



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

**Family Court**  
**(Incumbent)**

Full Name: David Glenn Guyton

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1. Why do you want to serve another term as a Family Court Judge? My 8 years as a Family Court Judge has vindicated my desire to serve the best interests of children and to help people resolve their differences during what is often the most difficult time of their lives. It has been extremely challenging and deeply rewarding. Being a Family Court Judge is the most wonderful and difficult position I have ever held. I turned down an opportunity to seek election to circuit court so I could continue my service in Family Court. I believe I have become more effective and competent with each year of experience, and I learn something new every day.

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

3. Do you have any plans to return to private practice one day? I do not plan to return to private practice but would consider a mediation practice or a role in free legal assistance or in educating young attorneys.

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? *Ex parte* communications are not allowed. I have allowed *ex parte* communications by counsel petitioning the Family Court for emergency situations for cases in which the safety of a child is at risk or when there is a substantial basis to believe a child will be wrongfully removed from the

jurisdiction of South Carolina. I have also issued ex parte restraining orders pending an expedited or emergency hearing when there is a substantial showing that lives are at stake or substantial property may be disposed of without immediate intervention and protection from the Court. I try to make sure the duration and the scope of the ex parte order under these circumstances is limited to the immediate need.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you? I have recused myself numerous times over the last 8 years when a former client appeared before me, although it happens less often now. I will recuse myself if I am aware of a potential conflict which could cause me to be biased or create an appearance of partiality in the eyes of a litigant. If a party or attorney requests my recusal, and a basis is shown for the conflict or appearance of a conflict, I will recuse myself. My former law partner is former State Senator Wes Hayes and he does not appear before me. He does not practice in Family Court. His son Creighton Hayes currently practices with Wes and does appear in front of me. I do not automatically recuse myself but will if opposing counsel so requests because their client feels I could be partial to Creighton because of the former relationship with his father. This has happened once, and otherwise I have ruled for and against Creighton's clients on many occasions. I have had lawyer legislators from other districts appear in front of me as I have traveled around the state, and I do not treat them any differently, except that they are granted liberal continuances on cases when they are in legislative session, as required by our Administrative rules. At no time did any of them ever attempt to use their position to influence me or even state their position on the record.
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? I would give that party great deference, grant the motion, and try to reschedule the matter in front of another Judge as soon as reasonably possible.
8. How do you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative? My wife is an elementary school Principal. I recused myself when one of her staff comes before me and then I request the Clerk of Court's

office to prevent the case from being scheduled in front of me again. I would also not hear any cases which involved her supervisors or School Board members. I would not hear the cases of my wife or her family's close friends if I am aware or made aware of the relationship.

9. What standards have you set for yourself regarding the acceptance of gifts or social hospitality? I try to be constantly aware of possible conflicts or appearance of conflicts when I am in public. I almost always buy my own meals, and I do not accept gifts. I do not eat with attorneys unless it is as a group. If I eat with a legislator, I do not pay for that legislator's meal. The York County Bar Association has provided food and drinks to me and to my wife at various Bar meetings and social occasions such as the annual Christmas gathering. I once received a check from a church for speaking one Sunday morning on a day that dealt with children issues, and I returned the check with an explanation, and requested they contribute that amount to a children's fund. I once received a gift card from some adoptive parents who innocently tried to show their appreciation after the hearing, and I also returned it immediately with an explanation. As Judges we accept invitations to judicial receptions by Bar Associations or the South Carolina Association for Justice for light food and drinks. The SCAJ also holds an annual Conference at Hilton Head in August and invites the Judges to attend with free registration and hotel rooms. I have missed the last several but plan to attend this year. The SC Bar provides free registration to the annual conference in January. We report the value on our annual 501 Disclosure statements. These events provide an opportunity to meet and socialize with Judges on a less formal basis and better understand judicial philosophies without communicating on specific cases.
10. How do you handle a situation in which you became aware of misconduct or appearance of infirmity of a lawyer or of a fellow judge? If I feel it is a minor matter which has not resulted in any harm, I will try to personally address it to prevent it from happening again or getting worse. If it is more than minor then I will report it to the Commission on Lawyer Conduct or the Commission on Judicial Conduct. Any abuse of a child must be reported to SCDSS as we are mandatory reporters. If substance abuse issues are involved I will make a referral to the Lawyers Caring About Lawyers Committee of the SC Bar if the clients have not yet been harmed.
11. Have you engaged in any fund-raising activities with any social, community, or religious organizations? Please describe. No. I try to be

extra aware of any attempt to use me or my status to raise funds. I contribute to, but do not solicit for, numerous non-profit, military, or educational organizations.

12. Do you have any business activities that you have remained involved with since your election to the bench? No
  
13. Since Family Court judges do not have law clerks, how do you handle the drafting of orders? I generally require the attorney who volunteers to draft the order to do so in uncontested cases, or require the attorney representing the prevailing party to draft the order in accordance with my instructions. I sometimes draft orders on my own, especially when neither party is represented by counsel. We have many standard form orders we can adapt with our computers and other Judges willingly share their form orders as well. Our administrative assistants usually draft standard Orders of Continuance and Orders of Protection From Domestic Abuse.
  
14. What methods do you use to ensure that you and your staff meet deadlines? I have a personal calendar on my desk, and a yearly planner in my computer bag. My administrative assistant also has a calendar on her desk. We both have calendar reminders on our computers. We bought a 4 month planning calendar for our bailiffs, deputies, clerks, and ourselves which we placed in our staff hallway. I keep a notebook with hard copies of my daily docket along with a notecase for each case I hear. The note sheet indicates the date each case was heard, and which attorney is to draft the order. My AA keeps the note sheet until the order is signed, and then it is placed in a folder with all signed order note sheets. I also then note the signature date in my binder which contains my daily dockets. My AA turns in the required MUA to Court Administration on the 10<sup>th</sup> of each month, noting late orders, and then she sends an email to the attorneys with overdue orders. Our scheduling clerk keeps a 365 day docket to keep up with all cases more than one year old, which must be scheduled for a pretrial hearing, have a final hearing scheduled, had mediation, or be dismissed.
  
15. What specific actions or steps do you take to ensure that the guidelines of the guardian ad litem statutes are followed during the pendency of a case? I usually have counsel prepare a separate order

for the appointment of a GAL with detailed provisions on the Guardian's rights, duties, and obligations, which reflect the statutory requirements set in place after the Patel v. Patel case several years ago. I make sure the Guardians are present and heard at all hearings involving issues concerning the children. During the pendency of the action I often set timelines for the parties and the GALs as to payment of fees and reports to attorneys on the progress of the investigation.

16. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy? Judges should not engage in judicial activism nor set or promote public policy. My job in Family Court, because we do not have juries, is to determine the facts and then apply those facts to the law. This means I may render a decision which I personally may not feel is fair, but is required under current law. At my level, I do not set law but simply apply it. I will always apply the "best interests of the child" standard when children are involved, but rule within what the law requires. This often happens in DSS cases when a parent has completed a treatment plan, and the child is returned to the parent, even when it is probable that removal of the child will occur again in the future.
  
17. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities do you plan to undertake to further this improvement of the legal system? I have presented Family Law topics at Continuing Legal Education seminars, spoken to Bar Associations, given classes to educators and school resource officers, spoken to civic groups, and drafted materials on Family Court law and issues. Last year I drafted an article to train domestic abuse advocates, and a script for victim advocates to use in preparing victims for court testimony. I co-authored an article in SC Lawyer Magazine on the Military Parent Equal Protection Act. I meet with our local GAL group twice a year to inform them about GAL issues, cases, and answer their questions. I've spoken on our local daily radio talk show several times about Family Court, the role of the Judge, the law, and the needs of children. I was recently appointed to the Family Court Judges Advisory Council by Chief Justice Beatty. I have served on the Governors Juvenile Justice Advisory Council for several years. I served on the Status Offender Task Force, and now served on the dual status youth committee, both through the Children's Law Center. I am a retired Colonel from the SC Army National Guard, and I coordinated a local Veteran's Legal Assistance

clinic with the Attorney General's SCVALOR program, and I spoke to the Staff Judge Advocates at Ft. Jackson on Family Court issues.

18. Do you feel that the pressure of serving as a judge strains personal relationships (i.e. spouse, children, friends, or relatives)? How do you address this? Serving as a Family Court Judge takes an almost daily, and a cumulative, emotional toll which results in strained relationships. Hearing the horror stories of child abuse and domestic abuse, and seeing the pictures of bruises, blood, and broken bones, presented during testimony, results in strong feelings of sympathy and anger at the same time. I handle this through a consistent physical and spiritual regimen. I work out with an F3 men's group or lifting weights, 6 out of 7 days. I ran my first half marathon in April. In June I finished an event which was 15 miles with 8 "pain" stations along the way. I have always attended church with my family on a regular basis, and try to have devotional time each day. My fitness group finishes each workout with a praise and prayer circle of trust. I try to be purposeful in balancing work, family, fitness, and faith. My wife and I have been married for 26 years July 11, 2018.
  
19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?  
No
  
20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved? No as it may leave the appearance of bias and the parties to the action would always wonder whether it had an effect on my decision. Fortunately, in Family Court we are dealing primarily with individuals, not entities, and I can't recall this type of situation ever arising.
  
21. 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
  
22. Have you met the mandatory minimum hours requirement for continuing legal education courses for the past reporting period? Yes

23. What do you feel is the appropriate demeanor for a judge and when do these rules apply? A Judge must exercise great patience and be polite, courteous, and calm, while maintaining control of the courtroom. They apply all the time, in the courtroom, and in our personal lives.

24. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or a pro se litigant? I do not have adult criminal defendants in my courtroom. I do have juvenile defendants in Family Court, and I sometimes get frustrated with them, but anger is not an effective tool for them, given their usual difficult background. I will raise the tone of my voice to pro se litigants, and to attorneys, on a rare basis, but only to gain control of the courtroom or emphasize a point. I will recess the proceeding if I think I am getting angry. I am told by my bailiffs, court reporters, and law enforcement, that I am very patient with pro se litigants and attorneys.

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: \_\_\_\_\_