



CANDIDATE NAME: Jan B. Bromell Holmes
POSITION, AND SEAT #: Family Court Judge, Fifteenth Judicial Circuit, Seat 1
AMENDMENT TO: PERSONAL DATA QUESTIONNAIRE
DATE ORIGINALLY SUBMITTED: July 20, 2018

18. Have you ever held judicial office? Yes, If so, list the periods of your service, the courts involved, and whether you were elected or appointed. Elected by SC General Assembly February 7, 2007 as Family Court Judge , Fifteenth Judicial Circuit, Seat 1. Re-elected February, 2013 to same position. Describe the jurisdiction of each of the courts and note any limitations on the jurisdiction of each court. Family Court has exclusive jurisdiction over all matters involving domestic or family relationships. Family Court handles issues involving marriage, divorce, legal separation, custody, visitation rights, termination of parental rights, adoption, support(spousal and child), alimony, equitable division of marital property, and name change(adult and child). Family Court also has exclusive jurisdiction to hear matters involving juvenile delinquency for juveniles 17 and under alleged to have violated any state law or municipal ordinance. Juveniles who have committed serious criminal charges may be waived or transferred to Circuit Court.

19. If the answer to question 18 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported. Also list citations to any appellate review of these orders or opinions.

(a) High v. High, S.C. Court of Appeals Opinion # 4717

This was a divorce action with an agreement on equitable distribution of marital property and debt. The contested issues were child custody and attorney fees. The matter was appealed. The Father appealed my order granting Mother sole custody of the couple's two children, arguing the family court erred in: (1) refusing to qualify Teressa Harrington, LPC as an expert witness; (2) prohibiting the introduction of statements made by the couple's minor daughter to Harrington; (3) refusing to admit Harrington's records into evidence; (4) making certain findings of fact relevant to the issue of custody which were not supported by the record; (5) failing to consider important factors contained in the record in its award of primary custody to Mother; (6) awarding Mother sole custody based on the fact that Mother was historically the caregiver of the minor children; and (7) granting Mother custody based on the primary caretaker factor. The Mother cross-appealed arguing that the family court erred in (1) hearing Father's untimely motion to alter or amend, and (2) failing to award her attorney's fees and costs. The Court of Appeals affirmed my ruling.

(b) In the Interest of Spencer R., S.C. Court of Appeals #4668

This was a juvenile delinquency matter in which Spencer R. was charged with pointing and presenting a firearm. This case was my first juvenile trial as a family court judge. What was difficult about this case is that the State charged the juvenile in one petition for pointing and presenting a firearm at three different people. I didn't understand why the State didn't file three petitions, one for each person. It was clear to me that the juvenile intended to point and present a firearm at one of the individuals, but not the other two. However, because of how the petition was filed, I thought that I had to find the juvenile delinquent on the petition. The juvenile appealed his conviction for presenting a firearm, alleging the family court erred in finding sufficient evidence to support his conviction. The Court of Appeals affirmed the conviction of one of the individuals and reversed the conviction of the other two individuals. I am particularly proud of this case because prior to my ruling, there was no case law in the State of South Carolina which defined presenting a firearm.

(c) Simmons vs. Simmons, Supreme Court Opinion #26970.

This was a difficult case for me. The parties divorced in 1990 and entered into a family court-approved settlement agreement that was determined to be void in part. A central part of the parties' agreement required Husband to give Wife one-third of his Social Security benefits if he began receiving them at age 62 or one-half of those benefits if he began receiving them at age 65. The Social Security benefits were to "be construed only as a property settlement, and shall not in any way be considered or construed as alimony." Husband attained the age of 62 in 1994 and 65 in 1997, but he failed to pay Wife any portion of his Social Security benefits. In December of 2003, Wife filed a petition for a rule to show cause, seeking to compel compliance with the agreement. Husband responded by filing a Rule 60(b)(4), SCRCP,[2] motion, asserting that the family court lacked subject matter jurisdiction to order division of his Social Security benefits. The family court dismissed Husband's subject matter jurisdiction challenge, and Husband appealed. The court of appeals reversed. *Simmons v. Simmons*, 370 S.C. 109, 634 S.E.2d 1 (Ct. App. 2006). The court found that the Social Security Act, specifically 42 U.S.C. § 407(a) (2010), preempted and expressly precluded the parties' agreement to divide Husband's Social Security benefits. As a result, the court voided that portion the agreement. The appeal presented the question of whether the family court may revisit, in whole or in part, the now partially voided agreement. I ruled in 2008 that I lacked subject matter jurisdiction to reconsider the 1990 court-approved agreement. The Supreme Court reversed and remanded for reconsideration of the court-approved agreement.

(d) Erma L.J. and Joe J., Jr. vs. Linda D.W. 2010–UP-506

The facts of this case were difficult. A mother was serving time in prison for the murder of one of her children. The paternal grandparents sought to terminate her parental rights and adopt the remaining two children. Mother was not able to personally appear because she was incarcerated in the State of North Carolina. However, she was allowed to testify by teleconference in my chambers because the courtroom did not have a telephone line. She objected to her rights being terminated. The Father consented to his parents adopting the children and thereby signed a consent and relinquishment terminating his parental rights and consenting to the adoption. I terminated the Mother's rights on two grounds: based on the severity of abuse the home cannot be made safe within twelve months and the physical abuse of a child by a parent resulted in the death of the child and the parent was convicted of murder. I further found that TPR was in the minor children's best interest. The Court of Appeals affirmed my ruling.

(e) In the Interest of Justin B., a Juvenile Under the Age of Seventeen, Opinion No. 27306 (S.C. Sup. Ct. filed August 28, 2013)

This case was also significant to me in that it involved sexual abuse committed between siblings. On May 3, 2009, Justin B's adoptive mother witnessed him sexually molest his adoptive sister and notified police. In August 2009, he was indicted for CSC–First in violation of section 16-3-655(A)(1) of the South Carolina Code. S.C. Code Ann. § 16-3-655(A) (Supp. 2012). Pursuant to a negotiated plea deal in which the juvenile agreed to plead guilty if allowed to do so in family court, the juvenile was brought before me on a juvenile petition in November 2009. He admitted guilt and was subsequently adjudicated delinquent. I committed the juvenile for an indeterminate period to the Department of Juvenile Justice, not to exceed his twenty-first birthday, and required him to undergo counseling. He was also ordered to register as a sex offender as required by section 23-3-460 of the South Carolina Code, and to comply with section 23-3-540's electronic monitoring requirements. Id. §§ 23-3-460, -540. The Juvenile appealed challenging the active electronic monitoring requirements of section 23-3-540 of the South Carolina Code Section 23-3-540 that individuals convicted of certain sex-related offenses, including criminal sexual conduct with a minor in the first degree (CSC–First), submit to electronic monitoring for the duration of the time the individual is required to remain on the sex offender registry. S.C. Code Ann. § 23-3-540(A)–(H) (Supp.2012). An individual found guilty of CSC–First is required to register as a sex offender bi-annually for life. Id. §§ 23-3-430, -460 (Supp. 2012). Section 23-3-540 also provides that ten years from the date electronic monitoring begins, an individual may petition the chief administrative judge of the general sessions court for the county in which the offender resides for an order of release from the monitoring requirements. Id. § 23-3-540(H). However, those persons convicted of CSC–First may not petition for this review. Id. Thus, these sex offenders must submit to monitoring for the duration of their lives.

Justin B argued that, because he is a juvenile, this imposition constitutes cruel and unusual punishment in violation of the federal and state constitutions. The Supreme Court found that electronic monitoring is not a punishment, and rejected Justin B's claim. However, the

Supreme Court allowed the juvenile to have periodic judicial review to determine the necessity of continued electronic monitoring. My decision was affirmed as modified.

20. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.

(a) Admitted to practice before the State Courts of South Carolina on November 13, 1995;

(b) Admitted to practice before the United States District Court for the District of South Carolina on January 26, 2006.

21. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs? If so, briefly describe each course or lecture.

(a) I have presented at the 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2016, 2017, 2018 Horry County Bar Family Court Seminar-Procedural for Family Court practitioners.

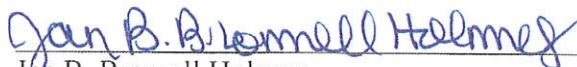
(b) I have presented at the National Business Institute One Day Seminar entitled "What Family Court Judges Want You to Know" on October 28, 2011.

(c) I have presented at the Children's Law Center Volunteer Guardian ad Litem Conference entitled Permanency Planning for Children on October 7, 2011 to volunteer guardian ad litem.

(d) I have presented at the Children's Law Center "Training for Attorneys Appointed in Abuse and Neglect Cases in the 15th Judicial Circuit on November 13, 2009.

(e) I presented at the 2013 South Carolina Solicitor's Association Annual Conference on Juvenile Delinquency matter to Juvenile Solicitors on September 22, 2013

(f) I have presented at the SC Bar CLE entitled Fifteenth Circuit Tips from the Bench: What Your Judges Want You to Know on November 18, 2016.


Jan B. Bromell Holmes

October 12, 2018