



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

**Family Court**  
**(New Candidate)**

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

It is with much humility and the upmost respect that I am asking for the opportunity to serve as Judge of the Family Court, Seventh Judicial Circuit,, Seat 2, upon the retirement of the Honorable James F. Fraley, Jr., who has honorably served as a Family Court Judge for almost twenty (20) years. Prior to his election, Judge Fraley devoted his practice almost exclusively to Family Court cases for over twenty (20) years. Because I was admitted to practice law a few years before he was elected, I had the pleasure of having several cases with Judge Fraley before he took the Bench. In addition, although I cannot even estimate how many times I have appeared before him, I am positive I have appeared before Judge Fraley more than any other Family Court Judge. Therefore, I have witnessed firsthand what it takes to honorably serve as a Family Court Judge.

Although I know it will take many more years for me to obtain Judge Fraley's knowledge and experience, I want to serve as a Family Court Judge because I have devoted my practice almost exclusively to Family Court cases for almost twenty-two (22) years. During that time, I have served as the attorney, guardian ad litem, attorney for the volunteer guardian ad litem, and mediator in thousands of Family Court cases. In my humble opinion, serving as a certified Family Court Mediator is the best "off the bench" training one can receive in preparing to be a Family Court Judge, and I have mediated approximately four hundred (400) Family Court cases in the past five (5) years. Therefore, I believe my legal experience and training, as well as my real life experiences, will allow me to provide a noble, public service to the citizens of South Carolina as a Family Court Judge.

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

Yes.

3. Do you have any plans to return to private practice one day?

No. If I am elected to the Family Court Bench, I intend to retire as a Family Court Judge, and I will never seek to serve as a Judge in any other Court.

4. Have you met the statutory requirements for this position regarding age, residence, and years of practice?

Yes.

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

My philosophy is that a judge should never allow *ex parte* communications unless absolutely necessary "for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits," as authorized under Canon 3(B)(7) of the Code of Judicial Conduct. Even in those limited circumstances, a judge must reasonably believe the *ex parte* communication will not allow a party to gain a tactical or procedural advantage, and the judge must also ensure that all other parties are promptly notified of the substance of the *ex parte* communication and allow them an opportunity to respond. For example, a Family Court Judge may be asked to review an *ex parte* request from DSS to place a child into emergency protective custody if the child was not taken into emergency protective custody by law enforcement, but the parents or guardians are entitled to a probable cause hearing within seventy-two (72) hours of the removal of the child. In addition, a Family Court Judge is allowed to consider an *ex parte* request for an emergency hearing from an alleged victim of domestic violence under the Protection from Domestic Abuse Act, but the alleged perpetrator is allowed to be heard at the emergency hearing. Moreover, the Family Court Rules allow a Family Court Judge to consider an *ex parte* request for an emergency hearing from a private attorney in a private case, but I believe that procedure should only be used if it is absolutely necessary to protect the safety and well being of a child or party until a hearing can be scheduled. Finally, the law allows a Family Court Judge to consider an *ex parte* request from a party for an appropriate restraining order, but I would specifically note in any such

restraining order that it would only remain in effect until the first hearing in the case. In short, I believe ex parte communication should only be permitted in rare emergency situations where the safety or well being of a party or child cannot otherwise be protected until a hearing can be held.

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

My philosophy is that a judge should always avoid any appearance of impropriety. That is, because a judge cannot be an advocate for either side and must look at both sides of every case fairly and impartially, I believe a judge should always strive to make all litigants feel like they have a level playing field to resolve the issues brought before the court. Therefore, I would recuse myself if I believed a litigant or attorney had a valid concern about my ability to be fair and impartial to all litigants. Although I do not have any former associates or law partners, if I did have a former associate or law partner, I would not hear his or her cases for several years after I took the bench to avoid any potential conflicts of interest and appearance of impropriety. On the other hand, I would not automatically recuse myself in every case that a lawyer-legislator appeared before me because a judge is required to hear cases where a lawyer-legislator represents one of the litigants, but I would carefully consider a motion if a litigant or attorney made such a motion and stated a valid reason why he or she believed my impartiality might reasonably be questioned.

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

If I disclosed something that had the appearance of bias that I did not believe would prejudice my impartiality, I would ask the litigants and the attorneys if they had any objection to me presiding over the case. If any party asked me to recuse myself in that situation, I would not take it personally; I would give due deference to the party requesting my recusal; and I would most likely grant the motion if I believed the information disclosed could cause my impartiality to be reasonably questioned.

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

If I knew my spouse or a close relative had financial or social involvement with any party or attorney, I would disclose it, ask the attorneys and parties if they had any objection to me presiding over the case, and recuse myself if any party, attorney, or I believed my impartiality could be reasonably questioned.

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

I would not accept, nor allow any member of my family to accept, a gift from anyone unless it was from a relative or friend for a special occasion (i.e. Christmas, birthday, etc.). However, I would never accept even a Christmas, birthday, or other special occasion gift from an attorney, law firm, or other person that would appear before me. As to social hospitality, I would attend functions related to the Bar, law-related associations, or the Judiciary where the purpose of the function is to advance the justice system and other judges are also invited to attend.

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

A judge's judicial duties specifically include disciplinary responsibilities. Therefore, as required under Canon 3(D)(1) and 3(D)(2) of the Code of Judicial Conduct, I would report the misconduct of a lawyer or fellow judge to the appropriate disciplinary authority.

11. Are you a member of any organization or association that, by policy or practice, prohibits or limits its membership on the basis of race, sex, religion, or national origin? If so, please identify the entity and explain if this organization practices invidious discrimination on any basis.

No.

12. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations? Please describe.

In 2016, I participated in the MDA Lock-Up for the Muscular Dystrophy Association.

13. Do you have any business activities that you would envision remaining involved with if elected to the bench?

The only business activity I am involved with other than the practice of law is rental properties I own with my mother. Although I do not believe it would be necessary for me to dispose of those properties, I do not have any interest in obtaining other real estate investments, and I would turn over the management of the properties I currently own to my mother, or an independent management company, if I am fortunate enough to be elected to the Family Court Bench.

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

If all parties were represented, I would ask one of the attorneys to prepare the Order, share it with the other attorneys of record and obtain their approval before submitting it to me, and forward it to me in an appropriate format so that I could make any changes necessary before signing it. I would also make sure the signed Order was forwarded to all attorneys of record in the same manner with strict instructions not to discuss the Order with their clients prior to it being filed in the Clerk of Court's Office. If a party was self-represented, I would consider a proposed Order prepared by an attorney, or a self-represented litigant, if all parties had an opportunity to review it beforehand. However, if I took a matter under advisement involving a self-represented litigant, I would ensure that the instructions for the Order were sent to all parties in the same manner and that the Order had been reviewed by all parties and approved prior to being submitted to me for my signature. Finally, because I have prepared hundred of Orders over the years, I can and would prepare the Order myself if necessary.

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

I would use a dual calendar system with my administrative assistant and me both keeping up with all deadlines. Specifically, because a Family Court Judge is required to issue an Order within thirty (30) days from the date of the hearing, I would ask the person preparing the Order to submit it to me within fifteen (15) to twenty (20) days from the date of the hearing depending on the complexity of the case. If I did not receive the Order in a timely manner, I would ensure that reminders were sent out with specific instructions for the Order to be prepared immediately and follow up as necessary.

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

Because I have served as the guardian ad litem in hundreds of cases, I am very familiar with the requirements of the South Carolina Guardian ad Litem Reform Act (Act), and I would ensure that the guardians ad litem follow the requirements of those statutes. Specifically, although the Act allows the parties to consent to the appointment of a guardian ad litem who does not meet the training requirements set forth in the Act, I would not appoint a person to serve as the guardian ad litem who had not completed the training requirements of the Act unless all parties consented to it and I knew the proposed guardian ad litem had sufficient training and experience to competently serve as the guardian ad litem. Finally, if it came to my attention that a guardian ad litem was not following the requirements of the Act, I would consider a motion to relieve the guardian ad litem if good cause was shown.

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

My philosophy is that a judge should never serve as an “activist” because it is a judge’s duty and responsibility to follow the case law, statutory law, and court rules even if the judge does not necessarily agree with the law or rule.

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

I would be willing to “speak, write, lecture, teach and participate in other extra-judicial activities concerning the law, the legal system, [and] the administration of justice” as permitted under Canon 4 of the Code of Judicial Conduct. Specifically, I would welcome the opportunity to speak at Continuing Legal Education seminars, or other law-related programs, concerning the law, the legal system, and the administration of justice. However, I would be very careful not to engage in any extra-judicial activities that could cause my impartiality as a judge to be reasonably questioned.

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

No. My wife and family are totally supportive of my desire to serve as a Family Court Judge, and they fully understand the duties and responsibilities I am seeking to undertake.

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

Because the law requires a judge to hold a *pro se* litigant to the same standard as a licensed attorney, I do not believe it is appropriate to give special consideration to a *pro se* litigant. For example, if a *pro se* litigant did not have proper service of process or proper notice of the hearing, I would continue the hearing because it would be a denial of due process to the other party, who is oftentimes *pro se* also, to not require strict compliance with the rules of court. However, if a *pro se* litigant failed to ask a necessary question that would not substantially impact the outcome of the case (i.e. residency or venue), I would probably ask the question for the record because I would most likely ask a similar question if an attorney forgot to ask it for purpose of judicial economy.

21. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?

I receive additional income from two (2) rental properties I own with my mother. Those investments could only cause an appearance of impropriety if one of our tenants or their family members appeared before me, and I would recuse myself if that unlikely event ever occurred.

22. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?

"De minimis denotes an insignificant interest that could not raise reasonable question as to a judge's impartiality" under the Code of Judicial Conduct. However, if I knew an immediate family member or I had even a *de minimis* financial interest in a party involved, I would disclose it to all of the parties and attorneys, ask if they had any objection to me presiding over the case, and carefully consider a motion for my recusal if I believed it could cause my impartiality to be reasonably questioned. If I determined it was necessary for me to recuse myself, I would ask another judge to hear the case, if another judge was available, to avoid any undue delay in resolving the case.

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

Yes.

24. What do you feel is the appropriate demeanor for a judge and when do these rules apply?

A judge should conduct all of his or her judicial and extra-judicial activities in a manner that promotes the upmost respect for the law, legal system, and judicial system. A judge’s demeanor should always be fair, just, impartial, kind, and patient to not only the litigants and attorneys involved in a case, but also to staff, court personnel, and the general public. A judge should never do anything that would cast any doubt on his or her ability to be impartial, nor should a judge do anything to demean his or her judicial office or the judicial system. In short, our justice system is based on the long-standing principle that judges are fair, impartial, and competent to interpret and apply the law, and a judge has a duty and responsibility to uphold that principle at all times.

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

No. I do not believe it would ever be appropriate for a judge to display anger toward an attorney, litigant, staff member, court personnel, or the general public, including a criminal defendant.

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

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Sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print name)

Notary Public for South Carolina

My commission expires: \_\_\_\_\_