
21 percentile level, far exceeding the 80 percentile
22 level that's been set as a standard by our court.
23 We missed it last month because another county
24 got 98 percent. So we've got to up it just a
25 little bit more, because we've been proud of

1 being number one in the state. Out of 46
2 counties, Cherokee County leads the way. The
3 second thing is we are doing the same thing
4 energy wise on the general sessions docket. We
5 have about 265 or so in the county jail there,
6 which is, I think, housed for -- built for 150.
7 When court broke down a couple of weeks ago, a
8 couple of times in civil court because cases
9 settled or otherwise, got continued, what have
10 you, I switched to general sessions, and I went
11 over there and we took plea after plea out of the
12 jail, trying to reduce that. Judge Cole is our
13 Chief Administrative Judge for general sessions,
14 and he's also our senior judge. We have a judge-
15 run docket in the seventh circuit. In
16 Spartanburg it was a pilot program that started
17 many years ago when Trey Gowdy was a prosecutor
18 there. And Judge Cole is now implementing that,
19 because we got together and talked with our
20 judges, and he's implementing that same docket
21 call in Cherokee County as well, because we are
22 about 1,700 cases there. With the population of
23 that county, we should be somewhere around 1,200,
24 maybe 1,100, so -- and it works, the judge-called
25 docket works.

1 Q. Judge, besides your goals with the docket, is
2 there another goal that you'd like to accomplish
3 if you're reelected?

4 A. Well, I think moving cases is the probably the
5 number one goal for anybody who's sitting on the
6 bench. But also the Chief Justice has
7 implemented this: Judges in schools help children
8 in civics classes, and so we're part of that too
9 in the seventh circuit.

10 Q. Thank you. Judge Kelly, what do you think your
11 reputation is among the attorneys who practice
12 before you?

13 A. Well, I've been fortunate to have some of those
14 comments shared with me, and I think my
15 reputation is that I listen and I apply myself, I
16 show up on time, I take the bench promptly at
17 9:00, we work all day. So I think I have a
18 reputation for working, for listening, for being
19 fair, at least I hope I do. That's the comments
20 that I've been shared -- that's been shared with
21 me.

22 Q. And what is your reputation among the court
23 personnel?

24 A. I think I enjoy a good reputation with our court
25 personnel and our clerks of court. I haven't

1 received any negative comments from anyone, and
2 no one during this screening process has shared
3 any negative comments to that effect.

4 Q. Thank you. Judge Kelly, the Commission received
5 377 ballot box surveys with 33 having additional
6 comments. A number of those additional comments,
7 in fact almost all of them, included some very
8 positive information, which included: good
9 lawyer, even better judge, excellent judicial
10 temperament, beyond punctual, very respectful
11 toward counsel, very fair to all, very attentive
12 during trial, upmost professionalism and
13 courtesy, and an asset like no other. Only two
14 comments expressed concerns. One we talked about
15 in the office mentioned waiving a personal
16 firearm in the courtroom, not being safe. Judge,
17 have you ever waived a firearm in the courtroom?

18 A. Never. I've never waived a firearm anywhere, as
19 we talked. I've been a gun owner since my
20 granddaddy gave me a .22 bolt action rifle when I
21 was six years of age, and I still have it today.
22 Not only that, but I grew up around firearms.
23 I'm prior military, both active and United States
24 Army Reserve, and I'm a firearm owner. I own
25 many firearms. I have never mishandled a

1 firearm, ever. I flatly deny that.

2 Q. Thank you. And Judge, a second concern, which
3 began by praising you expressed a desire that
4 they wish that you wouldn't revoke in full on
5 probation violations, because most judges inflate
6 the probation term. And you indicated during our
7 interview that you did this purposefully. Could
8 you please explain to the Commission your
9 reasoning?

10 A. I sure can. I don't set other sentences, and
11 when another judge puts someone on probation that
12 is the sentence of the Court. And they're
13 already on probation. So if you're on probation
14 for -- you know, for shoplifting for the 12th
15 time and then you get arrested, you know, DUI,
16 DUS and shoplifting again, I just revoke the sen-
17 -- I just revoke the probation. I don't think
18 that's a negative comment. I think that's a
19 positive comment.

20 Q. Thank you, Judge. Judge, whenever you were
21 screened in 2012, you said that you would like
22 for your judicial legacy to be that you were
23 fair, courteous, and respectful to everyone in
24 the courtroom, but also firm and in control.
25 When you mentor new judges, how do you suggest

1 **that they achieve those qualities?**

2 A. Well, I guess mentoring a new judge would only be
3 for one in my circuit right now. Judge Grace
4 Knie was elected since I've been elected,
5 replacing the retiring Judge Roger Couch. And
6 we, of course, have known each other as well as
7 her husband, Pat, for I guess about as many years
8 we've been practicing law. So she calls me about
9 various things. Of course, we all do call each
10 other. She takes the same philosophy, or I think
11 she does, about being on the bench timely. I
12 think, you know, she and I have talked about
13 that, taking the bench. Don't sit in the back
14 and say, you know, that we'll come and get you
15 when we're ready, because the population doesn't
16 understand. You know, if the bench is empty and
17 the lawyers are there, where's the judge. You
18 take the bench. They'll get ready. And so she
19 and I have had some conversations on things like
20 that, and I would have that with other judges if
21 someone were sitting with me, second chair, if
22 you will.

23 **Q. Judge, I know from our discussion that you are an**
24 **avid pilot. What do you bring from your work as**
25 **a pilot that you find helps you as a judge?**

1 A. The air is like the sea, it's very unforgiving.
2 So you have to pay close attention to detail, and
3 that's not unlike practicing law either. You
4 have to pay very close attention to detail.

5 Q. Thank you, Judge. Judge Kelly, just a few
6 housekeeping issues. Since submitting your
7 letter of intent, have you contacted any members
8 of the Commission about your candidacy?

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

10 Q. Are you familiar with Section 2-19-70, including
11 the limitations on contacting members of the
12 General Assembly regarding screening?

13 A. Yes, ma'am, I am.

14 Q. Since submitting your letter of intent, have you
15 sought or received any pledge of any legislator,
16 either prior to this date or pending the outcome
17 of the screening?

18 A. I have not.

19 Q. Have you asked any third parties to contact
20 members of the General Assembly on your behalf,
21 or are you aware of anyone attempting to
22 intervene in the process on your behalf?

23 A. I have not, and I'm not aware of anyone
24 intervening on my behalf.

25 Q. Have you reviewed, and do you understand, the

1 **Commission's guidelines on pledging and South**
2 **Carolina Code § 2-19-70(E)?**

3 A. I'm aware of it, yes, ma'am.

4 MS. BENSON: Mr. Chairman, I would note for the record
5 that the Upstate Citizens Committee reported that
6 Judge Kelly, as to the criteria, he is qualified
7 as to constitutional qualifications, physical
8 health, and mental stability and found him well
9 qualified as to ethical fitness, professional and
10 academic ability, character, reputation,
11 experience, and judicial temperament. I would
12 just note for the record that any concerns raised
13 during the investigation have been incorporated
14 into the questioning today. And Mr. Chairman, I
15 have no further questions.

16 CHAIRMAN RANKIN: All right. Invite the members of
17 the Commission, if they have any questions. Mr.
18 Safran?

19 JUDGE KELLY - EXAMINATION BY MR. SAFRAN:

20 **Q. Good afternoon, Judge.**

21 A. Good afternoon.

22 **Q. I just heard what was recounted as what your goal**
23 **was when you were here in 2012 in reading these**
24 **responses. I mean, I don't think you missed a**
25 **beat. They are saying exactly that, and you**

1 know, you've been around a while. You practiced
2 law for a long time, and I know we all have our
3 moments where we might not think the greatest of
4 the circumstance or the judge we might be in
5 front of, but despite all that, these folks seem
6 to be quite happy with you. I get, also, the
7 assurance that you've never forgotten what it was
8 like to be a lawyer, because I think lawyers
9 don't say things like that just for the sake of
10 it, particularly when they can do it blindly
11 without you knowing who it is.

12 A. Yes, sir.

13 Q. But we appreciate the fact that you have done
14 that. And too many times we get accused of being
15 overly critical, but we also recognize that it's
16 our duty in a situation where somebody has done
17 as outstanding a job as you have to say so, and
18 so we commend you for it.

19 A. Thank you.

20 CHAIRMAN RANKIN: All right. Any others. Senator
21 Young?

22 JUDGE KELLY - EXAMINATION BY SENATOR YOUNG:

23 Q. Thank you, Mr. Chairman. Judge Kelly, I just
24 want to echo what Mr. Safran just said and what
25 the chairman has said in reading the bar results

1 -- I mean, the survey results. They are just
2 outstanding, and you should be commended. And I
3 had the honor to serve with you in the South
4 Carolina House, and I'm not at all surprised by
5 what I'm reading on these reports. Thank you.

6 A. Thank you so much.

7 CHAIRMAN RANKIN: All right. If nothing further, what
8 a good note to end it on. We appreciate your,
9 again, being here a little out of schedule time
10 wise, but earlier, and as predicted, this has
11 been fairly painless. So thank you again for
12 your willingness to one, serve and then offer to
13 continue to serve in this capacity. I want to
14 remind you that the evaluative criteria that we
15 have includes the expectation that you both
16 follow the spirit and the letter of the South
17 Carolina ethics law and that any violation or
18 appearance of impropriety in that regard would be
19 deemed serious and potentially deserving of very
20 heavy weight in the screening deliberations.
21 This record will not be closed until the formal
22 release of the report of qualifications, so you
23 may be called back hereafter, if the need arises,
24 which we do not expect to be the case, but we
25 have to tell you that.

1 JUDGE KELLY: Thank you, Mr. Chairman.

2 CHAIRMAN RANKIN: Again, thank you for your work and
3 your wearing the robe lightly and dispensing
4 justice fairly.

5 JUDGE KELLY: Thank you.

6 CHAIRMAN RANKIN: God speed.

7 JUDGE KELLY: Thank you.

8 CHAIRMAN RANKIN: A motion has been made to go into
9 executive session by Senator Hayes, seconded by
10 Mr. Hitchcock.

11 (Executive Session)

12 CHAIRMAN RANKIN: Ladies and gentlemen, we're back on
13 the record, and as you know the Judicial Merit
14 Selection Commission did go in executive session.
15 However, while there, no decisions were made and
16 no votes were taken therein. Now back on the
17 record, do we have a motion concerning the last
18 candidates?

19 REPRESENTATIVE RUTHERFORD: I hereby make the motion
20 to find Judge Hocker and Judge Kelly both
21 qualified and nominated.

22 CHAIRMAN RANKIN: Is there a second?

23 MR. SAFRAN: Second.

24 CHAIRMAN RANKIN: All those in favor say, aye.

25 (Ayes are heard.)

1 REPRESENTATIVE SMITH: Mr. Chairman.

2 CHAIRMAN RANKIN: Representative Smith.

3 REPRESENTATIVE SMITH: I just want to let the record
4 reflect that I've abstained from those two, as I
5 was not present for their screenings, that I was
6 in another committee meeting upstairs.

7 CHAIRMAN RANKIN: Very well. All right. And now
8 we're going to proceed to Judge Murphy. And for
9 the record, Commission member, Representative
10 Murphy, like Elvis, has left the building -- has
11 left the room and will not be participating in
12 the deliberations.

13 REPRESENTATIVE SMITH: Off the record.

14 (Off the Record)

15 HONORABLE MAITE MURPHY

16 CHAIRMAN RANKIN: Welcome, Judge Murphy.

17 JUDGE MURPHY: Hello.

18 CHAIRMAN RANKIN: Luke Rankin, and we are glad you're
19 here. And thank you for being here early.

20 JUDGE MURPHY: Thank you for having me, Senator.

21 CHAIRMAN RANKIN: If you will, raise your right hand,
22 please.

23 HONORABLE MAITE MURPHY, having been duly sworn,
24 testifies as follows:

25 CHAIRMAN RANKIN: Thank you. And you have been

1 screened how many times before?

2 JUDGE MURPHY: Gosh, it's almost embarrassing to say,
3 but this would be my fifth time.

4 CHAIRMAN RANKIN: Very well. So you're familiar with
5 the forms that you've submitted there, the PDQ
6 and sworn statement; is that correct?

7 JUDGE MURPHY: Yes, sir.

8 CHAIRMAN RANKIN: Any changes to those that you would
9 like to make at this time?

10 JUDGE MURPHY: No, sir.

11 CHAIRMAN RANKIN: Any objection to those being made a
12 part of the record of your sworn testimony?

13 JUDGE MURPHY: No, sir.

14 CHAIRMAN RANKIN: All right. If you'll hand those
15 over to Lindi. As you know, we do -- our charge
16 is to early investigate your qualification for
17 continued service on the bench. We look at nine
18 evaluative criteria, which includes the ballot
19 box survey, a thorough study of your application
20 materials, verification of compliance with the
21 state ethics laws, a search of newspaper articles
22 in which your name appears, a study of previous
23 screenings, and finally a check for economic
24 conflicts of interest. We have no affidavits
25 that have been submitted in opposition to your

1 candidacy, no witnesses are here to testify. And
2 now you have an opportunity to make an ever so
3 brief, but not required, statement before
4 questions are posed to you by Ms. Crawford.

5 (Exhibit Number 14 was marked for identification
6 purposes - (17 pages) Honorable Maite Murphy -
7 Personal Data Questionnaire.)

8 (Exhibit Number 15 was marked for identification
9 purposes - (2 pages) Honorable Maite Murphy -
10 Amendment to Personal Data Questionnaire.)

11 (Exhibit Number 16 was marked for identification
12 purposes - (7 pages) Honorable Maite Murphy - Sworn
13 Statement.)

14 JUDGE MURPHY: Well, certainly being keenly aware of
15 your time, and that I am the last candidate of
16 the day, I will take it as an opportunity to
17 thank you for your service and for your time here
18 with this process, and I'll be happy to answer
19 any questions that you may have.

20 JUDGE MURPHY - EXAMINATION BY MS. CRAWFORD

21 **Q. Thank you, Mr. Chairman. Judge Murphy, for the**
22 **record, will you state the name of your husband?**

23 A. Christopher John Murphy.

24 MS. CRAWFORD: Mr. Chairman, I note for the record
25 that Representative Murphy is a member of the

1 Commission, but he is not in the room or taking
2 part in this screening.

3 **Q. Judge Murphy, after serving six years on the**
4 **circuit court, why do you wish to continue**
5 **servicing?**

6 A. Well, I must say I love my job. And it's
7 certainly an humbling and an honor to serve in
8 that capacity. I have the opportunity to work
9 with fantastic colleagues and great attorneys,
10 and I learn from those experiences. And, you
11 know, to be frank, you never know what you're
12 going to get everyday, so it's certainly an
13 interesting job, which I hope to learn from each
14 of those experiences. And at the end of the day
15 I suppose it also comes down to the fact that you
16 hope that you've made a positive impact, and I
17 hope to continue to do so in that capacity.

18 **Q. Thank you, Judge. Judge Murphy, could you**
19 **explain to the Commission one or two**
20 **accomplishments that you feel you've completed**
21 **during your tenure and a goal you'd like to**
22 **accomplish when you're reelected?**

23 A. Well, as far as one or two accomplishments, I
24 hope that you strive to accomplish something
25 every day. You get there, you work hard, you

1 hope that you're diligent, that you're effective
2 in your time management, and the management of
3 the docket. And so I think those are
4 accomplishments in and of themselves each and
5 every day, and I think if I'm afforded the
6 opportunity to continue in this capacity, I would
7 strive to continue to work hard. And hopefully
8 that would impart with the public confidence in
9 our judicial system, that it is a fair and
10 effective system that is run impartially and
11 effectively.

12 **Q. Thanks, Judge. The SLED report -- we went over**
13 **this, indicated the existence of three lawsuits**
14 **in which you're a named party. And you have**
15 **provided an amendment to your PDQ, listing such.**
16 **I think we went through them, and those were all**
17 **actually inmate matters, were they not?**

18 **A. Yes, ma'am.**

19 **Q. Do you have anything to add about those matters?**

20 **A. No, ma'am.**

21 **Q. The SLED report also indicated that a tax lien**
22 **was filed against you in 2009. Can you explain**
23 **the circumstances and the disposition of this**
24 **matter?**

25 **A. Yes, ma'am. Well actually we didn't find out**

1 about this tax lien until we went to refinance
2 our current home, I think which was in 2012, and
3 that popped up. And that was actually a part of
4 a big fraud scheme in which a lady from the
5 management company ended up pleading guilty about
6 a month ago where she was funneling some funds,
7 and funds that were being paid into the property
8 management weren't deposited correctly. So when
9 that popped up, my husband immediately called
10 their attorney, and that was satisfied
11 immediately.

12 **Q. Thank you, Judge. Judge, what do you believe**
13 **your reputation is among attorneys that practice**
14 **before you?**

15 **A.** I would hope that my reputation amongst attorneys
16 is that I'm fair, I'm hard working, I try to
17 treat everyone with respect and dignity. And
18 certainly it's an adversarial process, so not
19 everybody's happy when they leave the courtroom,
20 but I certainly hope that they feel that they
21 were treated fairly and impartially.

22 **Q. Thank you, Judge. The Commission received 529**
23 **ballot box surveys regarding you, with 27**
24 **additional comments. The positive comments**
25 **included, for example: Judge Murphy's an**

1 extremely qualified, patient, and capable jurist.
2 The South Carolina bench is lucky to have her.
3 Judge Murphy is a good judge who listens to
4 everyone completely and gets orders out in a
5 timely fashion. Seven of the written comments
6 expressed concern. Several comments indicated
7 that you're not fair in sentencing and tend to be
8 heavy handed. What response would you offer to
9 that concern?

10 A. Well again, obviously it's an adversarial
11 process, and not everyone is going to leave the
12 courtroom happy. I can certainly attest to the
13 fact that with every case that comes before me I
14 try to consider all aggravating and mitigating
15 circumstances and sentence accordingly to the
16 facts of each particular case.

17 Q. In civil matters there were a few comments that
18 maybe you were too defense oriented. How would
19 you respond to that?

20 A. I almost think that that's a bit funny, because
21 when I was in private practice I was a
22 plaintiff's lawyer, so I'm not sure where that
23 comes from. I really don't have an answer to
24 that because I do try to be fair and impartial to
25 both sides, regardless of what side they're

1 coming from.

2 **Q. Several comments indicated that you abuse your**
3 **relationship as a judge because your husband is a**
4 **Representative. What response would you offer to**
5 **this concern?**

6 A. Well, being married to an elected official and
7 obviously serving in this capacity, I'm keenly
8 aware that we're in the public eye quite a bit
9 under a bit of scrutiny, so I'm always extremely
10 careful to abide by what is required of me and
11 the conduct that's required of me and my family.
12 I'm also very mindful to stay within the bounds
13 of what's allowed for me to participate in and
14 not participate in. I certainly understand that
15 maybe those that aren't involved or are married
16 to someone in public office may not understand
17 the parameters of that. And sometimes maybe
18 there's misconceptions, but I can certainly
19 assure you that I do abide by what is allowed and
20 not allowed.

21 **Q. So for example, how do you handle campaign**
22 **activities for election if there's a pending**
23 **election?**

24 A. Well, of course, I abide by the judicial canons,
25 and I also have an opinion from the attorney

1 general's office which pretty much spells out
2 exactly what I can and what I can't do. So I'm
3 very mindful to stay within those bounds, and
4 actually knowing that I was coming up for
5 reelection this time when my husband was up. For
6 his election this time I completely -- well,
7 didn't completely stay away, but I did go to like
8 one debate forum. And I was very mindful to even
9 further myself and further distance myself, so
10 that would not be an issue.

11 Q. Thank you, Judge. Judge Murphy, I just have a
12 few housekeeping -- oh, a few housekeeping
13 issues. I do note that the Low Country Citizens
14 Committee reported that you're well qualified in
15 the evaluative criteria of ethical fitness,
16 professional academic ability, character,
17 reputation, experience, judicial temperament, and
18 you're qualified in the remaining evaluative
19 criteria of constitutional qualifications,
20 physical health, and mental stability. In
21 summary, the Citizens Committee noted, "super."
22 Since submitting your letter of intent, have you
23 contacted any members of the Commission about
24 your candidacy?

25 A. No, ma'am, obviously other than being married to

1 my husband, but other than that, of course, not.

2 Q. Are you familiar with Section 2-19-70, including
3 the limitations on contacting members of the
4 General Assembly regarding your screening?

5 A. Yes, ma'am.

6 Q. Since submitting your letter of intent, have you
7 sought or received the pledge of any legislator,
8 either prior to this date or pending the outcome
9 of your screening?

10 A. No, I have not.

11 Q. Have you asked any third parties to be involved
12 in the screening process?

13 A. No, ma'am.

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

16 A. Yes, ma'am.

17 MS. CRAWFORD: I would note for the record that any
18 concerns raised during the investigation
19 regarding Judge Murphy were incorporated into the
20 questioning of her today, and I have no further
21 questions.

22 CHAIRMAN RANKIN: All right. Members of the
23 Commission, any questions?

24 REPRESENTATIVE RUTHERFORD: Let me follow my list that
25 Chris gave me.

1 JUDGE MURPHY: Now that I'm under oath.

2 CHAIRMAN RANKIN: You're familiar with the line,
3 enough about me, let's talk about you. What do
4 you think about, not me, but your husband? You
5 do not have to answer that. That's totally in
6 jest.

7 JUDGE MURPHY - EXAMINATION BY CHAIRMAN RANKIN:

8 Q. The comments that you have are generally all
9 glowing, and that's what you want to have said
10 about you in terms of participants in this
11 anonymous survey. There is -- you've got a few
12 people, however, and do want to give a little
13 more air to this, that again speak to the
14 perceived sense of -- but the relationship with
15 your husband, who is in elective office, serves
16 in the House. Is there a different walk that you
17 have to make, a different path that you pursue as
18 a judge, though, whose husband is also in public
19 service?

20 A. I think in reality that there certainly is
21 because of the fact that we're under that public
22 scrutiny, and people expect a judge to act one
23 and a political spouse to act a different way.
24 So we do have to be very careful about what we
25 do, but again, we're aware of that. We act on

1 that, and we certainly abide by those conditions
2 and happy to do so. It's part of the system and
3 part of the system that I have great respect for.

4 Q. You can't please everybody all the time for
5 certain. In terms of -- and again, many -- the
6 majority of the comments are in support of your
7 demeanor. How would you want to write, not your
8 epitaph but your mantra, your slight little
9 mission statement in terms of how lightly you
10 wear your robe, how you engage with the public
11 before you as a judge?

12 A. Well, I think we all strive to go good for our
13 community, to set a good example for our children
14 and to make the world a better place. And I
15 would hope that's what I would accomplish, one
16 day at a time.

17 CHAIRMAN RANKIN: Any questions from anyone?

18 SENATOR SABB: Mr. Chairman, I have a comment.

19 CHAIRMAN RANKIN: Yes, sir. Senator.

20 JUDGE MURPHY - EXAMINATION BY SENATOR SABB:

21 Q. Thank you, Mr. Chairman. Judge, good to see you.
22 I just really kind of wanted to make a comment.
23 Of course, your husband and I came into the
24 General Assembly together, and of course I got to
25 know you then. And I remember fondly when you

1 decided to offer the first time. And the idea in
2 the General Assembly is that you would be elected
3 just because you were Chris Murphy's wife. And I
4 just wanted to say that your performance and the
5 comments that we've received about your
6 performance dispels all of that. And I believe
7 it placed a lot of -- well, undue or unnecessary
8 in my view, but real pressure on you to perform.
9 And so I just want to congratulate you, because
10 your performance, you know, bodes well for those
11 of us who believed that you were the best
12 qualified person for the job. And so thank you
13 for that.

14 A. Thank you so much, Senator. I certainly
15 appreciate that, and it's -- you know, we work
16 hard, and I always believe that I should work to
17 pursue my dreams as my husband should work hard
18 to pursue his dreams. And I suppose my attitude
19 on that has always been that I shouldn't be
20 prevented from working in my career field because
21 of what my husband chooses to do, but thank you
22 for that.

23 Q. And doing a good job really helps all that.

24 A. Thank you, sir.

25 Q. You're welcome.

1 CHAIRMAN RANKIN: Unless there are any other
2 questions, Judge, we thank you again for being
3 here and being here early and for participating
4 in this screening process. You're well aware of
5 the rules in that we've got to remind every
6 candidate of our criteria, such that you have to
7 abide both by the spirit and the letter of the
8 South Carolina ethics laws. Any violation or
9 appearance thereof of a violation would be
10 considered very serious and potentially deserving
11 of heavyweight in our screening deliberations.
12 As you know, the record will remain open until
13 the formal release of the record of
14 qualifications. And should we need to, we would
15 call you back. We don't expect that to happen,
16 but you're aware of that rule, correct?

17 JUDGE MURPHY: Yes, sir.

18 CHAIRMAN RANKIN: All right. And with that, that'll
19 close this record, and we thank you again for
20 your willingness to continue serving.

21 JUDGE MURPHY: Thank you all for your time. I
22 appreciate it.

23 (Off the Record)

24 CHAIRMAN RANKIN: All right, Representative Smith.

25 REPRESENTATIVE SMITH: Mr. Chairman, I move that we

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find Judge Murphy qualified and nominated.

CHAIRMAN RANKIN: All right, second?

MR. SAFRAN: Second.

CHAIRMAN RANKIN: All those in favor say aye.

(Ayes are heard.)

CHAIRMAN RANKIN: Opposition, there is none. And also for the record, Representative Murphy did not participate in the vote itself as well. And with that, we are concluded for the day. And we will be starting -- will you be with you tomorrow? Will we see you Thursday?

COURT REPORTER: Monday.

CHAIRMAN RANKIN: Monday. 9:30 tomorrow.

(There being nothing further, the proceeding adjourned at 3:09 p.m.)

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CERTIFICATE OF REPORTER

I, JENNIFER NOTTLE, COURT REPORTER AND NOTARY PUBLIC
IN AND FOR THE STATE OF SOUTH CAROLINA AT LARGE, HEREBY
CERTIFY THAT I REPORTED THIS PROCEEDING, ON THURSDAY, THE
13TH DAY OF NOVEMBER, 2018, AND THAT THE FOREGOING 185
PAGES CONSTITUTE A TRUE AND CORRECT TRANSCRIPTION OF MY
STENOMASK REPORT OF SAID PROCEEDING.

I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY NOR
COUNSEL FOR, NOR RELATED TO OR EMPLOYED BY ANY OF THE
PARTIES CONNECTED WITH THIS ACTION, NOR AM I FINANCIALLY
INTERESTED IN SAID CAUSE.

IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL THIS
21ST DAY OF NOVEMBER, 2018.



JENNIFER NOTTLE, COURT REPORTER

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