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HEARING PROCEEDINGS

November 19, 2024

2024 SC Judicial Merit Selection Commission

REPORTER: Kathryn Bostrom

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JUDICIAL MERIT SELECTION COMMISSION
TRANSCRIPT OF PUBLIC HEARINGS

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BEFORE: SENATOR LUKE A. RANKIN, CHAIRMAN
REPRESENTATIVE "MICAH" CASKEY, IV, VICE CHAIRMAN
SENATOR BILLY GARRETT
REPRESENTATIVE WALLACE H. "JAY" JORDAN, JR.
REPRESENTATIVE J. TODD RUTHERFORD
HOPE BLACKLEY
LUCY GREY MCIVER
ANDREW N. SAFRAN
J.P. PETE STROM
ERIN B. CRAWFORD, CHIEF COUNSEL

* * * * *

DATE: Tuesday, November 19, 2024
TIME: 9:30 a.m.
LOCATION: Gressette Building, Room 105
1101 Pendleton Street
Columbia, South Carolina 29201

REPORTED BY: Kathryn B. Bostrom, Court Reporter

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Court Reporter's Legend:
dashes [--] Intentional or purposeful]
interruption
[ph] Denotes phonetically written
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P-R-O-C-E-E-D-I-N-G-S

CHAIRMAN RANKIN: We are on the record and on motion of Mr. Safran, seconded by Ms. McIver, we are going to go into Executive Session.

(Executive Session was held from 9:30 to 10:25 am)

(Off the Record)

CHAIRMAN RANKIN: We are back on the record. During Executive Session, no votes were taken, no decisions were made. We will proceed now to the first candidate of the morning. Good morning.

MS. MCMAHAN: Morning.

WHEREUPON:

ASHLEY ANN MCMAHAN, being duly sworn and cautioned to speak the truth, the whole truth and nothing but the truth, testifies as follows:

CHAIRMAN RANKIN: Very good. And if you will, Ms. McMahan, state your name for the record.

MS. MCMAHAN: Ashley Ann McMahan.

CHAIRMAN RANKIN: Very well. You have a PDQ and a sworn statement. Are those ready to be entered into the record?

MS. MCMAHAN: I believe they are.

(EXHIBIT NO. 1 MARKED FOR IDENTIFICATION PURPOSES (1 pages)

1 PDQ)
2 (EXHIBIT NO. 2 MARKED FOR
3 IDENTIFICATION PURPOSES (1 pages)
4 Amendment)
5 (EXHIBIT NO. 3 MARKED FOR
6 IDENTIFICATION PURPOSES (1 pages)
7 Sworn Statement)

8 CHAIRMAN RANKIN: Okay. Thank you. They will go in
9 the record without objection. Ms. McMahan, as
10 you know, our focus here is, in terms of
11 screening our candidates, we focus on the nine
12 evaluative criteria, which include the ballot
13 box survey, thorough review of your application
14 materials, verification of your compliance with
15 the state ethic laws, search of newspaper
16 articles in which your name appears, study of
17 previous screenings, and a check for economic
18 conflicts of interest. No affidavits or
19 complaints have been filed in opposition to you.
20 You have brought someone with you. I'd invite
21 you to introduce them, if you'd like to.

22 MS. MCMAHAN: This is my sister, Kerri Flowers.

23 CHAIRMAN RANKIN: Very good. Thank you.

24 MS. MCMAHAN: And it's K-e-r-r-i. Last year it was
25 spelled K-a-r-e-y on the record. So I just want

1 to make sure it's fixed.

2 CHAIRMAN RANKIN: Sis, she's got your back.

3 MS. MCMAHAN: Yeah.

4 MS. FLOWERS: Yes.

5 CHAIRMAN RANKIN: All right. And welcome back. You,
6 again, know how this works. You have the
7 opportunity to make a statement, if you would
8 like, an opening statement. Otherwise, we'll
9 turn it over to counsel for your initial line of
10 questions, and then open it to the Commission.

11 MS. MCMAHAN: Just, you know, again, want to thank
12 everybody for being here and taking this time
13 because I know you're in for a marathon over the
14 next couple of weeks, and I appreciate it.

15 CHAIRMAN RANKIN: Very good. And your mic, is it on?

16 MS. MCMAHAN: Yes.

17 CHAIRMAN RANKIN: All right. Very good. And you all
18 were dutifully here early, and my apologies for
19 the delay in getting started. And now, with
20 that, Ms. Trask, turn it over to you.

21 MS. TRASK: I note for the record that, based on the
22 testimony contained in the candidates PDQ which
23 has been included in the record with the
24 candidate's consent, Ashley A. McMahan meets the
25 constitutional and statutory requirements for

1 pled out. I've probably done close to 600 bench
2 trials, appeals. I've been in family court. I go to
3 probate court. I got to Federal court. I do a
4 handful of magistrate's civil and criminal issues.
5 You know, I do other civil cases like personal
6 injury, declaratory judgements, breaches of contract,
7 that kind of thing. I've even done some Workers'
8 Comp. So I feel like kind of based on everything
9 I've done and everything I've handled that I've
10 gotten a good, you know, well-rounded view of, you
11 know, what the legal system holds and the cases that
12 are being held in circuit court, and I think all of
13 that, you know, with that experience, that would
14 allow me to be an effective circuit court judge.

15 **Q. Ms. McMahan, the Commission received 251 ballot box**
16 **surveys regarding you with 41 additional comments.**
17 **The ballot box survey, for example, contained the**
18 **following positive comments: She's very professional**
19 **and extremely knowledgeable, has a tremendous amount**
20 **of experience, both criminal and civil, would be a**
21 **wonderful asset to the judiciary. Eight of the**
22 **written comments express concerns. The main area of**
23 **concern was regarding judicial temperament and**
24 **demeanor. What response would you like to offer to**
25 **these concerns?**

1 A. As to demeanor, I will readily admit -- and I did
2 last year -- that when I was in my 20s, I was a bit
3 of a go-getter as I think a lot of brand new
4 attorneys are. Thankfully, with age, that has
5 diminished greatly. As for professionalism, I have -
6 - I strive every day to be professional and
7 respectful to all parties in cases, especially cases
8 where I might have some pro se people on the other
9 side. I think maintaining composure and having a
10 respectful tone, especially while you're in the
11 courtroom, is essential. And as an advocate for my
12 client, I also think that's essential. You know --
13 you know, running around the courtroom getting real
14 angry generally doesn't help your position too much.
15 But my goal in all of this is to be calm and
16 courteous to everybody involved. There are stressful
17 situations, obviously, and I am hired out to
18 represent my clients to the best of my ability; and
19 so there are times where, you know, my position and
20 the way I'm taking my position someone may find
21 disagreeable, but ultimately, you know, if I'm there
22 and I'm hired to represent someone and be an advocate
23 for them, that's my ultimate goal in court.

24 MS. TRASK: I would note that the Midlands Citizens
25 Committee reported that Ms. McMahan was found

1 qualified in the evaluative criteria of
2 constitutional qualifications, ethical fitness,
3 professional and academic ability, character,
4 reputation, physical health, mental stability,
5 experience, and judicial temperament. The
6 Committee comment was: Committee concerned
7 about her courtroom demeanor if elected.

8 Q. I have a few housekeeping issues.

9 A. Sure.

10 Q. Ms. McMahan, are you aware that, as a judicial
11 candidate, you are bound by the Code of Judicial
12 Conduct as found in Rule 501 of the South Carolina
13 Appellate Court rules?

14 A. I am.

15 Q. Since submitting your letter of intent, have you
16 contacted any members of the Commission about your
17 candidacy?

18 A. I have not.

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

23 A. I have not.

24 Q. Are you familiar with Section 2-19-70, including the
25 limitations on contacting members of the General

1 couple of things. I get and agree with you
2 completely that during the course of representation,
3 we sometimes behave in ways that we may think are
4 fine that the other side is gonna potentially take
5 offense to because we're advocating positions that
6 are contrary. I get that. I do it all the time.
7 But my question is: Why do you think this Citizen's
8 Committee would have had that little caveat there
9 about concerns because I don't believe they have
10 access to these ballot boxes. So they don't have a
11 chance to see it. It's not like they're predisposed
12 because of having looked at them. So ---

13 A. I actually was wondering that myself because I've --
14 that's never been anything that's been noted to me
15 through the Citizen's Committee, and most of the
16 lawyers on the Citizen's Committee I've never
17 actually been in court with. So I'm not sure -- to
18 answer your question, I'm not sure, but as I've noted
19 before, you know, in my 20s, yes, I did -- I did -- I
20 was a go-getter with a little bit of a chip on my
21 shoulder, but as I have aged, that has diminished
22 greatly. And you know, as you're working through
23 life and you're working through becoming a lawyer,
24 you know, you learn a lot of things about people and
25 then you learn there's things that you can and can't

1 control. And so, you know, later -- mid 20s I
2 learned, Hey, you know what, I can't control
3 everybody, but I can control the way that I respond
4 to people. And so I've just taken that stance since
5 then and tried to move forward, and try to be as
6 polite and as courteous as possible. You know, I'm
7 just like everybody. There's been times where that's
8 been tested, but I do try do my best.

9 **Q. No. And I mean, you can understand the concern ---**

10 A. I -- I don't actually understand the concern.

11 **Q. Well, I'm not talking about you, but I'm talking**
12 **about generically.**

13 A. Oh. Absolutely because ---

14 **Q. I mean --**

15 A. --- you'll have -- you know, you'll have pro se
16 people in there that want to know that they're being
17 respected by the judge just as much as the attorneys
18 or any other party in there, and they want to be
19 heard. So absolutely, demeanor is incredibly
20 important.

21 **Q. Well, and -- and from this side, basically what we**
22 **see and have seen, at least the time I've been here,**
23 **is that there are a number of times where maybe a**
24 **small percentage, but there's still some recognition**
25 **from some element of the Bar that people, you know,**

1 can have a little difficulty and develop what
2 sometimes we used to refer to as "robe-itis." That,
3 you know, people can be sitting on the bench and
4 become condescending and maybe sometimes reaches an
5 extreme where they're even fearful of being in front
6 of them, and obviously nobody wants that. Flip side
7 of this, we just had somebody here yesterday, who was
8 a little bit more of a contemporary of mine, who
9 remembers when maybe people weren't quite as
10 sensitive to the fact that a judge might get a little
11 out of sorts with them. It's part of the deal. So I
12 mean, you understand that in today's times,
13 particularly the concern about putting somebody on
14 the bench, particularly somebody young like you are,
15 is that if it doesn't work out, you're looking at
16 somebody for decades basically that may have some
17 real issues. I mean -- so you understand why we have
18 a question about that, I assume.

19 A. Oh, absolutely, and I also appreciate you calling me
20 young, even though I don't feel it.

21 Q. You got 20 and I got 40 ---

22 A. Well --

23 Q. --- so you're young to me.

24 A. Yeah. So I do appreciate it, but I absolutely do
25 understand that, and you know, there's times where

1 I've been on the receiving end of, you know, a very
2 angry judge, and you know, there's times where I've
3 been confused as to why, you know -- you know, what's
4 going on, but you know, that's again where you just
5 kind of be as polite and as courteous as possible.
6 You accept, you know, what the judge is telling you,
7 and you move on. Do I want to emulate those people?
8 Absolutely not. In fact, my goal -- like, as sitting
9 with Judge Newman, to me he was probably one of the -
10 - the best judges out there in terms of demeanor to
11 get to learn from and be in front of.

12 MR. SAFRAN: All right. Well, appreciate your
13 responses. Thank you.

14 CHAIRMAN RANKIN: Ms. McIver.

15 MS. MCIVER: Thank you, Mr. Chair.

16 EXAMINATION

17 BY MS. MCIVER:

18 Q. Ms. McMahan, you and I were involved with the South
19 Carolina Leadership Academy, and that was back when
20 we both baby lawyers, and I will attest to the fact
21 that Ms. McMahan was, from a very young lawyer stage,
22 assertive, direct, not warm and fuzzy in a way that I
23 saw anyway, but what I remember and what I have seen
24 through her letters as well as her experiences is
25 that she has taken her passion for the law and

1 commitment to her career and has been involved in the
2 community, has been a forceful advocate as a
3 solicitor. She's got letters here. One is from a
4 defense lawyer that talks about how respectful she is
5 of his position, even though they've been adverse to
6 one another, as well as what she had done to assist
7 in getting his wife a green card. So, I mean, there
8 are all kind of examples that we can see in here, and
9 I can understand how you would get the reputation of
10 being abrupt or abrasive, but I don't think that that
11 means that she's disrespectful or unfit. And like I
12 said, she's got good experience, she's been involved
13 in the community, and -- and being a forceful
14 advocate day in and day out in the courtroom, it
15 means aggressive type battles requires a bit of being
16 tough. And so I just wanted to point that out
17 because I do have experience -- some experience with
18 Ms. McMahan, and also offer you an opportunity, if
19 you would like, to address some of the things that
20 you've been doing outside of the courtroom.

21 A. Sure. So some of the things I've done outside the
22 courtroom -- and it's still -- some of these are
23 still law adjacent. I do a lot of -- I get invited a
24 lot to speak on different matters in front of
25 different groups. Mostly low bono/pro bono groups.

1 I always take up the opportunity if I can. I've
2 taken on, you know, low bono/pro bono immigration
3 matters to assist people. I've, like, taught people
4 about certain -- like, how to -- birth certificate
5 amendments and all that kind of stuff. I actually
6 get a lot of clients where they come in and they
7 don't necessarily have a birth certificate and can't
8 access one because they don't have ID. So in that
9 situation they have to hire a lawyer. I usually do
10 that for almost nothing just to help these people
11 out, especially when I'm talking to them I can tell -
12 - you know, I've had some 78, 80 year-old-people that
13 I can tell just really desperately need someone to go
14 get this birth certificate for them. Outside of
15 that, I do a lot of volunteer work for a lot of, you
16 know, animal rescues around town. I used to
17 volunteer more with -- believe it or not, back in the
18 day, the South Carolina State Legislature, among
19 other things. I was in the Junior League for awhile.
20 I started a -- all sorts of committees within the
21 Junior League before I, you know, sort of aged out of
22 that. Any time there is, you know, something to step
23 up and work on, I -- you know, I've done it. I've
24 also -- prosecution -- I was invited to speak at the
25 Criminal Law Update this year, and back in the day --

1 for those of us who practice criminal law -- we had
2 these cool little charts that would tell you the drug
3 and it would tell you the CDR code and what the range
4 was. Well, I noticed the last one was pretty out of
5 date. So I -- and I knew they were created out of
6 Charleston. So I called my friends in Charleston and
7 I was like, Hey, do you have a new one because this
8 would be great. And they're like, We don't. So I
9 took hours and hours out of my time and recreated a
10 whole new drug chart for everybody to use, and I gave
11 it out at the Criminal Law thing. And so I go out of
12 my way to try to help people, and other lawyers too,
13 if I have information that I think would be helpful
14 to them and I direct it that way. And so I've never
15 -- you know, I never kept it to try to sell it myself
16 or anything like that, and even when I wrote the PCR
17 manual, I donated almost all of the income from that
18 to the -- where we pay our IOLTA money to. Olivia --
19 the Bar Foundation. I donated most of that to the
20 Bar Foundation, and I do, like, step in and I help
21 Legal Services quite a bit. So you know, not just
22 that, you know. Kerri and I's mom is -- our mom's
23 from England. So I have volunteered with, you know,
24 the Daughters of the British Empire in different
25 things to help them. So whenever there's a place I

1 can step in and I feel like I can help and utilize in
2 an area, I do take the time to do that.

3 CHAIRMAN RANKIN: Very good. Senator Sabb.

4 SENATOR SABB: Thank you, Mr. Chairman.

5 EXAMINATION

6 BY MR. SABB:

7 Q. Ms. Ashley, good to see you.

8 A. You too.

9 Q. And of course, I'm kinda like you. I -- I don't know
10 where the years went either. It seems like yesterday
11 when you were Judge Newman's law clerk, and of
12 course, I've tried a number of cases in front of you
13 all and I know how heavily he used to rely on your
14 research skills and all of that. So when I read your
15 ballot box surveys and folks talking about how smart
16 you are, none of that surprises me. And so I'm one
17 of the ones that have watched you as I've watched
18 other law clerks, particularly Judge Newman's law
19 clerk, progress and I'm really proud of how you are
20 giving of yourselves to not only our profession, but
21 society. Now, you mentioned some of the cases that
22 you've tried to verdict. Now, were all of those --
23 the 30 cases that you mentioned, were they all
24 criminal cases or have you tried some civil cases to
25 verdict as well?

1 A. I have not yet had a civil case actually finish out
2 to a verdict. You know, a lot of my civil cases end
3 up getting handled through mediation. So the few
4 that have trickled out further than that ended up
5 mostly by consent and it'd be bench trials towards
6 the end. So we didn't actually have verdicts in
7 those, but we did have bench trials in them. All --
8 so the 30 -- so these 30 specific verdicts are all
9 criminal. Anywhere from murder trials to CSC first
10 to BOPHAN -- breach of peace, high and aggravated in
11 case anybody doesn't know what that is -- to, you
12 know, DUI first. So I've -- I've done the -- almost
13 everything I can think of at this point in terms of
14 trials in criminal law, but most of those, yeah, have
15 been just criminal.

16 **Q. And last thing I'm curious about, Judge Newman is**
17 **notorious when it comes to questioning defendants ad**
18 **nauseam before he sentences them. Having witnessed**
19 **all of that, have you developed a philosophy as to**
20 **how you would approach the idea of figuring out**
21 **sentences because most judges that I've heard say**
22 **that that's one of the more difficult parts of their**
23 **job is trying to figure out and fashion sentences,**
24 **so...**

25 A. Well, from my experience sitting with Judge Newman, I

1 realize that he's asking all those questions so he
2 can get to know the person in front of him. That's
3 the defendant. Now, some of the questions I -- I
4 know, like, the defense attorneys get a little, you
5 know, like, woo about because it'll be like, Tell me
6 what you did then -- make -- that says you committed
7 this crime. And so, you know, that one's a little
8 wonky, but he does always ask about their family
9 life, how far they went in school. He'll ask very
10 detailed questions to get an idea of that person.
11 You know, Have you struggled with, you know, drugs in
12 the past? How many children do you have? And -- and
13 it's usually in addition to whatever the defense
14 attorney is also telling him, but from my experience,
15 I've noticed that he's ask -- specifically asking
16 these questions so he can get to know the person in
17 front of them a little bit better than what's just
18 been presented by a defense attorney or the
19 solicitor.

20 **Q. What I'm curious about though is having witnessed**
21 **that, how has it influenced your thought process in**
22 **terms of how you would go about sentencing.**

23 **A.** I would probably adopt some of that just because I do
24 think, in order to sentence someone, you need a
25 little bit more background information on the person,

1 you know, kind of like what they went through in
2 their lifetime, that kind of thing. So I would -- I
3 would probably use some of that, and I do sort of use
4 some of that now at -- in my defense work. And then
5 you -- and I'd also probably look into their criminal
6 history, see what's going on there. I mean,
7 sometimes there's a lot of very minor offenses in
8 some people's background, but you kind of have to
9 take all of it and balance it out a little bit. You
10 know, you have to temper justice with mercy. So I
11 would probably adopt some of what Judge Newman had
12 done.

13 **Q. Last question on sentencing as well. And you know,**
14 **quite frankly, you know, when Judge Newman and I were**
15 **prosecuting cases together, one of the things that we**
16 **always looked at was whether or not a mother was with**
17 **her child because we believed that if anybody in the**
18 **world would stick by this child, it's Mama. How do**
19 **you view the idea of whether or not Mama appears or**
20 **not appears when it comes to you in sentencing?**

21 **A.** I, just even now in regular criminal cases, if
22 someone's mom's involved with their child, their
23 husband, you know, whatever, it says a lot to me
24 about the unity of that family already. Now, I've
25 had some cases where Mama's been borderline also

1 involved in the crime that their child's been
2 involved in too. But when I get mamas calling me or
3 moms coming to court to support their child, I -- to
4 me it is saying something that they're standing by
5 their child no matter what. Like, you're my child.
6 I'm here for you. And it does mean something to me,
7 but you know, in the alternative, I've had other
8 mothers that have basically told me, you know, lots
9 of expletives about their children and they don't
10 want anything to do with them. So it does -- I think
11 it speaks a lot to the -- you know, the cohesiveness
12 of that family and how they operate when mothers or
13 siblings or anybody shows up for that matter.

14 MR. SABB: Thanks, Mr. Chairman.

15 CHAIRMAN RANKIN: Representative Caskey.

16 REPRESENTATIVE CASKEY: Thank you, Mr. Chairman.

17 Ashley, good to see you. I just wanted to take
18 a moment to share with you, since you're here,
19 some of the positive comments that were on the
20 ballot box survey because it can be, I think,
21 tempting sometimes to focus on the negative and
22 I don't want you to come away with the
23 impression that that's the only thing that we've
24 -- we've noticed because when I see comments
25 such as: Ms. McMahan has the breadth of

1 experience to become a fantastic circuit court
2 judge. She's also brilliant. Writes well.
3 Engages in fair, logical reasoning. Ashley's
4 one of the best people I know. Her
5 intelligence, wit, courtroom skill and
6 experience and demeanor are perfectly suited to
7 the circuit court bench. And were we to have
8 more time together, I would show it even more,
9 but I think it's important to know that -- for
10 you to know the -- the reputation that you have
11 earned in the Bar is positive, and while we do
12 have an obligation as your follow through with
13 Mr. Safran suggested, we do have the
14 responsibility to ask about it. I wanted you to
15 know that -- that you have done quite well for
16 yourself and should certainly be proud of the
17 career that you've demonstrated so far. I don't
18 have any questions, Mr. Chairman, but I didn't
19 want her to escape the room without having drawn
20 some attention to that.

21 CHAIRMAN RANKIN: Thank you. Ms. Blackley.

22 EXAMINATION

23 BY MS. BLACKLEY:

24 **Q. Good afternoon. I want to circle back around to a**
25 **comment you made and I want to -- I just want to have**

1 an example what that meant when you said, "I was a
2 go-getter with a chip on my shoulder."

3 A. So ---

4 Q. You were --

5 A. Well --

6 Q. -- I guess, younger?

7 A. Oh, yeah. When I was ---

8 Q. You seem young, but --

9 A. Again, thank you. Thank you. Thank you for that. I
10 do -- there are some days where I -- I wake up and
11 parts of my body hurt that did not use to hurt
12 before. So then -- then I realize I'm not as young
13 as I used to be. Well, so yeah. When I was in my
14 early 20s, I definitely was like, I'm out -- I'm
15 gonna go out. I'm gonna, like, change the world and
16 legal world and I'm gonna win. I'm gonna do all that
17 stuff, and I would say that was the chip on my
18 shoulder was sort of just like, Don't tell me what to
19 do or how to do all this stuff. And then, you know,
20 as you get older with age and you're dealing with
21 more and more cases that you may not have had
22 experience with in the past, and you grow, you know,
23 and a group of, you know, peers that you can go
24 approach and talk to about different types of cases
25 and get ideas, and you know, then it's way more

1 collaborative at that point, and that's sort of what
2 I meant. Like, I kinda considered myself I guess
3 more of a lone wolf in the beginning, but now, much
4 more of a collaborative way. I'm -- I'm -- honestly,
5 if anybody has questions, I'm always here to help.
6 If someone has a question about a case they've never
7 done but I've done, I -- I'm always willing to share
8 pleadings. So the chip has gone, but also, again, as
9 I alluded to, you know, there was one day where I
10 realized I can't change how -- the way other people
11 respond. I -- I can't change you.

12 **Q. Would you ---**

13 A. But I can change myself.

14 **Q. Would you say back then it was hard for you to take**
15 **advice or when -- when you were having these**
16 **exchanges with people?**

17 A. It depends on the person that was trying to give me
18 advice. If it was my parents, probably. If it was
19 Judge Newman, no. So it really would just depend.
20 And at that time, you know, I -- there were only a
21 few, you know, circle of peers that I was familiar
22 with. I mean, nobody in my family has been a lawyer.
23 So I didn't have, you know, family lawyers or friends
24 to kind of go back on. So for me, it was classmates
25 and stuff like that.

1 Q. So if you had a mentor as someone you would like to
2 emulate in how they ---

3 A. It would be Judge Newman.

4 Q. Okay.

5 A. Yeah. Clifton Newman.

6 Q. Well, there you go.

7 A. Absolutely.

8 Q. So I would just echo what Micah has just said. I
9 mean, you know, you do have a lot of positive
10 comments and regardless of the negative, you know,
11 people can learn and change if that is needed. But I
12 would caution in making too many apologies about how
13 you operate in stance depending on whatever that
14 reason is behind some of the comments, and be
15 authentically you regardless. Wish you the best.

16 MS. MCMAHAN: Thanks.

17 EXAMINATION

18 BY CHAIRMAN RANKIN:

19 Q. Real quick, and I ---

20 A. Sure.

21 Q. --- want to touch on a couple of things, and you are
22 an assistant solicitor currently, and you have your
23 own firm, correct?

24 A. Technically I'm a senior assistant solicitor. So ---

25 Q. Well, you didn't want to make that look too old on

1 **your application. Good for you.**

2 A. So I am a -- I have my own law firm, yes, and I'm a
3 senior -- a part-time senior assistant solicitor.
4 Todd and I get to hang out frequently in Fairfield
5 County.

6 **Q. We know he's senior. But we don't ---**

7 A. I'm gonna call him that next we're in court.

8 **Q. Yeah.**

9 A. I'm gonna make sure he gets addressed as that.

10 **Q. And I want to touch on that -- the interview process,**
11 **and every touch point here we look at, we hear, we**
12 **weigh, we consider. You've been through the Citizens**
13 **Committee process with the same members twice?**

14 A. Three times.

15 **Q. Three times. And so sometimes we get notes,**
16 **sometimes we don't in the transcript before. That**
17 **was not -- the temperament was not a concern before,**
18 **and so it is -- it was in this most recent process.**
19 **And I -- I don't want to explain it, but I do want to**
20 **know whether there was a little bit of give and take**
21 **there. Was there any exploration of that?**

22 A. No. I didn't think so. I went in pretty fairly
23 relaxed. Maybe that might have thrown them off a
24 little bit because I wasn't as nervous as I was the
25 last two times. We discussed, you know, some of --

1 Mr. Tetterton had caught an alligator last year. So
2 we kinda talked about that a little bit. Talked
3 about different things going on in court. I did not
4 see that there was anything different other than just
5 maybe my demeanor was much more relaxed and sort of
6 laid back than it had been in the past, but I did not
7 -- like, there was no arguing, there was no fighting
8 back and forth. It was just ---

9 **Q. Well, the -- I -- maybe more to the point, was that**
10 **topic discussed at all?**

11 A. No, not at all.

12 **Q. Okay.**

13 A. Never even brought up.

14 CHAIRMAN RANKIN: All right. And your letters of
15 reference can't be any better. You are an up
16 and comer, judge material sooner or later. As a
17 lawyer, you've got it going on in all the right
18 places it seems to me, and so to your sister,
19 Ms. Flowers, I don't recall you bringing her
20 before. Forgive me. Maybe she ---

21 MS. FLOWERS: My third time.

22 CHAIRMAN RANKIN: Well, forgive me for not
23 remembering, but anyway, it's great, not
24 necessarily to have a parent here, but
25 definitely to have a sibling. So welcome back.

1 Unless there are other comments or questions,
2 this will conclude this portion, unless you'd
3 like to make a brief closing statement.

4 MS. MCMAHAN: Well, I prepared a talent show for you
5 guys. So you -- hold -- I'm just kidding. I
6 don't have anything else to say.

7 CHAIRMAN RANKIN: Submit that to Ms. Trask, and we'll
8 consider that duly. But thank you, and again,
9 as you know having done this before, the record
10 does not close until the formal release of the
11 report of qualifications. Any violation or
12 appearance of a violation of either the letter
13 or the spirit of the ethics law is very
14 seriously considered by us. You do know that we
15 could call you back for questions about that
16 should that arise, correct?

17 MS. MCMAHAN: Yes.

18 CHAIRMAN RANKIN: Very good. Ms. McMahan, thank you
19 so much.

20 MS. MCMAHAN: Thank you.

21 CHAIRMAN RANKIN: Ms. Flowers, take care.

22 (Off the record)

23 CHAIRMAN RANKIN: Good morning. State your name for
24 the record, please.

25 MR. TAYLOR: Christopher Dolan Taylor.

1 CHAIRMAN RANKIN: Very good.

2 WHEREUPON:

3 CHRISTOPHER DOLAN TAYLOR, being duly sworn
4 and cautioned to speak the truth, the whole
5 truth and nothing but the truth, testifies as
6 follows:

7 CHAIRMAN RANKIN: You have prepared for us a personal
8 data questionnaire and sworn statement; is that
9 correct?

10 MR. TAYLOR: Yes, sir.

11 CHAIRMAN RANKIN: Are they ready to go in to the
12 record or do you need to amend or --

13 MR. TAYLOR: I believe they're ready.

14 (EXHIBIT NO. 4 MARKED FOR
15 IDENTIFICATION PURPOSES (15
16 pages) PDQ)

17 (EXHIBIT NO. 5 MARKED FOR
18 IDENTIFICATION PURPOSES (7 pages)
19 Sworn Statement)

20 CHAIRMAN RANKIN: Very well. So we will put those
21 into the record without objection. Mr. Taylor,
22 as you know, this is your first walk through
23 this process, I believe, correct?

24 MR. TAYLOR: Yes, sir.

25 CHAIRMAN RANKIN: You know our role as veters of the

1 candidates for either first election or re-
2 election is to consider the nine evaluative
3 criteria, which includes that ballot box survey,
4 a study of your application materials, a check
5 for newspaper articles in which your name
6 appears, study of previous screenings, of
7 course, which don't apply, and then a check for
8 economic conflicts of interest, as well as your
9 -- verification of your conformity to and
10 compliance with the state ethics laws. No
11 affidavits or complaints have been filed in
12 opposition to your candidacy and I don't believe
13 you brought anybody in with you; is that
14 correct?

15 MR. TAYLOR: I did not. My wife is at a conference
16 and so she just couldn't be here today.

17 CHAIRMAN RANKIN: Very good. You have the
18 opportunity to make a brief opening statement,
19 if you would like, otherwise, we'll turn it over
20 to counsel for questions and give you an
21 opportunity to make an opening statement if
22 you'd like or close at your -- or both.

23 MR. TAYLOR: Well, I'd just like to thank everybody
24 for having me in today. It's truly an honor to
25 be here in front of the Commission and to be

1 considered for such a valuable post in our
2 state. So I thank everybody.

3 CHAIRMAN RANKIN: Very good. Thank you. Ms. Webb.

4 MS. WEBB: Good morning, Mr. Taylor.

5 MR. TAYLOR: Good morning.

6 MS. WEBB: I note for the record that based on the
7 testimony contained in the candidate's PDQ,
8 which has been included in the record with the
9 candidate's consent, Christopher Dolan Taylor
10 meets the constitutional and statutory
11 requirements for this position regarding age,
12 residence, and years of practice.

13 EXAMINATION

14 BY MS. WEBB:

15 **Q. And Mr. Taylor, why do you want to be a circuit court
16 judge?**

17 **A.** I've been in the practice of law over 20 years now.
18 I've done mostly -- or primarily criminal law. So
19 I've seen pretty fairly complex cases as it relates
20 to that side of the law. I was also involved in --
21 during law school as a law clerk and that type of
22 thing, and I've actually, before I ever went to law
23 school, I was a probation and parole agent and had
24 done some other things outside the legal profession.
25 So I've had quite a number of years of going through

1 the legal profession, seeing how it works, how that
2 impacts different people. I want to be a part of
3 that system. I think that my training and experience
4 will help me be a good judge. I've seen a lot of
5 tough circumstances in my practice, even on the
6 criminal side of it. I think I have something --
7 certainly something to offer this state in terms of
8 my experience. So those are some of the reasons that
9 I would like to become a circuit court judge.

10 **Q. And along that same line of thinking, Mr. Taylor, how**
11 **do you feel your legal and professional experience**
12 **thus far renders you qualified and will assist you to**
13 **be an effective circuit court judge?**

14 **A.** I have been involved in quite a few complicated
15 matters. I've worked in state court and in Federal
16 court and I think that gives me kind of a unique
17 perspective of sort of seeing both sides of that.
18 Obviously this is a state court judge position, but I
19 have handled fairly complex matters in Federal court
20 and again in state court, and I think I that I have a
21 -- kind of unique perspective about -- on those two
22 things.

23 **Q. Thank you, Mr. Taylor. And Mr. Taylor, the**
24 **Commission received 52 ballot box surveys regarding**
25 **you, with 16 additional comments. The ballot box**

1 survey, for example, contained the following positive
2 comments: Amazing lawyer and better man. Knows the
3 law, makes decisions, and seeks justice and has a
4 great temperament. Six of the written comments
5 expressed concerns. Several of the comments
6 expressed concerns regarding your lack of experience
7 with civil law. What response would you offer to
8 this concern?

9 A. I've taken initiative to try to get more experience
10 on that side of the practice. I've signed up for
11 some CLEs. Also some previous materials that I have
12 looked at in regards to civil matters. I do
13 recognize that the civil side of my experience is not
14 as much as, of course, the criminal side, but I do
15 think that I'm trying to take proactive steps to
16 become better qualified in that arena and feel that I
17 -- that's something that I can accomplish.

18 Q. Thank you, Mr. Taylor. And Mr. Taylor, you noted in
19 your PDQ that you -- when you were in the process of
20 separating from your first wife, that there were two
21 tax years where your state and Federal taxes were not
22 addressed in a timely manner. Have those issues been
23 -- since been resolved?

24 A. They have.

25 Q. Thank you. And in addition, you reported in your PDQ

1 that around 2006, your wages were garnished regarding
2 a tax issue that arose with your former wife. How
3 did you address and resolve that specific issue?

4 A. That was taken care of through payment. I think that
5 situation was more a confusion based on our situation
6 at the time, but that -- that has been resolved.

7 MS. WEBB: Thank you, Mr. Taylor. I would note that
8 the Midlands Citizens Committee reported that
9 Mr. Taylor is well qualified as to the
10 evaluative criteria of ethical fitness,
11 professional and academic ability, character,
12 reputation, and judicial temperament, and
13 qualified in the criteria of experience,
14 constitutional qualifications, physical health,
15 and mental stability. The Committee noted zero
16 civil experience listed, but his position has
17 prevented it, and he has a great work ethic.

18 Q. Now, Mr. Taylor, for a few housekeeping issues. Mr.
19 Taylor, are you aware that, as a judicial candidate,
20 you are bound by this -- the Code of Judicial Conduct
21 as found in Rule 501 or the South Carolina Appellate
22 Court rules?

23 A. Yes.

24 Q. And Mr. Taylor, since submitting your letter of
25 intent, have you contacted any members of the

1 Commission about your candidacy?

2 A. No.

3 Q. And since submitting your letter of intent, have you
4 sought or received the pledge of any legislator,
5 either prior to this day or pending the outcome of
6 your screening?

7 A. No.

8 Q. And are you familiar with Section 2-19-70, including
9 the limitations on contacting members of the General
10 Assembly regarding your screening?

11 A. Yes.

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

16 A. No.

17 Q. And have you reviewed and do you understand the
18 Commission's guidelines on pledging in SC Code
19 Section 2-19-70(E)?

20 A. Yes.

21 MS. WEBB: All right. And Mr. Chairman, I would note
22 for the record that any concerns raised during
23 the investigation by staff regarding the
24 candidate were incorporated into the questioning
25 of the candidate today, and Mr. Chairman, I have

1 no further questions.

2 CHAIRMAN RANKIN: Thank you. Questions by members of
3 the Commission? Representative Rutherford.

4 REPRESENTATIVE RUTHERFORD: Thank you, Mr. Chairman.

5 EXAMINATION

6 BY REPRESENTATIVE RUTHERFORD:

7 Q. Mr. Taylor, you and I go back to Chester, South
8 Carolina when you were a beginning prosecutor, and
9 then I have since run into you as an AUSA in Federal
10 court and just commend you on how you do your job,
11 and I say that because I tell people all the time, if
12 you want to know who somebody is, give them power.
13 And you've had it. You've had it as assistant
14 solicitor and certainly as an AUSA. And you have
15 demonstrated your ability to understand the plight of
16 those persons that are in front of you and the
17 difficulty sometimes with balancing law enforcement
18 that may not have done their jobs, but still a desire
19 to do justice. And so I commend you for what you've
20 done thus far.

21 A. Thank you.

22 Q. One of the questions has to do with the -- your civil
23 experience or your lack thereof. If you could,
24 expound a little bit more on what you've done to
25 build up your civil experience.

1 A. I've signed up for -- I guess they call it a CLE
2 bundle. I haven't actually attended any CLE courses.
3 I have tried to sign up for different CLEs that will
4 let me start the process of trying to get further --
5 further my civil experience.

6 Q. And I just want to tell you, yeah, those that expect
7 that our judicial candidates are going to always have
8 criminal and civil experience, I think that is an
9 outdated notion. I think that we ought to start
10 moving more towards general sessions judges and
11 circuit court judge to do different things because
12 it's just hard to do both criminal and civil. But I
13 do want to thank you for at least reaching out.
14 We've had other candidates before that didn't do
15 anything even though we told them to, but so, again,
16 just thank you for your candidacy and thank you for,
17 again, being a great prosecutor who exercises power
18 the way that they should.

19 A. Thank you.

20 CHAIRMAN RANKIN: Representative Caskey.

21 REPRESENTATIVE CASKEY: Thank you, Mr. Chairman.

22 EXAMINATION

23 BY REPRESENTATIVE CASKEY:

24 Q. Mr. Taylor, thank you for being here. Thank you to -
25 - thank you to you for your service to state and

1 nation. I do want to get directly to the heart of the
2 concern with respect to your candidacy and that is
3 that as I understand from your PDQ, your practice of
4 law has been exclusively as an attorney for the
5 government, whether state or Federal. And one of the
6 -- all right -- what the right word is -- challenges,
7 complications, realities that we face in private
8 practice is the challenge of having to be in multiple
9 courtrooms at the same time sometimes. And I'm just
10 curious how you envision handling that, what thoughts
11 you may have about that, where sometimes there's a --
12 an ongoing and lasting tension between moving a
13 docket, understanding that while we do have a rule
14 prioritizing court systems, you know, we've got to
15 manage that. And I'm just curious what your thoughts
16 on that are.

17 A. You know, I think, as Representative Rutherford
18 mentioned, I worked in a small county. I was
19 thankful for that when I started my career in
20 prosecution. I've been able, certainly in the state
21 level I believe, to try to handle the complexities of
22 trying to move a docket. Working in state and
23 Federal I understand the tensions that may be between
24 lawyers in terms of trying to have cases moved and
25 get things resolved. That's certainly an issue that

1 has been, I guess, throughout my career even -- even
2 primarily looking at criminal side of it. I think --
3 and I don't know if I'm answering your question
4 correctly, but are you asking how would I handle,
5 like, just getting case -- like, civil docket moved
6 or criminal docket moved?

7 **Q. I'm not asking for an answer per se. I'm just**
8 **looking for some assurances that you recognized the**
9 **challenges that would otherwise be absent from your**
10 **resume. The challenges of practicing law that**
11 **lawyers are going to face, that litigants are going**
12 **to face in the real work where, you know, Federal**
13 **court trumps everything. Got it. But I'm looking**
14 **for some assurances that you understand that**
15 **challenge in the practice of law and the successful**
16 **operation of a circuit court in state system.**

17 **A.** Right. I understand. I certainly think I could be
18 beneficial in that. Twenty-plus years of practicing
19 law. I've had a lot of cases come up for trial,
20 pleas, that type of thing, trying to -- in state
21 court, it was more on the solicitor to kind of
22 organize court as opposed to Federal court where the
23 judge is sort of moving that along, but I do think my
24 experience -- I certainly understand what lawyers
25 have to go through in terms of trying to get cases

1 resolved, that they have to many times be in two,
2 three different courtrooms at one time, and I
3 certainly -- if I'm able to become a circuit court
4 judge, I certainly will understand that and work with
5 both sides in terms of trying to get cases resolved.
6 I think that's important for the judge, in certain
7 cases, to try to help move the process along, and
8 that can take a lot of different steps in terms of
9 getting that done. So I don't think one rigid
10 approach of, you know, it's gotta be this. No
11 questions asked. That won't work, and neither will
12 just kinda letting the lawyers do what they'd like to
13 do. I think there's some -- somewhere in the middle
14 will have to be done, but I certainly -- believe me,
15 coming from my experience, I certainly understand the
16 difficulties that can come about in terms of
17 practicing law.

18 **Q. Yes, sir. I appreciate this and this next comment**
19 **isn't necessarily apropos of that -- that issue, but**
20 **I would encourage you, particularly if you're**
21 **successful in your candidacy, to spend time with --**
22 **to aggressively spend time with our judges on the**
23 **bench now who are making substantial progress in**
24 **advancing our dockets and particularly in those areas**
25 **where your depth of experience is shallower than in**

1 other areas. So again, thank you for your time and
2 thank you for your service.

3 MR. TAYLOR: Thank you so much.

4 CHAIRMAN RANKIN: Mr. Safran.

5 MR. SAFRAN: Thank you, Mr. Chairman.

6 EXAMINATION

7 BY MR. SAFRAN:

8 Q. Let me preface it by saying I've read your letters of
9 recommendation. Mr. Delaney, the former chairman of
10 this Commission, he's a very close friend of mine and
11 I find him to be one of the finest people I've ever
12 known. He seems to think the same of you. And so
13 basically, that goes a long way with me. I just
14 think that, you know, what we're trying to find is
15 basically somebody who's willing to learn. I think
16 what I'm hearing from you is, Yeah. I don't have the
17 civil background maybe some people do, but I will
18 commit myself to getting where I need to be.

19 A. Yes, sir.

20 Q. Is that fair?

21 A. That's fair.

22 Q. The other thing that I think the Vice Chairman was
23 trying to bring across is this, and I know we sat
24 through this and had this question, maybe more
25 pointedly, asked in the past. Judges have to -- at

1 least from our estimation -- be cognizant of the fact
2 that while most lawyers that I know that are worth a
3 crap basically work like dogs.

4 A. Uh-huh.

5 Q. Okay. I know that, but at the same time, they do
6 have lives beyond being in the courtroom, being in
7 their office.

8 A. Right.

9 Q. And I think the question has been posed in other
10 years about will you, as a judge, be cognizant of
11 that ---

12 A. Right.

13 Q. --- recognize that there may be life moments that are
14 gonna be coming up for lawyers ---

15 A. Right.

16 Q. --- that are gonna be once and forever and that they
17 won't come again. And things that, personally, a lot
18 of us regret maybe because we were in the office
19 instead of being with our kids somewhere. I mean, is
20 that something that at least resonates with you?

21 A. It does. Certainly family, I think, is important to
22 everyone. Not just lawyers, but just the general
23 public. I certainly will be sympathetic and
24 understanding, and again, it kinda goes back to what
25 I was saying about working in a smaller county. We

1 didn't have a lot of people there working in the
2 office. So a lot of it was what you said, just
3 trying to juggle court cases and dockets and that
4 kind of thing, and certainly I had the benefit of
5 working with two judges that understood how that
6 dynamic works in terms of lawyers having had time to
7 practice, having -- have time to get the other things
8 that are very important. And even though I did do a
9 lot of criminal cases, I was around the courthouse
10 sometime for civil matters. When these judges were -
11 - would be on the bench, we used to have PCRs, and
12 sometime we'd have to be there to kinda watch what
13 happens in non-jury dockets and that kind of thing,
14 and I -- certainly I think learn from judges like
15 Brooks Goldsmith, some other people, Judge Short, who
16 did pass away, Brian Gibbons, who I think is a judge
17 now on court in that county. And I certainly learned
18 from them the importance of not only clearly
19 understand we have a job to do. Things that have to
20 be done, but also understanding the human nature side
21 of what we do and --

22 **Q. Well, and I'm certainly not gonna suggest to you that**
23 **some people won't try to abuse the privilege --**

24 **A. Right.**

25 **Q. -- but again, that's something that your discretion**

1 will weigh in pretty heavily. And I guess what --
2 the only expectation that the Bar would have is,
3 obviously, that be aware of these things as they come
4 up. If people abuse it, then you know what to do. I
5 mean, you don't keep letting somebody call or cry
6 wolf over and over again.

7 A. Right. I will -- this is the right way to say it,
8 but it just came to my mind. I ask for grace because
9 I know other people may ask it from me. So I try to
10 give it as I receive it. So ...

11 Q. And I guess, you know, when you get on the bench,
12 particularly in a circuit judge seat, there is a
13 great degree of what happens that is largely left to
14 your discretion. You actually have a great deal of
15 discretion I assume in terms of how you handle your
16 cases, both when you were a solicitor and when you
17 were an assistant U.S. Attorney, correct?

18 A. Yeah. I think in the state system there was more
19 than in the Federal system.

20 Q. But even in ---

21 A. But still --

22 Q. --- the Federal system ---

23 A. Right.

24 Q. --- you still got a job to do certainly. But I mean,
25 everything's not completely black and white, correct?

1 A. Right. Exactly.

2 Q. And that works as a judge, too, doesn't it?

3 A. Yes.

4 Q. And you know, the thing about it is in so many
5 instances, particularly on appeal, discretion is
6 pretty well something the court defers to and says,
7 Okay. Judge was able to do that within his
8 discretion. So it really can have a mighty effect,
9 can't it?

10 A. It can.

11 Q. And so, again, that's, I guess, why we talk about
12 using it judiciously.

13 A. Right. Yes, sir.

14 Q. You think you're prepared for that?

15 A. I do.

16 Q. Okay.

17 A. I do.

18 Q. And this is something you want to do.

19 A. It is.

20 MR. SAFRAN: All right. Thank you for offering.

21 MR. TAYLOR: Thank you.

22 CHAIRMAN RANKIN: Senator Sabb.

23 SENATOR SABB: Thank you, Mr. Chairman.

24 EXAMINATION

25 BY SENATOR SABB:

1 Q. Just a few questions. I was interested in your
2 conversation that you had relating to the desire to
3 learn, and I was just looking back over some of the
4 cases that you mentioned, and it was interesting to
5 me the cases that you chose. You know, like the
6 first wiretap case you tried, the first this, the
7 first that, the first other thing. Why'd you choose
8 those particular cases?

9 A. They really had probably the most impact on me. I
10 know I'd mentioned Short in there, but, like, the
11 first case I ever tried. When I came out of law
12 school, I didn't have a family of attorneys that I
13 came from. So a lot of things that I did practicing
14 law was the first time that I'd ever come across
15 anything like that. So some of those cases that I
16 did mention in the PDQ were cases that I thought had
17 a significant bearing on me as a lawyer, not only in
18 the state side, but also in the Federal side. I had
19 mentioned, I think, one case that I had to argue in
20 Fourth Circuit about.

21 Q. Yeah. I read that one too.

22 A. Yeah. And so that was -- you know, you go through
23 law school and you read these judicial opinions and
24 you try to pull off the page what this case is really
25 about, but that was a circumstance where I actually

1 saw a case from start to finish and had to come up in
2 front of a panel of judges and I was just as nervous
3 for them as I am now to try to -- it helped me
4 understand -- looking back at the case, it kinda
5 helped me understand. Oh, like, okay. I -- it's not
6 just what I'm reading off the paper, but it's also
7 this is how it can translate to other judges, how
8 other people may see it.

9 **Q. Yeah. And of course, in undergrad, you majored in**
10 **criminal justice. So you --**

11 A. Uh-huh.

12 **Q. -- kinda had a knack for -- an interest in the**
13 **criminal area, I guess.**

14 A. I did.

15 **Q. The last question I want to ask you about is this is**
16 **the first time you've run --**

17 A. Yes.

18 **Q. -- for a judgeship. Why now?**

19 A. I think now is a good time in my career. I did
20 roughly 12, 13 years in state system, and I've done
21 just about 10 in the Federal system. I'll be 54 next
22 year. At one time I didn't think that was -- I don't
23 think that's old, certainly don't think that now.

24 CHAIRMAN RANKIN: Careful. Todd is old.

25 REPRESENTATIVE RUTHERFORD: 'Cause I'm 54.

1 A. But you know, just -- it -- to me it felt like a good
2 opportunity to say, Well, let me try something
3 different. That's what my parents always tried to
4 encourage me to do, my wife encourages me to do, is
5 take a step and try to make a next step, and that's
6 sort of what I'm doing now.

7 Q. You know, your -- I mean, your demeanor, it seems so
8 calm and measured. So I've always had an
9 appreciation of that, compose themselves and presents
10 the way that you do and so ---

11 MR. TAYLOR: Thank you.

12 CHAIRMAN RANKIN: Senator Garrett.

13 SENATOR GARRETT: Thank you, Mr. Chairman.

14 EXAMINATION

15 BY SENATOR GARRETT:

16 Q. Thank you for offering for a judgeship. I don't
17 worry too much about, you know, just criminal
18 experience or just civil experience because you've
19 taken the Bar exam and apparently you passed it and
20 did well. So -- but I am interested in in how you
21 think there's a difference between state and Federal
22 courts and what you can do if you get on the bench to
23 try to help our state courts improve. I really like
24 Federal court because things move so much better.

25 A. Uh-huh.

1 Q. What's your -- could you just tell us your thoughts
2 on that?

3 A. Yeah. I do -- and certainly in Federal court we have
4 pre-trial conferences, status conferences and stuff,
5 and those are things that I don't think always happen
6 in state court. I think that would be something to
7 be -- that would be helpful in a state court
8 situation. I do recognize that there is a huge
9 difference I think in the volume of cases that end up
10 coming through state court versus Federal court, but
11 I think some type of status conference system can
12 certainly help. Certainly the public has an interest
13 in trying to get cases moved as quickly as possible,
14 and as Representative Safran said, there can be other
15 reasons that cases can be delayed for different
16 reasons. But I do think some of the structure that
17 is used in Federal court could be helpful in trying
18 to help cases move in state court.

19 Q. Well, thank you for that --

20 A. Uh-huh.

21 Q. -- and if you're selected, please try to pass that on
22 up so you can take that experience and help us on the
23 state side. More specifically, let me ask you are --
24 have you participated in any death penalty cases?

25 A. I have not.

1 Q. Okay. And what about any life without possibility of
2 parole cases?

3 A. I have -- not directly. No, I have not.

4 Q. Okay. Those are kinda the pinnacle of the criminal
5 law practice, and is it something you avoided? Is it
6 something that you ---

7 A. Well, it's --

8 Q. -- ow just get the opportunity or --

9 A. Well, that -- that's actually why I hesitated. We
10 had -- in state court, we did have a couple of cases
11 that -- at least when I was there, some of the
12 sentencing could end up -- could put people in a life
13 without parole situation.

14 Q. Plea bargain.

15 A. Plea bargain. Yeah. Without a plea bargain, that
16 could potentially be the sentence. We were able to
17 resolve the cases. So there were cases that may have
18 been eligible for that, but for different reasons, we
19 felt that a different result was appropriate.

20 Q. The discretion that was talked about earlier, did you
21 have any participation in that discretion in making
22 the decision not to go with the death penalty versus
23 a life without possibility of parole?

24 A. Well, I didn't have a death penalty situation, but as
25 far as like life without parole, that I -- I had -- I

1 did have some discretion in that.

2 Q. So you could actually plea one of them down and not
3 trigger the life without possibility of parole ---

4 A. Right.

5 Q. --- situation.

6 A. Right.

7 SENATOR GARRETT: Thank you, Mr. Chairman.

8 CHAIRMAN RANKIN: Representative Jordan.

9 EXAMINATION

10 BY REPRESENTATIVE JORDAN:

11 Q. Good morning, Mr. Taylor.

12 A. Good morning.

13 Q. Thank you for -- as others have said, for offering to
14 serve in this very important capacity. I want to
15 follow up on a couple of comments that I've heard.
16 First, and to -- heard this a couple of times and I
17 want to kinda use my experience with you to talk
18 about your temperament for a second. We had many
19 cases together. We miss you in Florence actually.
20 You were very hard working AUSA, but you were always
21 someone who I could talk to and say, I've got
22 something going on in my civil practice. Can we work
23 around some timing issue. Not one time, that I can
24 remember, you weren't absolutely, Jay, let's find a
25 way to work through the issue and work together on

1 the case. But I also want to talk about it, too, to
2 bring up -- go back to what Senator Garrett's talking
3 about. You've been in the Federal system now I think
4 you said for 10 years?

5 A. Just about 10.

6 Q. So while you might not have had those life without
7 parole situations in the state court we were talking
8 about, you've certainly seen many cases, participated
9 in many cases, where people were looking at very,
10 very significant sentences no doubt, correct?

11 A. Right.

12 Q. I mean, some of those guideline ranges that I
13 remember, especially when we were handling cases in
14 the Federal system in years past, seems like
15 everybody I would get assigned to would have 18 --
16 looking at 18 to 20 to plus years. So I want to make
17 sure if my recollection was correct, you engaged in
18 many cases where individuals were looking at very
19 significant penalties. Is that fair to say?

20 A. That's fair to say, yeah.

21 Q. I also think -- if I also remember correctly, I know
22 we had at least one case I think where we went up to
23 the Fourth Circuit. So you've been up there and
24 argued previously I think a few times; have you not?

25 A. I've only gone one time. It was assistant Federal

1 public defender was actually on that side of the
2 case.

3 **Q. Yeah. That -- you didn't whup me up there that time.**
4 **That was somebody else.**

5 **A. No.**

6 REPRESENTATIVE JORDAN: But again, thank you for
7 putting your name forward, and I wish you the
8 best.

9 MR. TAYLOR: I appreciate it. Thank you.

10 CHAIRMAN RANKIN: All right. Others. Representative.

11 REPRESENTATIVE RUTHERFORD: Yeah. Senator Sabb
12 brought up to my recollection of when Chris and
13 I would be in Chester, back when Judge Short was
14 on the bench, and Judge Short had zero patience.
15 When Judge Short took the bench, it was time for
16 the solicitor to do something, and on Monday
17 mornings in Chester, it got to be pretty
18 frenetic as to which case they were going to
19 call to please Judge Short; and never once did
20 Mr. Taylor grab a case and not give somebody the
21 deal that he thought they should take just to
22 please Judge Short and call a trial. And the
23 same demeanor that you see here is the same
24 demeanor that you saw there, which is, Well, if
25 this is what the right thing to do is, that's

1 what we're going to do. Judge, we'll get to you
2 in a second, which obviously did not please him
3 not one bit; but that's why -- I think you saw
4 the letter from Greg Delaney, that's why I can
5 tell you that when the heat is on and when it's
6 very easy to do something to please a higher up,
7 never once did you see that -- I've never seen
8 him raise his voice, never seen him move quickly
9 to just jump to please some -- it was always,
10 This is what the right thing to do is and that's
11 what we're going to do, and we'll figure out how
12 to get there. And so I just want to commend you
13 for what you've done in your practice of law,
14 and give you your flowers now for all of us that
15 were there during Judge Short's tenure when
16 being a lawyer meant you were going to get
17 yelled at and your client was gonna get the max
18 if he could give it to them. And so thank you
19 for all that you did back then, and thank you
20 for the -- what you do as an AUSA because I've
21 dealt with you there, too. So again, thank you.

22 MR. TAYLOR: Thank you.

23 CHAIRMAN RANKIN: Any questions you'd like to ask of
24 Mr. Rutherford? Direct those to Ms. Webb, if
25 you will, and we'll be sure to get answer.

1 REPRESENTATIVE RUTHERFORD: I'm under oath.

2 CHAIRMAN RANKIN: Your exchange with perhaps the most
3 collected calm, cool, and measured person, that
4 being Senator Sabb, could not be more his term
5 generally used impactful, because that is the
6 type demeanor and temperament that we're looking
7 for on the bench or in life. And so I want to
8 just compliment you by way of a compliment to
9 him.

10 MR. TAYLOR: Thank you.

11 CHAIRMAN RANKIN: And then never have I ever seen a
12 letter of reference from the Atlanta Journal
13 Constitution, but that is not the marquee, it's
14 the words and the author of that which I cannot
15 let un-mention and include it as a part of this
16 record, particularly your discussions with this
17 classmate, this long time college friend who is
18 now 14 years down there as the editor in chief,
19 but your experience at Carolina, going through
20 and touring CCI and what came of that. His
21 comment -- you insisted was our shared
22 obligation to not accept imperfections in our
23 system, but to work -- and to work collectively
24 to build toward better. You have that calling,
25 and that has been to our ears -- and again, I've

1 never met you before, but reading, hearing,
2 every touch point that you've had along this
3 process with every -- the Bar, Citizen's
4 Committee, folks that have weighed in
5 anonymously attest to your, as this writer says,
6 being ready for the call.

7 MR. TAYLOR: Thank you.

8 CHAIRMAN RANKIN: Again, that is a wonderful
9 compliment. The sincerity that you -- if you're
10 nervous, sir, I want to sip what you're sipping
11 because you certainly don't exhibit any
12 nervousness ---

13 MR. TAYLOR: You can't see my knees.

14 CHAIRMAN RANKIN: --- whatsoever. But anyway, so I --
15 to the point of your answer of why now, I
16 appreciate your perhaps heeding the call.

17 MR. TAYLOR: Thank you.

18 CHAIRMAN RANKIN: And the caveat that you don't have
19 much civil experience is certainly added with
20 your work ethic and I don't think there's any
21 question in anybody's mind that you will
22 certainly be a quick study on all things civil.
23 So unless there are any other questions, now, if
24 you recall, I gave you the opportunity for an
25 opening and a closing. Perhaps you didn't take

1 the open, you don't have to take the close if
2 you'd like, but...

3 MR. TAYLOR: Just again, thank you so much for having
4 me and considering my application. Thank you.

5 CHAIRMAN RANKIN: Very good. And this will conclude
6 this portion of the examination and
7 investigation. You realize though that the
8 final report of -- and record of qualifications
9 is not issued for awhile. This record remains
10 open, and we take very seriously the violation
11 of either the black letter or spirit of the
12 state ethics laws. If there were an occasion
13 that would be something arises of questions of -
14 - or -- about your conduct, which we don't
15 expect, you do know -- and I need an affirmative
16 response -- that we can call you back.

17 MR. TAYLOR: Yes.

18 CHAIRMAN RANKIN: Very good.

19 MR. TAYLOR: Okay.

20 CHAIRMAN RANKIN: Mr. Taylor, good afternoon to you
21 almost. It is still morning, but we're getting
22 close. Thank you.

23 MR. TAYLOR: Thank you so much. Thank you.

24 CHAIRMAN RANKIN: Motion made for executive session,
25 seconded by Mr. Strom, we will now go into

1 executive session.

2 (Executive Session was held from 11:27 to 11:49 am)

3 (Off the Record)

4 CHAIRMAN RANKIN: We are back on the record and for
5 the record during executive session, no votes
6 were taken, no decisions were made. We will
7 proceed to Mr. Justin Williams.

8 MR. WILLIAMS: Good morning.

9 CHAIRMAN RANKIN: All right, Mr. Williams. Welcome.

10 MR. WILLIAMS: Thank you, sir.

11 CHAIRMAN RANKIN: We'll start. If you will please
12 raise your right hand.

13 WHEREUPON:

14 JUSTIN WILLIAMS, being duly sworn and
15 cautioned to speak the truth, the whole truth
16 and nothing but the truth, testifies as follows:

17 CHAIRMAN RANKIN: Very good. You have before you
18 looking through those the PDQ and the personal -
19 - and the sworn statement. Are those ready to
20 go in the record?

21 MR. WILLIAMS: Yes, sir.

22 (EXHIBIT NO. 6 MARKED FOR
23 IDENTIFICATION PURPOSES (21
24 pages) PDQ)

25 (EXHIBIT NO. 7 MARKED FOR

1 IDENTIFICATION PURPOSES (1 pages)
2 Amendment)
3 (EXHIBIT NO. 8 MARKED FOR
4 IDENTIFICATION PURPOSES (5 pages)
5 Sworn Statement)

6 CHAIRMAN RANKIN: If you'll hand those to Ms. Putnam.

7 Thank you. They will be put in the record.
8 Commissioner Williams -- Mr. Williams, you know
9 how we do this. You have been through JMCS
10 before but for the record, in our efforts to
11 investigate your candidacy here, we focus on the
12 nine evaluative criteria, which includes the
13 ballot box survey, thorough study of your
14 application materials, verification of
15 compliance with the state ethics laws, search of
16 newspaper articles in which your name appears,
17 study of previous screenings, and a check for
18 conflicts of -- economic conflicts of interest.
19 No affidavits have been filed in opposition to
20 your election. No witnesses are present to
21 testify. I did note that you have a couple of
22 nice looking folks with you here. Would you
23 like to introduce your guests that you brought?
24 MR. WILLIAMS: Yes, sir. Members of the Commission,
25 this is my lovely wife, Stacey Ayers Williams.

1 We've been married for 14 years. And my
2 brother, Johnny Williams, who lives here in
3 Columbia now as well.

4 CHAIRMAN RANKIN: For the record, you said your
5 lovely brother?

6 MR. WILLIAMS: Well, I don't know if he looks as good
7 as I do but I was referring to my wife.

8 CHAIRMAN RANKIN: Yeah.

9 MR. WILLIAMS: I'll admit she looks better than me.
10 You know, he's taller than me so that gives him
11 a bit of a superiority complex.

12 CHAIRMAN RANKIN: So you weren't thinking it even at
13 all. Leave it alone.

14 MR. WILLIAMS: Yes, sir. I'll leave it alone.

15 CHAIRMAN RANKIN: All right, Mr. Williams, you -- or
16 Commissioner Williams, you have opportunity to
17 make a ever so brief opening statement if you'd
18 like. Otherwise, we'll start. Ms. Crawford
19 will ask questions and then we'll open it up for
20 commission members.

21 MR. WILLIAMS: I just want to say thank you to Nurse
22 Jackie for giving me some cough drops because I
23 got -- I'm dealing with some post nasal drip and
24 coughing and but for her, I'd be hacking all
25 over this microphone. So thank you to Nurse

1 Jackie on the fifth floor.

2 CHAIRMAN RANKIN: Very well. We will let that record
3 get up to that floor to thank you. All right,
4 Ms. Crawford.

5 MS. CRAWFORD: Thank you. And our subsequent
6 candidates thank you as well.

7 MR. WILLIAMS: Yes, ma'am.

8 MS. CRAWFORD: Mr. Chairman, I note for the record
9 that based on the testimony contained in his
10 PDQ, which has been included in the record with
11 his consent, Justin Williams meets the
12 constitutional and statutory requirements for
13 this position regarding age, residence and years
14 of practice.

15 EXAMINATION

16 MS. CRAWFORD:

17 **Q. Mr. Williams, you currently serve as a commissioner**
18 **on the Public Service Commission. Why do you now**
19 **want to be a circuit court judge and how do you feel**
20 **your legal and professional experience renders you**
21 **qualified to be an effective circuit court judge?**

22 **A.** Yes, ma'am. As a child, I spent a lot of time with
23 my grandparents. Both my mother's parents and my
24 father's parents had a deep commitment to the
25 community. My father's parents demonstrated their

1 commitment to their community back by starting a
2 church and providing opportunity for people to grow
3 spiritually through service in that church. My
4 mother's parents demonstrated their commitment to
5 their community by allowing some of their land to be
6 used as a playground. In partnership with Orangeburg
7 County Recreation, a playground and a paved
8 basketball court was constructed. And they offered a
9 summer feeding program to the children in that
10 community. We refer to it as The Lunches. This was
11 in Neeses, South Carolina. During that time, my
12 grandmother would invite community leaders, college
13 students and many others to address the children
14 regarding the importance of importance of education
15 and civics, community involvement and other topics
16 conducive to good citizenship. Growing up in this
17 environment, it caused me at early age to question my
18 purpose in life, and what contribution I would make
19 to society. Ultimately, I decided to pursue the law
20 as my contribution to society. And I believe I made
21 a positive impact as an assistant solicitor by
22 upholding the special responsibilities of a
23 prosecutor by serving as a Minister of Justice. And
24 not simply advocating for one side or the other, but
25 ensuring that the defendant's rights were protected,

1 that the victim's rights were not ignored, and that
2 all litigants were treated fairly. As a defense
3 lawyer, I've served as a zealous advocate for my
4 civil and criminal clients while maintaining a
5 cordial and professional relationship with opposing
6 counsel. As a plaintiff's and injured workers
7 lawyer, I zealously advocated for my clients and
8 demonstrated compassion and empathy while helping
9 them navigate through what they would consider a
10 legal labyrinth. As an army judge advocate, I
11 provided legal assistance to soldiers and their
12 families on issues ranging from family law, contract
13 law, employment law, and the Service Members Civil
14 Relief Act, among others. I've prosecuted soldiers,
15 I've defended soldiers, I've advised commanders as
16 their primary legal advisors on matters of contract
17 and fiscal law, national security law, military
18 justice, administrative law in Korea, America, and in
19 the combat zone in Iraq. I've also made decisions in
20 highly complex multi-litigant high value ranging to
21 multi-billion to multi -- well, I should say multi-
22 million to multi-billion dollar value cases as a PSC
23 commissioner using Title 58, Regulation 103, the
24 Administrative Procedures Act, the Rules of Civil
25 Procedure, and the Rules of Evidence. Additionally,

1 my experience as a PSC commissioner includes two
2 years as the chair who serves as the chief executive
3 officer and administrative officer of the Commission
4 and the presiding officer over all hearings coming
5 before the Commission during that time. I've also
6 served two terms as vice chair. It's with that
7 background in mind that I believe I'm duly qualified
8 and adequately equipped with enough technical, life,
9 and a breadth of experience to be of service to the
10 circuit court bench in a manner that would represent
11 the state well. Through well reasoned and timely
12 decisions that clearly articulate from the bench or
13 through written orders my decisions and give all
14 parties appearing before me in the general public,
15 full of faith and confidence that I am unbiased,
16 impartial, and competent.

17 **Q. Thank you. Mr. Williams, for ballot box surveys, the**
18 **Commission received 181 survey responses regarding**
19 **you with 48 additional comments. The ballot box**
20 **survey, for example, contained the following positive**
21 **comments: Great attorney with excellent strength of**
22 **character. Justin is a great attorney and a proven**
23 **leader both in the court and service to our country.**
24 **He is a strong advocate for veterans and military bar**
25 **members. Thirteen of the written comments express**

1 some concerns. I will go through each of the areas
2 of the concerns and let you address those separately.
3 Experience. Most -- and you've touched on some of
4 this, but most of these comments noted concerns with
5 your experience in the circuit court, particularly
6 with your actual trial experience. What response
7 would you have to offer to this concern?

8 A. Well, I appreciate the commenters and when addressing
9 comments and the ballot box survey, I lean on -- and
10 not just for experience, but whatever the comments
11 may be just a general threshold issue to start. I
12 lean on a quote from the famous American poet Maya
13 Angelou that says I've learned that people will
14 forget what you said, they will forget what you did,
15 but they will never forget how you made them feel.
16 And so with that in mind, when it comes to my
17 experience, even with the ballot box survey saying,
18 based on my numbers of those participating in the
19 ballot box survey, 82 percent believe I'm qualified
20 to serve as a circuit court judge. With most of those
21 voting that I'm well qualified, there's still those
22 other comments that need to be addressed. And what I
23 would say is that a majority of my career, six years
24 as a as a public service commissioner, and ten years
25 as a judge advocate, was spent outside of the circuit

1 court. And so for practitioners who appear in
2 circuit court daily, and may not be familiar with the
3 work of the Public Service Commission, and may not be
4 familiar with what we do as judge advocates, I can
5 understand why they would wonder whether or not I
6 would have the requisite experience to serve as a
7 circuit court judge. What I would want them to
8 consider if I were able to have a conversation with
9 them, is to consider the breadth of issues that
10 appear before the Public Service Commission, and how
11 we make decisions using the rule of evidence which
12 will be used in circuit court, using the rules of
13 civil procedure which will be used in circuit court,
14 and the complexity of the issues that appear before
15 the Public Service Commission that would either match
16 or, in some areas, exceed the level of complexity
17 that may appear in some circuit court cases. Not to
18 mention that our decisions have to be in written
19 orders where we make findings of fact and conclusions
20 of law. Likewise, I would do the same thing if I was
21 able to make it to the circuit court bench. And
22 primarily, I'm talking about common pleas. What I
23 would also like to offer to those who would like to
24 have a conversation regarding my experience is the
25 approximate four years that I spent as a prosecutor

1 in the Fifth Circuit Solicitor's Office where I've
2 tried murders, bank robberies, dogfighting, and drugs
3 to verdict, not to mention the thousands of warrants
4 that were disposed of through a plea or a dismissal.

5 **Q. Okay. The next area of concern was, in combination**
6 **with experience, many of these respondents noted that**
7 **you are a politician first. How do you respond to**
8 **that?**

9 A. Well, I'm going to have to use some, I guess, context
10 clues, if you will, and look over my life and look at
11 some of the things I've done, and how I show up in
12 the community, to try to bring some context to that
13 statement, because someone said something like that
14 similar to me when I was in law school. It was a
15 friend of mine, actually. And she said, you know,
16 you get along with all these people so well, you're
17 always happy, and you're going out and talking to
18 folks, and everybody's really not good at that. I
19 said Okay. I like it. I like people. I like making
20 relationships and connections. One of the first
21 books I read when I was a drug rep for Pfizer was
22 Making Friends and Influencing People. And so I
23 believe relationships are important, and they matter.
24 I would also say when you look at what I've done,
25 especially from high school and college, not so much

1 since I've graduated from college or law school, I've
2 been highly involved in the community. I was -- as a
3 freshman, I was elected to one of -- I think I was
4 the first freshman elected as the president of the
5 Association of African American students. As a
6 sophomore, I was elected to president, which is the
7 official name is Polemarch of my fraternity. I was
8 elected as a student body president at the University
9 of South Carolina, which for some schools is like a
10 really small deal. But for South Carolina, I think
11 there were over 12,000 people that voted in that
12 election. And I also continued that level of
13 commitment to community while I was in law school by
14 serving on the Student Bar Association. When I hear
15 the statement that I'm a politician first, it makes
16 me feel as if there's a thought that I put something
17 second. I've never offered myself for elected public
18 office. All I can say is that I believe that any
19 problem can be worked out if you're willing to talk
20 with someone and work through it. I don't believe in
21 us versus them or me versus you mentality. And so I
22 think my willingness or ability to try to work
23 through issues as opposed to taking a hard stance and
24 not willing to work with someone could be perceived
25 that maybe I'm a people pleaser. But I'm really just

1 trying to uphold the civility oath and the lawyers
2 oath, and just trying to be a good person as I see
3 it.

4 **Q. Thank you. For the concerns noted that you lacked**
5 **the ethical fitness and ability to be fair and**
6 **impartial as a judge. How would you respond to that?**

7 A. Yeah. Again, before I get into that, I would go back
8 to that Maya Angelou quote about what people will
9 forget in terms of what you've actually said, what
10 you've actually done, and what will rest with and
11 remain with them is how you make them feel. And so
12 when we talk about ethical fitness, that's one of
13 those nine elements that you referenced, I think the
14 chair reference. And ethical fitness, per this
15 committee, is a candidate's ability to perform the
16 adjudicative duties impartially, and to deal with
17 litigants, lawyers, witnesses, and other courtroom
18 participants objectively and without bias. A
19 candidate should have a sense of humor, and must
20 exhibit trustworthiness, moral vigor, and strength of
21 character. Candidates' past actions and deeds should
22 demonstrate consistent adherence to the ethical
23 principles -- to high ethical principles, excuse me,
24 or his or her reputation should be above approach. A
25 candidate must follow the campaigning and pledging

1 laws. At a minimum, a judge will be expected to have
2 complied with the Code of Judicial Conduct
3 requirements to avoid impropriety, the appearance of
4 impropriety, and partiality. So when I -- based on --
5 -- when I use that as a background, and I think about
6 ethical fitness, understanding that we need to work
7 through the concerns that the commenters raised with
8 the Commission, we do work through those. As we work
9 through them, what I will offer to those commenters
10 and to this Commission, that based on my review of
11 the voters who participated in the ballot box survey,
12 those who had an opinion of my ethical fitness and
13 qualifications based on my ethical fitness to serve
14 as a circuit court judge, 90 percent believe that I
15 was qualified to serve with about 71 percent
16 believing I was well qualified in that area. So we
17 have that. And then we have to, again, work through
18 these four commenters. And what I found in my
19 experience, when I think about ethical fitness, in
20 addition to the standard set by the -- by this
21 commission, also think about the rules of
22 professional responsibility, I think about the Ethics
23 Act, I think about the Code of Judicial Conduct as a
24 source, document and guides the discussion and any
25 analysis about ethical fitness. However, my

1 experience as a prosecutor has taught me that that
2 discussion of ethics can expand, it can be expansive
3 beyond that. When I was a prosecutor, for example, I
4 had many discussions about the ethics and morality of
5 revoking a defendant's bond, if they were found to
6 commit another crime while out on bond. The ethics
7 and morality of requiring electronic monitoring as a
8 condition of bond. The ethics and morality of a
9 mandatory minimum for a crime that is committed by a
10 young person, but the law says that the necessary
11 requirement is a sentence that may be considered
12 harsh by some. And so in those conversations, in
13 those moments, the ethical conversations had nothing
14 to do with the rules of professional responsibility,
15 the Ethics Act, the Code of Judicial Conduct. I
16 think what was happening is that there was a
17 fundamental disagreement about what the law should be
18 and how it should be applied in a particular case, or
19 a fundamental disagreement about a practice, whether
20 or not you should revoke a defendant's bond or
21 require electronic monitoring. And as you all know,
22 very seasoned legal professionals serving as a
23 prosecutor in this state, especially in the Fifth
24 Judicial Circuit, you're seeing all types of
25 sensitive and emotional and horrific situations

1 involving criminal conduct and victims, and everyone
2 has a different perspective on how those things
3 should be addressed. And so what I would maybe say
4 to those four commenters is wanting just to flesh out
5 a little bit more as to what they mean about my
6 ability to be ethical or impartial based on whether
7 we're talking about some of those expanded
8 conversations about process and the law, or if we're
9 talking about the Code of Judicial Conduct, the
10 Ethics Act, or the Rules of Professional
11 responsibility.

12 **Q. Thank you, Mr. Williams. Finally, a majority of the**
13 **concerns questioned whether you have an appropriate**
14 **demeanor or temperament to be an effective judge.**
15 **Several stated that you come across as arrogant.**
16 **What response would you offer to this concern?**

17 **A.** When I think of arrogance, I think of someone who
18 believes the rules doesn't apply to them, that they
19 can cut in line, that they're entitled to special
20 treatment for some reason or another, usually
21 attached to some belief or thought that they're
22 superior in some way. When I think of arrogance, I
23 think of someone who is impatient and unkind and who
24 does not care about people. I've been -- obviously,
25 I've been alive longer than I've been a lawyer, and I

1 don't think my life supports an arrogant personality
2 or arrogant conduct. Neither does my time as a
3 lawyer. But what I will say is this. I think that
4 when I show up -- like here today, when I show up, I
5 want to be prepared, I want to be well-dressed, I
6 want to have a firm command of the material, I want
7 to be able to give you my position in a linear,
8 logical manner that gets from point A to point B and
9 so forth and so on. And I think that at times, as a
10 prosecutor, when I show up that way, it may be taken
11 in a way where I believe that, or where others may
12 believe, that I'm the sole authority on the issue or
13 that, for some reason or another, I think that I'm
14 better than they are, or I have some haughty position
15 or mind set. And that's just not the case. And I
16 would, based on demonstrated experience, and based on
17 the responses to the ballot box survey, I think that,
18 again, going back to the great poet Maya Angelou,
19 sometimes feelings get involved in cases. And it's
20 not so much the conduct as it is the feeling that
21 someone gets. And unfortunately or fortunately, in
22 the professional setting, sometimes there's not an
23 opportunity to build a relationship and to get to
24 know someone. But I tell you right now, if anyone
25 were to come to me, come with me to Salley, South

1 Carolina, to the Chitlin' Strut, to Springfield,
2 South Carolina, to the Frog Jump, or to my tailgate
3 for USC's homecoming, they will see very clearly that
4 I'm a man of the people, and that I care for people,
5 and that there's not an arrogant bone in my body.
6 But in the moment, you know, these folks are basing
7 their perception on what they have experienced, maybe
8 in dealing with me in a case, or in some other
9 fashion, they may not have been able to get the
10 essence of who I am.

11 Q. Okay. Thank you, Mr. Williams. Mr. Williams, we
12 discussed this matter in our interview. And as you
13 know, candidates, as well as PSC commissioners, are
14 bound by the Code of Judicial Conduct. Canon 5
15 states that a judge or judicial candidate shall
16 refrain from inappropriate political activities and
17 prohibits the attendance of political gatherings.
18 The Commission was made aware that on September 7th,
19 you attended an event sponsored by AKA Sorority
20 entitled Engage, Educate, Empower Our Future, Your
21 Choice, Vote. Can you describe your understanding of
22 the definition of political gathering, this event,
23 and why you feel strongly that you did not violate
24 Canon 5?

25 A. Okay. I want to start with my understanding of the

1 definition of a political gathering. I think the
2 first time I ever thought about political activity or
3 political gathering was probably ten years ago --
4 about ten years ago now when I was in
5 Charlottesville, Virginia, at the Judge Advocate
6 General's Legal Center and School on the campus of
7 UVA. And we were in an ethics block of instruction.
8 We were going over the Hatch Act and the importance
9 for service members to ensure that they don't give
10 the appearance or they don't actually support any
11 level of partisanship related to their service in
12 uniform or even out of uniform with their military
13 service, that we serve America and not a political
14 party. And so with that background, the Hatch Act
15 loosely defines political activity as any activity
16 that supports a partisan political agenda, a partisan
17 political candidate over one or the other. So
18 essentially, it may not be intended to divide, but
19 essentially, if you're supporting one position, you
20 are not supporting the other. But that's the federal
21 law. And I give a presentation on the Hatch Act
22 every year to soldiers as required by Army
23 regulation. Transitioning to my time on the Public
24 Service Commission, I found that the Public Service
25 Commission, regulated by PURC, is held to a pretty

1 strict standard. And they do a really good job of
2 providing advisory opinions. In fact, there's an
3 advisory opinion that is directly on point with the
4 term political gathering. And in that advisory
5 opinion, the PURC said that a legislative caucus
6 meeting is a political gathering. When I went to the
7 Republican Caucus, South Carolina Republican Caucus
8 website, and I went to the South Carolina Democratic
9 Caucus website, it was very clear and apparent to me
10 that there's a political -- a partisan political
11 agenda for each side that they are promoting and
12 pushing to advance their candidates and to advance
13 their agenda. Also, when I look at Canon 5,
14 especially 5A, where a political organization is
15 discussed, the political organization is defined as a
16 political party or other group with a principal
17 purpose of which is to further the election or
18 appointment of candidates for political office. And
19 there's a prohibition for judges and judicial
20 candidates from attending such events. When you look
21 at Canon 5A, political gathering is not defined, but
22 is nested with and included right under political
23 organization. And so for me, a logical, linear step
24 in reason would lead me to believe that a political
25 gathering would be connected to a political

1 organization and that a political gathering would
2 have to, based on the principal purpose test, the
3 purpose of that gathering -- the principal purpose of
4 that gathering would be to further the advancement of
5 a political candidate, a political agenda, or
6 political party. Transitioning to the AKA event, I'm
7 a member of the Divine Nine. I've been so since
8 March 26, 2004. I'm a member of Kappa Alpha Psi. A
9 part of our charter requires us to participate in
10 what we call guide right, essentially community
11 service. And those are educational events and
12 community events that range from health to popular
13 issues in the community and bringing people together
14 to discuss them and to try to learn. We did them all
15 throughout college and we do them post college, we do
16 them today. Very similar to what my grandmother did
17 at Wright's Park in terms of bringing members of the
18 community before children to discuss issues, whether
19 it's education, civics, law enforcement issues, or
20 even in church where the same or similar issues were
21 discussed, that AKA event, in my mind, based on what
22 I understood it to be on its face and based on what
23 it was in substance when I attended, was just that, a
24 community event. There is no way that I can walk
25 away from that event -- looking at the flyer or what

1 was said at the event, there's no way I can walk away
2 from it and feel compelled or empowered to do
3 anything other than be active in my community. No
4 political candidate was mentioned, no political signs
5 were present there, neither was any of that
6 advertised on the materials. And on top of that, AKA
7 is a non-profit social organization that is strictly
8 prohibited from political activity. And considering
9 all of that together, that's why I believe I did not
10 violate Canon 5 of the Code of Judicial Conduct.

11 **Q. Thank you, Mr. Williams.**

12 MS. CRAWFORD: Mr. Chairman and members of the
13 Commission, last week I received a call and a
14 copy of an email that copied Mr. Williams at the
15 PSC that caused some concern among the PSC
16 staff. This email dated November 7th was sent to
17 James Burns, an attorney at Nelson Mullins from
18 Jason Brown. Mr. Williams was copied on the
19 email. The email stated in part, quote, as you
20 may know, Justin serves as a commissioner on the
21 South Carolina PSC and formerly served as a
22 chair of the South Carolina PSC through June of
23 2024. I believe he currently serves as vice
24 chair of the PSC and may need to consult you and
25 your firm to draft a legal opinion re: a current

1 matter before the Commission.

2 Q. First of all, Mr. Williams, it's my understanding
3 that at the PSC, you have two email addresses. And
4 can you explain that and how the staff got this and
5 why there was some confusion about -- that this email
6 caused?

7 A. Okay, I'll do that to the best of my understanding.
8 I believe the year was 2001 to 2002 when Act 175 was
9 passed. Act 175 was probably the most comprehensive
10 and restrictive ethics act for a public service
11 commission in America. And I was in college, I was a
12 freshman during that time, so I don't really know
13 exactly what was going on at that time. But there
14 was a great concern about commissioners and ex parte
15 communication, a great concern. And once that act
16 was passed, from my understanding, the executive
17 director at the time created two emails for all
18 commissioners. One a public email that when you --
19 if you were to Google my name or Google my position
20 as a commissioner, and the same is true for all
21 commissioners, you would get that public email. I
22 don't receive those emails. Those emails go to my
23 assistant, Tricia DeSanty, and she filters them.
24 Some of them she sends to me. Some of them she does
25 not. On this particular day, Tricia DeSanty was not

1 there. And so Elise was filtering the emails. And
2 when she saw it, she rightfully so was concerned
3 about ex parte communication because the ending --
4 the last word in the email is commission. And I
5 think she believed that the commission that was being
6 referenced was the Public Service Commission and not
7 the Judicial Merit Selection Commission. Jason Brown
8 is a good friend of mine. We know each other way
9 back from college. Like me -- or unlike me, he has
10 two small children and is a very busy professional
11 and in an attempt to help me, he -- when I asked him
12 if he knew any lawyers that were any good with ethics
13 opinion, he said he had one, and he asked me for my
14 email. I texted him my personal email, but he said
15 before he forgot, he just Googled -- before he got my
16 personal email, he wanted to handle the issue
17 immediately and so he googled my PSC email and copied
18 Mr Burns to that. I was made aware of the email --
19 so let me be clear about something. I never received
20 the email. I was made aware of the email by the
21 executive director, Jocelyn Boyd at the PSC and she
22 asked me what the email was in reference to. I think
23 some of -- I think the commissioners know that I'm
24 running for judge, but that's not something I talk
25 about at work. So no one really knows about that, or

1 at least if they know about it, they don't know about
2 it from me. And so when she asked me about it, I
3 explained to her the issue, and she said that the
4 general counsel, Elise, and the chief counsel were
5 concerned about it, as they should have been. And so
6 I said you know, this is a great systems check. This
7 is the way that this is supposed to work so there
8 won't be any issue or concern about ex parte
9 communication at the commission. And so I met with
10 everyone together, the general counsel, the chief
11 counsel, Elise, and the executive director, and I
12 wanted them to hear from me what the email was, but I
13 also wanted to empower them to say hey, look, you
14 need to do with this whatever you think you need to
15 do with it. I'm telling you what it is, but don't
16 take my word for it. Whatever reporting you think
17 you need to do, don't think that I'm trying to mute
18 you or chill any level of reporting because I'm a big
19 proponent of transparency. The executive director
20 believed, and I think I share this opinion, that the
21 appropriate authority to report any matter like this
22 to would be the PURC. And so she reached out to PURC
23 counsel, Attorney Breeden John and reported the
24 matter. And my -- I would imagine that that is how
25 it came to your attention.

1 Q. And I want to clarify that in the email there was no
2 reference to Judicial Merit Selection Commission.
3 And it's your -- I mean, obviously, commission in
4 that email was -- you were referring to JMSC?

5 A. Yes, ma'am. Well, I didn't write the email.

6 Q. Right. Right. Right. That's correct. He was
7 referring to.

8 A. Right. That email was a summary of a conversation I
9 had with him, --

10 Q. Correct.

11 A. -- explaining to him that there was a question about
12 the definition of a political gathering and I didn't
13 want to rely on my understanding alone. I don't -- I
14 wanted someone to really help me see the other side
15 if there was another side to that. And so I was
16 seeking legal assistance.

17 Q. And members of the Commission, that email you then --
18 or we have a legal opinion and you submitted it and
19 the commission members have a copy of that from Mr.
20 Burns researching and giving his opinion on what the
21 definition of -- definition of a political gathering
22 is. And that's on their laptops and will be made a
23 part of the record.

24 (EXHIBIT NO. 9 MARKED FOR
25 IDENTIFICATION PURPOSES (14

1 about your candidacy?

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

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

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

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

11 A. Yes, ma'am. I am familiar with that legislation or
12 that statute. Excuse me.

13 Q. That's okay. Have you asked any third parties to
14 contact members of the General Assembly on your
15 behalf?

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

17 Q. Are you aware of anybody attempting to do so?

18 A. No, ma'am, I am not.

19 Q. Have you reviewed and do you understand the
20 commission's guidelines on pledging in South Carolina
21 Code section 2-19-70(E)?

22 A. I understand those restrictions.

23 Q. Thank you.

24 MS. CRAWFORD: Mr. Chairman, any concerns that were
25 raised during the investigation by staff

1 Q. If you would summarize your position with respect to
2 this event and the applicability of the restriction
3 against a judicial candidate -- judge or judicial
4 candidate attending a political gathering. I just
5 want to restate where you're at in this before we go
6 any further in question, because that was a bit of an
7 extended colloquy, and just for our purposes to make
8 the dialogue, I guess, direct -- it's easier for me
9 to have a conversation about this with you because
10 I'm not a judge, right? I'm just a member of this
11 Commission trying to apply the rules fairly to your
12 candidacy. And so I think it'd be helpful to me, at
13 least, to understand your position, if you can,
14 restate it.

15 A. Okay. So my position is based on my reading of Canon
16 5A, and I'm just going to read it. All judges and
17 candidates, except as authorized in Sections 5B2,
18 5C1, and 5C3, a judge or candidate for election or
19 appointment to judicial office shall not act as a
20 leader or hold office in a political organization.
21 I'm just going to stop there and read what the
22 definition of that is, if that's okay.

23 Q. Please.

24 A. All right. The definition of a political
25 organization is a political party or other group, the

1 principal purpose of which is to further the election
2 or appointment of candidates for political office.
3 So sub-paragraph 1A says I can't -- I'm using me, but
4 a judge or judicial candidate can't hold an office in
5 a political organization, publicly endorse or
6 publicly oppose another candidate for public office,
7 make speeches on behalf of a political organization,
8 attend political gatherings, or solicit funds, or pay
9 for an assessment or make a contribution to a
10 political organization or candidate, or purchase
11 tickets for political parties or other political or
12 other functions. And so when I read that section
13 that leads with not holding office in a political
14 organization, which is defined as promoting or
15 pushing a political agenda or candidate, and I go
16 down to D, which speaks to attending political
17 gatherings, for me, the plain language, unambiguous
18 reading of political gathering is a gathering that is
19 in some way, shape, or form advancing a political
20 party, a political agenda, or political candidate.
21 That's just my reading of the law. When I go to
22 commentary on the subject, and I look at the PURC
23 advisory opinion that determines that a legislative
24 caucus meeting is a political gathering, and when I
25 go and look at a legislative caucus, the South

1 Carolina Legislative Caucus, the Democratic Caucus,
2 or the Republican Caucus, and I go to that website,
3 and I see what they are promoting and what their
4 agenda is.

5 Q. To interrupt you just briefly, and I don't want to be
6 rude. I agree with you. There's no question that
7 caucus activity is a partisan activity. I mean,
8 that's not confusing to me. I think the authority on
9 that is clear, and I don't think that's what this
10 event is. Where I'm struggling with this, and I'll
11 just, by way of disclaimer on behalf of the
12 commission, say this is my understanding. It is not
13 dispositive in any way of what the commission thinks.
14 That's not how this works, but when I look at the
15 materials submitted by you with respect to this event
16 -- my understanding, your wife is a member of this
17 organization, is that right?

18 A. No, sir. She's a member of Delta Sigma Theta.

19 Q. Okay.

20 A. But it is a Divine Nine organization.

21 Q. Okay, fair enough. But you attended, I understand,
22 as a family to an event that was designed to educate
23 and empower people to come out and vote, but without
24 advocacy for a particular candidate. Is that a rough
25 summation?

1 A. That's not my understanding of the program.

2 Q. Okay. What was your understanding of the program?

3 A. A community forum to talk about community issues, one
4 of which was voter registration.

5 Q. Okay. In my -- and I'm not trying to trick you here.
6 I'm trying to get to where I see this as an event
7 designed to help members of the community become
8 educated, become empowered, and ultimately to then go
9 vote, and the question I'm wrestling with in my mind
10 is, is that a political gathering if we are
11 encouraging people to vote. And the tension that I
12 see there is the inverse certainly feels a lot more
13 political. If we were to say, don't vote. If the
14 conversation or the question is, is an event that
15 encouraged people to not vote, is that political?
16 And my intuition is to say that feels political, but
17 then is if you say go vote, is that political? And
18 our law doesn't help me resolve that question, and I
19 wonder if you can help me resolve that. If I've
20 understood the event correctly, which I stand ready
21 for correction if I haven't.

22 A. Well, I only can give you what I understood the event
23 to mean, based on what I saw, and based on what was
24 said at the meeting. There was much more talk, I
25 would say, 90 to 95 percent, at least for the portion

1 of the presentation that I attended, about issues
2 regarding education. That younger members of the
3 generation are not involved in their community,
4 whether that be church or other community
5 organizations. The need for older members of the
6 community to be open and embracing to the ideas and
7 struggles, or whatever the case may be, that younger
8 members of the community are facing. And
9 understanding that, as a citizen, you have the right
10 to vote, and if you decide to exercise that right,
11 then it could behoove you to understand what that
12 looks like. So what does that look like? It looks
13 like voter registration. It looks like pulling your
14 ballot in advance to say know what a soil
15 conservation district is. Things of that nature. So
16 for me, it was educational 100 percent. I can't even
17 tell you that there was a push to necessarily
18 encourage people to vote, but it was definitely
19 education presented, so that if you left there, you
20 would know what you would need to do, if that is
21 something that you wanted to do.

22 VICE CHAIRMAN CASKEY: Okay, thank you. That's
23 helpful to me in understanding your perception
24 and understanding of the event. I'm looking
25 around the room to see if any other members have

1 comments or questions.

2 MS. CRAWFORD: Can I make a comment? Mr. Williams --
3 Mr. Williams mentioned a second letter. He sent
4 an opinion, and I somehow missed it because it
5 came in bright and early on a Saturday morning,
6 which I should have gotten, and I apologize. So
7 I've copied that and given that to the
8 commission members. That's the second opinion
9 letter from -- that you got regarding that from
10 Ms. Hubbard.

11 VICE CHAIRMAN CASKEY: Thank you, ma'am.

12 MS. CRAWFORD: Sorry.

13 VICE CHAIRMAN CASKEY: All right, I don't know whether
14 or not there are going to be other questions
15 about this particular event. I do want to,
16 though, while I have the floor, share with you
17 some other things. Again, this may not be
18 helpful to your ability to stay on track if
19 someone else is going to ask you about this
20 event. But as there was some questioning with
21 respect to feedback on the ballot box survey, I
22 wanted you to know that we have received many,
23 many positive comments, and oftentimes this
24 forum lends itself to discussion of negatives,
25 and I wanted to share with you, because you

1 presented yourself for this office, that many of
2 the comments are, again, positive things, like,
3 he is fair and impartial -- fair and impartial,
4 knowledgeable of the law, and has an outstanding
5 temperament. Justin Williams is a fantastic
6 attorney who would make an excellent judge. Mr.
7 Williams would be an excellent judge. I'm happy
8 to see him run again and not discouraged. I had
9 the privilege of working with him during his
10 time as an assistant solicitor and in private
11 practice. He was very fair, available, nice,
12 and he's hardworking, proud of his own roots and
13 the success he had there. A circuit court
14 judgeship is a natural next step for him and
15 should be strongly considered. So I share that
16 with you by way of encouragement. Sometimes
17 this can feel more adversarial than it need be,
18 but anyway, as I look around the room to see if
19 any other members have commissions. Senator
20 Garrett, the floor is yours.

21 SENATOR GARRETT: Thank you, Mr. Chairman.

22 VICE CHAIRMAN CASKEY: I'm from the House, where we
23 sometimes start with the end of the row. My
24 apologies, Senators.

25 SENATOR GARRETT: My friend the senior, please.

1 SENATOR SAAB: Okay, since he put it like that.

2 VICE CHAIRMAN CASKEY: Since he put it like that.

3 SENATOR SAAB: I'm senior, but not very senior.

4 Thank you, Senator. Are you still Senator from
5 Greenwood the whole week?

6 SENATOR GARRETT: I'm right now the Senator from
7 Lexington.

8 SENATOR SAAB: Senator from Lexington, okay.

9 SENATOR GARRETT: Yes, sir.

10 SENATOR SAAB: Thank you, Senator from Lexington. I
11 did want to comment, and I really appreciate you
12 letting me go. I'm supposed to be someplace at
13 12:30, but I did want to listen to this
14 exchange, and I will tell you that your
15 responses helped me. One of the things I think,
16 and of course, we all know this, particularly
17 lawyers, is we have to avoid not only
18 impropriety, but the appearance of impropriety.
19 And so these kinds of events oftentimes walk a
20 thin line, because it's not only what's
21 intended. Sometimes folks comment in such a way
22 that although you're present for a certain
23 purpose, the comments lends itself to something
24 else. And so, but your explanation really
25 helped me, and I'm satisfied based upon your

1 responses that your view, and I think it's
2 supported by the authority that you shared, is
3 that this was not a political event. I, too, am
4 a member of the Divine Nine. Of course, I took
5 a step above you, and I wear the purple and gold
6 rather than the red and white. But I, like you,
7 married above myself and married a Delta. But
8 on a serious note, this is one of the kinds of
9 things, though, that as commission members we
10 would struggle with because the line might
11 appear bright, but it is just as -- as what do
12 they say, as transparent as mud. But I just
13 really wanted to share with the commission and
14 with you that I listened very intently to your
15 original explanation, and the follow-up
16 responses to the questions that our vice chair
17 posed. And so you've satisfied me on the issue.
18 And, Mr. Chairman, if you don't mind, I just ask
19 that -- to be excused, and I'll rejoin you all.
20 Thank you.

21 VICE CHAIRMAN CASKEY: Senator from Lexington.

22 SENATOR GARRETT: Thank you, Mr. Vice Chair.

23 EXAMINATION

24 BY SENATOR GARRETT:

25 Q. I, too, I'm always concerned about the appearance of

1 impropriety as any judge has to be. And I'm not
2 concerned about the, say, the 95 percent that you
3 described, 95 to 99 percent of what transpired at
4 that. What I am concerned about is that 5 percent.
5 Can you talk about that for us for a minute, about
6 the 5 percent?

7 A. I'm going to do my best. And what I would share with
8 you, Senator, this event was on a Saturday afternoon
9 where I attended with my wife and my son. And I
10 included a picture, a selfie that we took to send to
11 my mother, to Erin, to share with you all, to show
12 you how engaged I was with my son. So the 95 percent
13 that I was referencing was what I heard. I did not
14 hear -- because I didn't want to say 100 percent
15 because one, I was late to the event, and two, we
16 left once Luke got a little -- he's ready to go. So
17 in my mind, there were no issues with the event 100
18 percent. But I'm raking room by leaving that margin
19 of 1 to 5 percent because we're talking about it.
20 And so out of respect for the fact that we're talking
21 about it, and as the Senator said, there's not a
22 bright line rule, or a bright line on some of these
23 issues, again, my reading of the law, my reading of
24 the advisory opinion from PURC, my reading of the
25 advisory opinion from the Judicial Disciplinary

1 Commission regarding a judge speaking at a League of
2 Women Voters event, that directly discussed that
3 judge would speak on diversity in the judiciary, and
4 the JDC found that it was okay for that judge to
5 speak at such an event. That's the mindset I was in
6 when assessing whether or not I would attend that
7 event. Because when I read those opinions, and I
8 look at it -- I'm just going through my decision
9 making process with you. When I look at that, and it
10 could be a cultural difference too, that AKA event
11 was very similar to church events that I've attended.
12 And just being very honest and straightforward with
13 you, there have been some times at certain church
14 events that I was a little uncomfortable, because
15 maybe -- you talk about that 1 to 5 percent, maybe
16 things were said that maybe were too far. But
17 nothing like that happened while I was at that event.
18 But I want to be respectful that, you know, there may
19 be some concern, and I want to work through that and
20 walk through that with you all.

21 **Q. That's the reason for my question is because, again,**
22 **I go back to the appearance of impropriety. And if**
23 **that five percent, for instance, if there were signs**
24 **depicting one candidate over another, or you need to**
25 **get your vote in a certain way, and that is being**

1 **talked about. If you had been there and you had seen**
2 **any of that, what was your responsibility as a --**

3 A. To leave immediately.

4 **Q. To leave immediately.**

5 A. And Senator, let me be very, very clear with you.
6 There was nothing like that there. I happen to have
7 many friends who are members of AKA. I talked to
8 them about this. One of the exhibits in the letter
9 from Mr. Burns is a one-pager about the restrictions
10 on political activity for the event, for all events
11 like that, how they are prohibited from being
12 involved in political activity because they could
13 lose their charter. I don't think they would want to
14 risk their charter by conducting themselves in that
15 way. But again, to your point, regardless of the
16 intentions and regardless of their best efforts,
17 someone could do something that is outside the lines.
18 Twenty years as a member of Kappa Alpha Psi and
19 attending Divine Nine events, I have not seen that
20 before. That has not been my experience. If that
21 was my experience, I would not attend the event. And
22 just to go a little bit further with you, just to let
23 you know how -- because I'm just -- I want to give
24 you how I think. There have been events that I've
25 been invited to by other candidates that I have not

1 gone to because I felt it was squarely in the
2 definition of a political gathering. And so for me,
3 there may be an event going on, I think it's too
4 close to the line or maybe crossing the line to show
5 up in the parking lot or to meet at a bar that may be
6 in the hotel that the event is taking place. I'm a
7 veteran, proud veteran. There's some veterans'
8 events that while I'm a proud veteran, when I see
9 what's going on, it may be a little bit too close to
10 the line. I'm a Christian. There's some prayer
11 breakfasts that while I would love to attend, and
12 I've attended in the past, as a PSC commissioner, I
13 have retreated from much of public life and tried to
14 operate in what I consider safety zones. Kappa Alpha
15 Psi, Divine Nine events, church events has been that
16 safety zone. But again, this is a lesson for me to
17 look at all of these things again because I don't
18 want to bring discredit to myself, my family, the
19 Public Service Commission, or the judiciary if I'm
20 ever elected to the bench.

21 SENATOR GARRETT: Let me say this. I applaud you for
22 taking care of your family, your lovely wife,
23 your son. It's wonderful that you want to have
24 them involved in civics. That's important and
25 that's what we're all about is living and

1 helping our neighbor. So I applaud you for your
2 Christian statement that you made as well as
3 your position that had you seen something that
4 crossed the line that would have gathered up
5 your family, and left and I appreciate that.
6 Thank you, Mr. Chairman.

7 VICE CHAIRMAN CASKEY: Mr. Safran, I think, is next.

8 MR. SAFRAN: Thank you, Mr. Chairman.

9 EXAMINATION

10 BY MR. SAFRAN:

11 Q. I think you probably have more or less understood
12 that the reason these questions are coming is because
13 it's a substantial issue, okay. Not necessarily, you
14 know, in any one case, but in any of these situations
15 that have come up. I mean, you understand that, don't
16 you?

17 A. That following the --

18 Q. The potential of violating the canon.

19 A. Oh, yes, sir. Absolutely.

20 Q. And I can tell you just, you know, by way of history,
21 this has come up two other times that I can remember
22 in the time I've been here. And on each occasion, it
23 had substantial impact on the candidacy of somebody
24 who was sincerely seeking, as you are, a position
25 like this. The questions that, you know, we're

1 asking really are a necessity because, you know, we
2 certainly can't have done what we've done in the past
3 and put some type of -- at least some light on it and
4 not do it in the future because everybody has to be
5 fed out of the same spoon.

6 A. Yes, sir.

7 Q. And so let me just ask a few questions because I want
8 to satisfy my own mind. I want to satisfy the minds
9 of those around me. I understood that you kind of
10 characterize this as almost like kind of a family
11 type of gathering. Were you aware, at least as shown
12 by these pamphlets that you kindly provided to us,
13 that the theme here was, quote, soaring to the polls?
14 I mean, were you aware that's what it was being
15 advertised as?

16 A. I read that on the flyer.

17 Q. Okay. It also said your future, your choice vote.
18 So, I mean, was there any secret that this was,
19 again, something that was more or less a rally in
20 terms of trying to get people to vote? Not
21 necessarily saying who for, but to vote.

22 A. So I think that's a fair description. It's just not
23 the way that I would describe the event based on my
24 lived experience. But I understand --

25 Q. And I understand, but I mean, this is at least what

1 it was advertised as on its face based on the
2 documents you provided to us. I mean, is that an
3 honest representation of it?

4 A. Yes, sir. You're reading from the documents. Yes,
5 sir.

6 Q. When you mentioned earlier that, you know, you had
7 thought about the opinion about the person, the
8 judge, going and addressing the League of Women
9 Voters, was that something you consulted before you
10 went or after you went?

11 A. So to give you a bit of background on that.

12 Q. **SURE.**

13 A. As a public service commissioner, we're required
14 statutorily to have ethics and CJC training annually.
15 I've been doing that for about five or six years. I
16 may have missed a year by being deployed. So during
17 that time, those opinions came up. I had to go and
18 once it -- and just like the PURC opinion on the
19 website, I've read that before, which it informed my
20 thinking process. But when the question was asked to
21 me, I had to go back and look again.

22 VICE CHAIRMAN CASKEY: Mr. Williams, if I could just
23 interrupt.

24 MR. WILLIAMS. Oh, I'm sorry.

25 VICE CHAIRMAN CASKEY: Pull your microphone a little

1 closer. Thank you, sir.

2 **Q.** And I guess, you know, the thing that troubles me is
3 this, and you didn't bring this up, maybe you might
4 not even know, but I mean, apparently, at least
5 during the process, some of the speakers actually
6 were trying to somehow bring up your name and somehow
7 talk about the prior situation in terms of your
8 candidacy. Was that happening while you were there?

9 **A.** When you say --

10 **Q.** At this function.

11 **A.** Right. I'll tell you what happened from my
12 perspective.

13 **Q.** Sure.

14 **A.** When I walked in, Bakari Sellers, who I went to law
15 school with, and I know his father is a professor at
16 the University of South Carolina, so we know each
17 other. His wife is also friends with my wife. He
18 said oh, I see my good friend, Justin Williams, here
19 with his wife and his son, Luke. And then also there
20 was a friend of mine by the name of Antoine --

21 **Q.** Mr. Seawright.

22 **A.** -- Seawright, who said something to the effect of
23 that I should be a judge, or it's a shame that I'm
24 not a judge. When he said that, I really didn't know
25 what he was referencing, but I would imagine it had

1 something to do with the fact that I withdrew last
2 year.

3 Q. Right. I mean, but I don't know necessarily that you
4 were expecting that, but those things got said, at
5 least to some degree. You know, it's whatever you
6 were telling us, something along those lines.

7 A. Right. And I was not expecting that.

8 Q. Okay. And I guess let's switch gears a little bit.
9 You certainly have been serving from every
10 indication, doing a good job over there at the PSC.
11 I understand that, correct?

12 A. That's my understanding.

13 Q. All right. I mean, I guess the only thing I'm
14 concerned about is this. Maybe sometimes I may look
15 at something as abundance of caution. I just -- I'm
16 concerned because I understand the PSC rules are
17 actually as stringent, if not more so, than what we
18 ask of you is following the Canons for the judges. I
19 mean, I heard y'all are probably a little stricter on
20 yourselves.

21 A. That's my understanding. Well, PURC, yes, sir, is.
22 That's my understanding.

23 Q. Okay. I mean, was there ever any thought you saying,
24 you know, maybe I better not go do this? Or was it
25 just never something that you felt like popped in

1 **your head over it?**

2 A. Sir, I want to be as honest and sincere as I can with
3 this. I can't sit here and pretend to offer myself
4 to be a novice about the subject of political
5 activity or political gatherings. I've been trained
6 under the Hatch Act. I've been trained under the
7 CJC. I've been trained under the Ethics Act. There
8 have been events that I've decided not to go to
9 because they are what I would describe squarely fits
10 in or close to a political gathering. There is no
11 thought in my mind that this event would be
12 considered a political gathering because, one, AKA,
13 just like Kappa Alpha Psi, cannot host political
14 gatherings. There was no mention of a political
15 candidate on the flyer or at the event. And it never
16 crossed my mind that this would be construed as a
17 political gathering.

18 Q. Okay. Let me switch gears with you. You have made
19 repeated reference to a quote by Maya Angelou. And I
20 think what you said was, and I think it was very
21 telling, okay, and I believe it true. How you make
22 them feel is effectively how people perceive you.
23 Now, let's take that in the context of what we've
24 got. There are obviously some people that really
25 have glowing comments about you. Okay, you've heard

1 those. You've also heard some comments that are
2 obviously not quite as glowing.

3 A. Right.

4 Q. Taking that quote, would you, I guess, suspect that
5 maybe they came away this way? They more or less
6 perceive you as how you made them feel during an
7 encounter. Is that a fair way to kind of look at it?

8 A. So you're switching gears.

9 Q. Yes.

10 A. So we're not talking about the event anymore?

11 Q. We're not talking about the event.

12 A. Okay.

13 Q. We're talking about if we've got a ballot box, for
14 instance, that says, some people might say that
15 Justin Williams hung the moon. He is a stand-up guy,
16 top drawer all the way. We've seen those. You've
17 heard about them. We have some that have said some
18 things that maybe aren't quite as flattering. I
19 guess, would their basis of being, if we were to
20 quote the poet, that maybe they came away from some
21 experience with you, and that's how they felt?
22 That's how you made them feel during that encounter.
23 I mean, is that at least one explanation for maybe
24 why they had something bad to say, that they came
25 away feeling less than happy?

1 A. I think that's reasonable.

2 Q. And I guess the thing is this. You and I both have
3 had plenty of situations where we may have been
4 involved in a process where we didn't get what we
5 wanted, okay? And it's natural human nature to kind
6 of be less than satisfied with that. And I'm not
7 going to exclude that some of these people may have
8 had some dealings with you, probably professionally,
9 where maybe they came out on the short end. And, you
10 know, I'll be the first to say, I'm the worst loser
11 to ever live, okay? I mean, I am. But by the same
12 token, do you understand at least that maybe there
13 could have been some opportunities where people came
14 away, or maybe you did do something, not necessarily
15 intentionally, that let them feel like, hey, I'm not
16 so great in my mind that maybe this guy's going to
17 give me a fair shake if he's making a decision that
18 affects my life. I mean, that's at least one
19 explanation for these things, I'm assuming.

20 A. Well, so you're throwing a lot at me. So I want to -
21 - I want to unpack what you're saying.

22 Q. Absolutely.

23 A. Because I'm hearing a couple of things.

24 Q. Sure.

25 A. I hired an executive coach a while back just to help

1 me be a better leader. And the first meeting was an
2 hour long over Zoom and what she told me was that --
3 and this is supported by TILT analysis that I took,
4 which is a psychological behavior analysis about your
5 personality, so forth and so on. When she reviewed
6 my resume, and we had a one hour discussion, she told
7 me that, and this is the first time I've met her, she
8 told me that what I would need to work on is making
9 sure that I disarm people and I make them feel
10 comfortable because without even knowing me, just
11 looking at my resume and looking at how I
12 communicate, I come across as confident and that may
13 be construed as something else. And so that's where
14 I take the quote from, where I had to keep in mind,
15 and we're talking about, I started learning this
16 before I hired the coach. So we're talking about, I
17 believe comments that are probably from interactions
18 over a decade old, where I was just doing the job
19 without really thinking about, okay, how do I show
20 up, impact the environment around me? I've changed
21 that since then, and I do make an assertive effort to
22 disarm folks and to make sure they know that I'm not
23 trying to hurt them, that I'm not letting them know
24 what my intentions are. And what I've learned is,
25 that takes time. That may not happen in one

1 interaction. And so to the commenters that may not
2 have the best opinion of me based on what happened
3 back when, I think it's reasonable that there was
4 something in the interaction where they may have
5 thought I was more focused on results than focused on
6 people, more focused on actions than focused on
7 ideas. I think that's reasonable. Where I have to
8 push back a little bit is the idea belief that
9 someone is not going to get a fair shake.

10 Respectfully, -- respectfully, I have to push back on
11 that a little bit because I had never been more
12 fearful in my life than when I started working as a
13 prosecutor. And here's why. There is an abundant
14 amount of power and discretion with a pen as a
15 prosecutor. I was hired by someone who had a lot of
16 standards. As a new prosecutor, I met them all. I
17 documented my file. I wrote prosecution memos to get
18 approval to go to trial. I was by the book because I
19 was scared. I did not want someone to feel as if
20 that I was biased or I treated someone differently
21 than I treated someone else. And so I always had an
22 open discovery policy. If there was ever any issue
23 with discovery, I wouldn't go forward on a case. I
24 wanted to do everything and more to make sure that
25 whatever the outcome would be for a criminal trial,

1 that everyone felt like they got a fair shake. Now,
2 while someone would feel like they didn't get a fair
3 shake based on what I was trying to do, that is one
4 that I'm really not sure about. It could be a
5 difference in opinion on how I did the job, maybe a
6 difference about issues like bond, issues like
7 electronic monitoring, issues about sentencing and
8 what level of reduction should be afforded to cases.
9 The difficult part about that is every case is an
10 individual and unique case. And it's hard to compare
11 one case to another considering the intricacies and
12 the nuance involved in the different cases. But one
13 thing that's consistent is the way I went about
14 prosecuting each case and the way I went about
15 documenting the file and being able to clearly
16 articulate my reason or rationale for whatever
17 decision that I made. That doesn't mean that someone
18 would agree with it, but it does mean that I did
19 everything I could to be consistent.

20 **Q. And I will agree with you that there could be some of**
21 **these comments rooted in the past. And as you said,**
22 **people have an opportunity and an ability to change**
23 **over time.**

24 **A. Yes, sir.**

25 **Q. I know I have. And, you know, I'm sure there's**

1 situations where people can make comments that are
2 truly antiquated when you're considering kind of what
3 their base of knowledge was at the time. So I get
4 that. And I certainly think you've had that
5 opportunity to change. But I guess what we're also
6 recognizing, I think you just did, that their
7 perception could also be their reality based on those
8 situations, whether true or not, that's their
9 reality. It may not be accurate. You may say, you
10 know what, that was just a fair disagreement. But
11 that may be kind of what the motivation is for
12 somebody to say something like that. And I mean,
13 that's no slight on you. It's just -- that happens,
14 doesn't it?

15 A. Oh, absolutely, sir. I've learned that as a public
16 service commissioner going to hundreds of hours of
17 public hearings. And I, you know, some people think
18 I'm a glutton for punishment. I enjoy those
19 interactions, even though we're subject to the ire of
20 the public who believes that we just increase rates
21 at will. It's not the case. And that goes back --
22 you know, the issue of bias is a big issue that we're
23 dealing with. And the only way -- in my opinion, the
24 only way to ensure that you eliminate and root out
25 bias is by being consistent and by being able to

1 articulate a clear articulation of why you're making
2 the decision based on the facts and based on the
3 evidence. I understand that sometimes there's
4 discretion available, and I appreciate that. But if
5 every time you're making a decision based on
6 discretion or based on just how you feel and you
7 can't point to the facts or the evidence, in my mind,
8 that could possibly show or indicate some level of
9 bias. And so I'm aware of that. And I want to make
10 sure -- I mean, it would be great to be a judge, but
11 in terms of sawing the wood in front of me, I'm a
12 public service commissioner and the vice chair. I
13 want to make sure in everything that I do, and
14 hopefully I've done it here. When we leave, you have
15 no questions about how I think, how I get to my
16 position, why I get there. And again, whether you
17 agree or disagree with it, at least you have had the
18 opportunity to question me fully. And hopefully you
19 are satisfied with the answers, again, whether you
20 agree with them or not.

21 **Q. Well, and just take what you just said. It's**
22 **basically how you feel about the facts in evidence.**

23 **A. Right.**

24 **Q. All right. And I just want to make sure it's just**
25 **kind of finished. You understand that being in this**

1 position, if we just wanted something to get spit out
2 every time, we could use a machine for it, okay.
3 You're there as a human being because there's a human
4 factor about everything you would put your hands on,
5 isn't there?

6 A. I'd be hard to say that there's not a human factor --

7 Q. Okay.

8 A. -- in 100 percent of the things that I put my hands
9 on.

10 Q. Right. So I mean, you know, I think every case in
11 and of itself has its own uniqueness to it, doesn't
12 it?

13 A. Yes, sir, it does.

14 Q. All right. And so that means that in each situation,
15 that discretion that maybe you kind of talked about
16 in one way actually is a very vital aspect of any
17 decision because you have discretion to see where do
18 those facts, where does that law take me in this
19 situation as opposed to ten other ones I might have
20 heard yesterday, right?

21 A. Absolutely.

22 MR. SAFRAN: Okay. Appreciate your candor.

23 MR. WILLIAMS: Thank you, sir.

24 VICE CHAIRMAN CASKEY: Mr. Strom.

25 MR. STROM: Thank you, Mr. Vice Chairman. I just

1 want to put my position on the record. I've
2 looked at these flyers and I've looked at your
3 two legal opinions and I agree with them. I
4 don't think on its face this is political
5 activity. Does this have the possibility of
6 going sideways real fast? When you look at the
7 panel, potentially, okay? Potentially it has
8 the possibility of going sideways and turning
9 into a political event looking at the people
10 here. I'm not telling you you shouldn't have
11 gone. I have no problem with that. Just like I
12 would never and nobody on this commission would
13 ever tell you you can't go to church just
14 because somebody might get up and say something
15 that they shouldn't say potentially in church.
16 Nobody thinks you have to guard against any kind
17 of improper comments. What I worry about is
18 this. Everybody is a reporter, okay? And
19 you're in a room and you're a judge -- public
20 service commissioner, want to be a circuit judge
21 and somebody's up there making political speech.
22 You hadn't planned on that, but they got you in
23 the room or they got you being mentioned. And
24 that's a blight on the whole judiciary if that
25 happens. It didn't happen here because you told

1 us there wasn't anything like that. That's a
2 good thing. So as far as I'm concerned, this
3 issue is over. You know, I don't have any
4 problem with it. I'll say this. This is what I
5 tell my children. You find yourself and
6 everybody in this room has found themselves in a
7 position where they've walked into a room and
8 something's going on in there that you don't
9 need to be there anymore. And I tell my
10 children that's like a rattlesnake. And once
11 that rattlesnake's out, you aren't going to stay
12 in the room with the rattlesnake. And so going
13 forward, and I know you'll do this, but I just
14 encourage you to think about the rattlesnake.
15 And I encourage every judge to think about the
16 rattlesnake. If something improper starts to
17 happen, the reputation of the judiciary is on
18 your back and it's this camera that everybody
19 has that will take us all down and all the good
20 work that we try to do, you know, promoting the
21 judiciary, promoting the criminal justice
22 system, the civil justice system, you know, it
23 rides on you. So I thank you for offering. I
24 think you'll make a great judge. I don't have a
25 problem with this, but I do caution you to think

1 circuit court that you have to hear potentially or
2 other circuit court judges that you're friends with
3 or share space with. And then someone brings up, I
4 know this is a very narrow issue, but someone brings
5 up improper registration that occurred at an event
6 that you were potentially at. So again, I think this
7 political gathering, again, that's a very narrow,
8 that doesn't affect you in this particular setting,
9 but it could down the road. So perhaps that's a form
10 of caution as Mr. Strom just said. When in doubt,
11 err on the side of the broad rather than narrow would
12 be my advice.

13 A. Yes, sir.

14 REPRESENTATIVE JORDAN: Thank you.

15 MR. WILLIAMS: Thank you.

16 VICE CHAIRMAN CASKEY: Ms. Blackley.

17 EXAMINATION

18 BY MS. BLACKLEY:

19 Q. Have you ever had any conversations with any sitting
20 judges who may be a member of any fraternities or
21 sororities? Maybe not necessarily just Divine Nine,
22 but and how would -- how have they handled situations
23 like this? Because I know of at least ten people who
24 are current judges that may be affiliated with a
25 sorority or fraternity. Have you ever talked to

1 them? I know that most of these functions that put on
2 by sororities and fraternities of the Divine Nine are
3 nonpolitical or supposed to be nonpolitical, but
4 sometimes the appearance kind of goes out of the way
5 because, you know, what is what is defined as a
6 political event versus a civic event? And is
7 registering someone to vote or encouraging people to
8 vote, is that a political act or a civic act that all
9 constituents have the right to in this great United
10 States of America?

11 A. So I want to be very sensitive about this. I have
12 talked to a lot of sitting judges. And, you know,
13 there's a variety of opinions about these types of
14 things. I haven't met a judge yet that I've talked
15 to that would have considered this a political event.
16 And, you know, I didn't -- you know, why -- or
17 something like this, maybe not this particular event,
18 but something like this, a political event. There
19 have been bar events where members of the legislature
20 have attended from different sides of the aisle and
21 there's been some intense conversation and
22 discussion. Again, prayer breakfasts and veterans
23 events where similar things happen. The fraternity
24 and sorority events that I've experienced are several
25 levels below that. And so the thought is, is that is

1 a safe space to be a part of the community and not be
2 a hermit. But just because they believe that way or
3 feel that way, that doesn't mean that they're
4 necessarily right. Everyone's entitled to their
5 opinion. In terms of whether or not voting is a
6 civic act or political act, the Code of Judicial
7 Conduct specifically says that judges are not
8 prohibited, or candidates -- judges and candidates
9 are not prohibited in participating in the voting
10 process. So is that process -- you go again to
11 discretion and how you interpret that, is the voting
12 process showing up to vote or is it educating
13 yourself to vote? I don't -- before this event, I
14 never went this far down into the analysis, even
15 looking at what the canons say about voting and what
16 the judicial opinions say about judges not being a
17 hermit and not being not a part of the community in
18 which they judge. And so I think the sitting judges
19 use the advisory opinions and if they were to attend
20 an event, they would in advance get that advisory
21 opinion. Now, just because you get the advisory
22 opinion, that doesn't mean that the activity won't be
23 found outside of the lines of the CJC, but each
24 opinion says that an attempt to get the advisory
25 opinion is an assertive effort or at least a showing

1 that there was an intent to follow the law. And so I
2 think -- I think the judges that I've talked to, if
3 there are ever any questions about it or if it's too
4 close for comfort and they really want to go, they
5 would get an advisory opinion.

6 Q. Well, as I understood you earlier, if you are at an
7 event and something seems to be very political, you
8 would do what?

9 A. I would leave. I would leave without question.

10 Q. And I have witnessed --

11 A. And I'm sorry, self-report.

12 Q. Okay. I've actually been at one event where there
13 was a sitting judge there and it got political, and
14 they got up and left. Of course, you don't know what
15 someone's going to say, but once that line is
16 crossed, I would just caution you to always be
17 focused on that even going into an event, even a
18 Divine Nine event. I am not a member of Divine Nine
19 but I know a lot of people and I know a lot of people
20 are members of sororities and fraternities that are
21 not Divine Nine. And at the end of the day, they're
22 all supposed to be non-political, but just keep that
23 in mind.

24 A. Thank you, ma'am.

25 MS. BLACKLEY: I've been at a church event and it got

1 political and I got up and left because I
2 thought this is not what I'm coming to church
3 for. I don't need anybody in church to tell me
4 who to vote for. So and that's been happening a
5 lot lately. So, you know, at the end of the
6 day, you got to make a conscious effort before
7 an event to make sure that this is the right
8 place for me with what I'm trying to do
9 professionally. And I would just caution you on
10 that going forward.

11 MR. WILLIAMS: Thank you, ma'am.

12 MS. BLACKLEY: You're welcome.

13 VICE CHAIRMAN CASKEY: I'm also not a member of the
14 Divine Nine, but pretty sage advice. Does
15 anybody else have any comments or questions
16 here? Okay. Mr. Williams, let me just clarify,
17 as we ran -- wind things up here. The letter
18 that you provided from Haley Hubbard at the top,
19 there is a caption, privileged attorney/client
20 communication. Am I correct in understanding
21 you have waived that by sharing it?

22 MR. WILLIAMS: I have. I have. And I talked with
23 Ms. Hubbard. I was in the field over the
24 weekend, so I didn't have the ability to
25 communicate in real time. But she has since

1 emailed me and told me it's fine to remove --
2 for me to waive that privilege. She has no
3 issue with that. I understand that it's mine,
4 but I wanted to make sure I communicated with
5 her.

6 VICE CHAIRMAN CASKEY: Do you have any objection to
7 us including that letter as well as the
8 materials from Mr. Burns? Those materials, we
9 can include all that in the record.

10 MR. WILLIAMS: I don't. I don't want any appearance
11 that -- that would -- so that that caption at
12 the top, she offered to send me another version
13 to remove that. I don't know if you -- if we --
14 I'm just -- I don't want -- I don't want that to
15 be taken the wrong way. That the -- the
16 privilege information caption, if we include
17 that particular version, I don't want any
18 questions to arise. So I'm open to suggestions
19 how to address that.

20 MS. CRAWFORD: We can redact it or he can give us
21 another one.

22 VICE CHAIRMAN CASKEY: We can either redact that --

23 MR. WILLIAMS: That's fine.

24 VICE CHAIRMAN CASKEY: Okay.

25 MR. WILLIAMS: Yes, sir.

1 VICE CHAIRMAN CASKEY: Or you can provide us with a
2 clean copy. Either way, we're happy to include
3 that in the record as it is --

4 MR. WILLIAMS: I'm fine with redacting.

5 VICE CHAIRMAN CASKEY: Okay. All right. Then again,
6 I want to thank you for your service to our
7 state and to our country. Thank you for offering
8 here for judicial service. This will conclude
9 this portion of the screening process. And then
10 as required by contract, I'm required to remind
11 you that I must take this opportunity to remind
12 you that pursuant to the Commission's evaluative
13 criteria, the Commission expects you to follow
14 the spirit as well as the letter of the ethics
15 laws. And that we will view any violation or
16 appearance of impropriety as deserving of very
17 heavy weight in our screening deliberations. On
18 that note, and as you know, the record will
19 remain open until the formal release of
20 qualifications and that you may be called back
21 should that need arise. Do you understand all
22 that?

23 MR. WILLIAMS: Fully, sir.

24 VICE CHAIRMAN CASKEY: All right. With that, sir,
25 that will conclude this hearing. I certainly

1 appreciate your time in being here, as well as
2 that of your family, Mrs. Williams and Mr.
3 Williams. I don't know who has better hair, but
4 nonetheless, glad to see you both here today. I
5 wish you well as you travel home. Hope you get
6 well soon.

7 MR. WILLIAMS: Thank you. Thank you.

8 (Off the Record)

9 CHAIRMAN RANKIN: I will call the next candidate, Mr.
10 Witherspoon, and then we'll break for lunch.
11 Judge, welcome.

12 MR. WITHERSPOON: It's William.

13 CHAIRMAN RANKIN: Well, yeah. Attorney Judge.

14 MR. WITHERSPOON: Just William, sir.

15 CHAIRMAN RANKIN: Will you raise your right hand,
16 please?

17 WHEREUPON:

18 WILLIAM WITHERSPOON, being duly sworn and
19 cautioned to speak the truth, the whole truth
20 and nothing but the truth, testifies as follows:

21

22 CHAIRMAN RANKIN: Mr. Witherspoon, thank you. You
23 have documents there, PDQ and the sworn
24 statement. Are those ready to be introduced in
25 the record?

1 MR. WITHERSPOON: They are.

2 CHAIRMAN RANKIN: If you'll hand those to Ms. Putnam,
3 we will put them in. No objections by you?

4 MR. WITHERSPOON: None.

5 (EXHIBIT NO. 10 MARKED FOR
6 IDENTIFICATION PURPOSES (17
7 pages) PDQ)

8 (EXHIBIT NO. 11 MARKED FOR
9 IDENTIFICATION PURPOSES (1 pages)
10 Amendment)

11 (EXHIBIT NO. 12 MARKED FOR
12 IDENTIFICATION PURPOSES (12
13 pages) Sworn Statement)

14 CHAIRMAN RANKIN: Mr. Witherspoon, you know our role
15 here and the process by which we vet your
16 candidacy, focusing on the nine evaluative
17 criteria, which includes a ballot box survey, a
18 thorough study of your application materials,
19 verification of your compliance with the state
20 ethics law, search of newspaper articles in
21 which your name appears, study of previous
22 screenings, and a check for economic conflicts
23 of interest. No affidavits have been filed in
24 opposition to your candidacy. No witnesses are
25 here to testify unless there's someone that you

1 brought that I didn't notice coming in.

2 MR. WITHERSPOON: I do not. My wife, unfortunately,
3 is having some health issues, so she's not here.

4 CHAIRMAN RANKIN: Okay, very good. And so, again, as
5 you know, you have the opportunity to make an
6 ever so brief opening statement. If you choose
7 not to, you have the opportunity to make a
8 closing statement if you choose to. You have
9 the floor or I'll turn it over to Ms. Wilkinson
10 for questions. How do you want to proceed?

11 MR. WITHERSPOON: Thank you for your opportunity to
12 be here, and I will waive opening statements.

13 CHAIRMAN RANKIN: Very good. Thank you, Sharon --
14 Ms. Wilkinson.

15 MS. WILKINSON: Thank you, Mr. Chairman. I note for
16 the record that based on the testimony contained
17 in Mr. Witherspoon's PDQ, which has been
18 included in the record with his consent, Mr.
19 Witherspoon meets the constitutional and
20 statutory requirements for this position
21 regarding age, residence, and years of practice.

22 EXAMINATION

23 MS. WILKINSON:

24 **Q. Mr. Witherspoon, how do you feel your legal and**
25 **professional experience thus far renders you**

1 qualified to serve as an effective circuit court
2 judge?

3 A. I think I have -- from the documents I submitted, I
4 have a very extensive background, legal background,
5 having served with two judges who I very much admire,
6 my legal education, my trial experience in the U.S.
7 Attorney's Office, my experience in private practice,
8 doing civil work and administrative work. I think
9 all of that together makes me a well-rounded
10 candidate.

11 Q. Mr. Witherspoon, the commission received 300 ballot
12 box surveys regarding you with 51 additional
13 comments. The ballot box survey, for example,
14 contained the following positive comments. He is a
15 good and honorable man with a servant's heart. He
16 has also served our profession as president of the
17 South Carolina Bar. He would be a fantastic judge
18 and no doubt should be nominated for election. Mr.
19 Witherspoon is fair minded and a man of excellent
20 character. As opposing counsel, I know that his word
21 is his bond. He'd be an excellent judge. William
22 Witherspoon will make an excellent judge. He has the
23 requisite temperament, knowledge, and character for
24 the bench and is well respected within the
25 profession. He's also committed himself to public

1 service throughout his career and truly cares about
2 the community he serves. I hope the Commission will
3 give his candidacy the utmost consideration and
4 afford him the opportunity to serve on the judiciary.
5 Ten of the written comments did express concerns and
6 there was a pattern of concerns that focused on two
7 areas, demeanor and temperament and lack of state
8 court experience. Mr. Witherspoon, some of the words
9 used regarding your temperament were ill-tempered and
10 dismissive. How do you respond to those concerns?

11 A. It's hard to respond without knowing some of the
12 context. But I will say this. You know, as a
13 prosecutor, we are -- I am in an adversarial
14 situation. Temperament as an advocate would be -- my
15 temperament as an advocate would be totally different
16 than as a sitting judge. As an advocate, there are
17 people sometimes who are angered because of positions
18 I take in the cases. But that's just because they
19 may not like the potential plea offer that I have
20 made to them or their client. I think if you look in
21 the whole body of work, it disavows that. I think
22 you said there were 51 comments. I don't know how
23 many comments were in that same vein, but at least
24 three fourths of those comments were just the
25 opposite. I think as a prosecutor, I have an

1 opportunity to talk with and meet with defendants and
2 their lawyers. I will submit that all those
3 comments, the positive comments, I think override
4 that. I would also submit that the five letters of
5 references were from criminal defense attorneys who I
6 contend say just the opposite. I think you all have
7 those letters and those letters clearly say just the
8 opposite. I don't know how to respond to that. It
9 concerns me, but I do the very best that I can in a
10 very adversarial situation.

11 **Q. How would you respond to the concerns regarding your**
12 **lack of state court experience?**

13 A. I have state court experience. It's just the last
14 few years of my practice has been in Federal court.
15 I started out clerking for two judges. I was in a
16 private firm, small, medium sized firm here in
17 Columbia doing plaintiff's work, doing criminal
18 defense, doing administrative work. So I have some
19 civil experience. I will say, however, having been
20 in federal court, trying cases is what I do very
21 often. The Rules of Evidence in civil and criminal
22 court and state and federal court, the Rules of
23 Evidence are primarily the same. And so I'm able to
24 use those Rules of Evidence. As far as not actually
25 practicing, I have also gone and watched civil

1 matters in Federal court. I've also gone and
2 listened to webinars on civil issues. I've also kept
3 abreast of the advance sheets and all those things, I
4 think, help in that regards. If there's a weakness,
5 then there's a weakness that I can work on by
6 actually being prepared, studying, burning the
7 midnight oil. Same things I've done in Federal
8 court. I may not be the smartest lawyer, but
9 nobody's going to outwork me when it's time to get
10 the job done.

11 MS. WILKINSON: Regarding the Citizens Committee
12 report, I would note that the Midland Citizens
13 Committee reported that Mr. Witherspoon is
14 qualified in constitutional qualifications,
15 physical health and mental stability. They
16 further reported that Mr. Witherspoon is well
17 qualified in ethical fitness, professional and
18 academic ability, character, reputation,
19 experience and judicial temperament.
20 Additionally, the committee commented in their
21 summary that Mr. Witherspoon was quote, unquote
22 well qualified.

23 **Q. Mr. Witherspoon, I do have a few housekeeping issues**
24 **to go over with you. Are you aware that as a**
25 **judicial candidate, you are bound by the Code of**

1 Judicial Conduct as found in Rule 501 of the South
2 Carolina Appellate Court Rules?

3 A. I am.

4 Q. Since submitting your letter of intent, have you
5 contacted any members of the Commission about your
6 candidacy?

7 A. I have not.

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

12 A. I have not.

13 Q. Are you familiar with section 2-19-70 including the
14 limitations on contacting members of the General
15 Assembly regarding your screening?

16 A. I am.

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

21 A. I am not.

22 Q. Have you reviewed and do you understand the
23 Commission's guidelines on pledging in South Carolina
24 Code section 2-19-70E?

25 A. I am.

1 MS. WILKINSON: Mr. Chairman, I would note for the
2 record that any concerns raised during this
3 investigation by staff on Mr. Witherspoon were
4 incorporated into the questioning of him today
5 and I have no further questions.

6 VICE CHAIRMAN CASKEY: Thank you, ma'am. Mr. Strom.

7 MR. STROM: Thank you, Mr. Chairman -- Mr. Vice
8 Chairman. Members of the commission, I will
9 tell you, I've known Mr. Witherspoon more than
10 30 years. We've worked together in the U.S.
11 Attorney's Office. I've worked with him in the
12 United States Attorney's Office and had cases
13 with him since then. Yeah, he's an outstanding
14 lawyer. He's ethical. He's hardworking. He's
15 pretty smart. I don't have any concern about
16 him picking up the civil side of the work.
17 Anybody who has concern about being able to
18 practice in state court after having his
19 experience in federal court is just wrong. If
20 you can do the federal court work, certainly you
21 can do the state court work. I think you're
22 very well qualified to be a circuit judge.

23 MR. WITHERSPOON: Thank you very much.

24 MR. STROM: Thank you, Mr. Vice Chairman.

25 VICE CHAIRMAN CASKEY: Thank you, sir. Do other

1 members of the commission have any questions or
2 comments for Mr. Witherspoon? Representative Jordan.

3 REPRESENTATIVE JORDAN: Briefly, Mr. Vice Chair.

4 Thank you very much for offering to serve.

5 MR. WITHERSPOON: Thank you, sir, for serving.

6 EXAMINATION

7 BY REPRESENTATIVE JORDAN:

8 Q. Just a couple questions. I don't dispute or doubt
9 that you would have any issue going from the federal
10 side to the state side, but I think it would require
11 some change in process on how you go from evaluating
12 on the federal side. I do a fair amount of federal
13 work, much different caseload. I would guess that
14 you would have to deal with the volume. You'd agree
15 with that, correct?

16 A. That's correct.

17 Q. And in doing that, I would hope there'd be a
18 recognition in that when you deal with lawyers as
19 you're going to have a heavy say in the docket and
20 how the cases get moved, you'd recognize that they
21 have a lot of cases going on too, as opposed to some
22 that might just be in federal practice, the volume of
23 cases. Is that a fair --

24 A. That's fair, yes.

25 Q. So I guess what I'm driving at and asking at is, how

1 would you make that transition especially when you're
2 dealing with the volume and working with lawyers and
3 court staff that have to deal with a tremendous
4 amount of cases and taking into consideration that
5 they also have personal lives and those kind of
6 things? How would you go about transitioning from
7 very different -- again, no concerns of your ability
8 to adapt and to do the work. It's just how would you
9 bridge that -- bridge that gap?

10 A. As I told you earlier, my wife has some health issues
11 and I've had to deal with those health issues. Being
12 a lawyer -- going to law school -- I say this all the
13 time. Going to law school, nobody ever told you how
14 hard this is to be a lawyer. I remember watching TV
15 shows and thought this was -- this was easy. But
16 lawyers and you, the members of the General Assembly,
17 you guys have three jobs. You have your family life,
18 you have your law practice, and you have your
19 practice here. It's not easy balancing all of those.
20 As a judge, you have to recognize that lawyers have
21 families and have issues. My son played soccer, so
22 there would be time that I have to leave work early
23 to go play soccer -- for soccer matches. My daughter
24 was in the band and all that. And you have all that.
25 So as a judge, I think you have to realize that that

1 is part of the life of a lawyer. And you have to
2 very -- balance all of that with making sure that the
3 court is running smoothly and properly. Taking into
4 consideration, a lawyer has to be, you know, what is
5 to say, wherever he or she needs to be outside the
6 practice, not only in the courtroom, but you've got
7 to run your office practice each and every day.
8 You're the chairman of that law practice, and you
9 have to be lawyer. Judges have to be aware of that
10 and give you the opportunity to do that. In Federal
11 court, lawyers come to me all the time and ask for
12 continuances. And my standard response is you don't
13 have to ask. If you need to continuance just say
14 William consents because you have other obligations
15 to deal with. And so I recognize that. And I think
16 Supreme Court has recognized that by giving the two
17 weeks that you can schedule and that no court can
18 call you into court. But by the same token, you
19 know, you can't abuse that process either because the
20 court does have to run smoothly to make sure that the
21 cases are taken care of.

22 VICE CHAIRMAN CASKEY: Any other questions or
23 comments? All right, Mr. William -- well,
24 excuse me.

25 MR. WITHERSPOON: Please call me William. I keep

1 telling people Mr. Witherspoon is my dad. I'm
2 just William.

3 VICE CHAIRMAN CASKEY: Well, William, Mr. Witherspoon,
4 I do want to thank you for your service to our
5 state and to our country. Thank you for
6 offering for service on the judiciary. We have
7 reached the conclusion of this part of our
8 hearing. I need to take this opportunity to
9 remind you, though, that pursuant to the
10 Commission's evaluative criteria, the Commission
11 expects candidates to follow the letter as well
12 as the spirit of the law and know that we will
13 view any violation or appearance of impropriety
14 as deserving of potentially very heavy weight
15 during our screening deliberations. On that
16 note, and as you know, the record will remain
17 open until the release of the final
18 qualifications report and that you may be called
19 back at such time if the need were to arise. Do
20 you understand all that?

21 MR. WITHERSPOON: Yes, sir.

22 VICE CHAIRMAN CASKEY: All right. Again, then, sir, I
23 will thank you for your time. Thank you for
24 being here. I appreciate your flexibility.

25 MR. WITHERSPOON: Yes, sir.

1 VICE CHAIRMAN CASKEY: I wish you all the best as you
2 travel home very safely.

3 MR. WITHERSPOON: Thank you.

4 VICE CHAIRMAN CASKEY: Now on motion of Representative
5 Jordan to go into executive session to receive a
6 legal briefing, seconded by Senior
7 Representative Rutherford, all in favor, signify
8 by saying aye. Aye. All opposed, nays. The
9 ayes have it. We will be in an executive
10 session. Thank you all.

11 (EXECUTIVE SESSION WAS HELD FROM 1:35 TO 2:27 PM)

12 (Off the Record)

13 (Redacted)

14 (Off the Record)

15 CHAIRMAN RANKIN: Judge, welcome.

16 JUDGE GRAHAM: Mr. Chairman, how are you?

17 CHAIRMAN RANKIN: Very good, thank you. Raise your
18 right hand if you will.

19 WHEREUPON:

20 DAVID SHAWN GRAHAM, being duly sworn and
21 cautioned to speak the truth, the whole truth
22 and nothing but the truth, testifies as follows:

23 CHAIRMAN RANKIN: Put your name on the record for us,
24 please.

25 JUDGE GRAHAM: David Shawn Graham.

1 CHAIRMAN RANKIN: And you have before you your PDQ and
2 sworn statement; is that correct?

3 JUDGE GRAHAM: That's correct. It's marked as
4 Exhibit 16.

5 CHAIRMAN RANKIN: Very good. No objection to it being
6 included in the record?

7 JUDGE GRAHAM: Not at all.

8 (EXHIBIT NO. 16 MARKED FOR
9 IDENTIFICATION PURPOSES (17
10 pages) PDQ)

11 (EXHIBIT NO. 17 MARKED FOR
12 IDENTIFICATION PURPOSES (6 pages)
13 Sworn Statement)

14 CHAIRMAN RANKIN: Very well. This, as you know, is
15 your first foray, I believe, in JMSC; is that
16 correct? Forgive me -- you know it well.

17 JUDGE GRAHAM: It's been -- it was years ago, but
18 yes.

19 CHAIRMAN RANKIN: Thank you for -- and you are serving
20 as a judge now, correctly --

21 JUDGE GRAHAM: Municipal judge for the Town of
22 Lexington and also an assistant drug court judge
23 for the 11th Circuit.

24 CHAIRMAN RANKIN: Super. You're familiar with this
25 process by which we vet your candidacy and the

1 nine evaluative criteria that we focus on,
2 including the ballot box survey, thorough study
3 of your application materials, verification of
4 your compliance with the state ethics laws,
5 search of newspaper articles in which your name
6 appears, study of that prior screening, and the
7 finally, a check for economic conflicts of
8 interest. No affidavits have been filed in
9 opposition for your candidacy, no witnesses are
10 here to testify against you in that vein. Did
11 you bring anyone with you that you'd like to
12 introduce?

13 JUDGE GRAHAM: No, I did not.

14 CHAIRMAN RANKIN: Very well, Judge. You have the
15 opportunity to make a brief opening statement,
16 if you'd like, or dispense with that. And Trey
17 Wolpole will lead the initial round of questions
18 and then --

19 JUDGE GRAHAM: I'm fine with waiving that and going
20 to questions. And then if -- if it's all right,
21 if there's something that I feel like I need to
22 add at the end --

23 CHAIRMAN RANKIN: Certainly.

24 JUDGE GRAHAM: -- I'll do that. That'll help you all
25 speed along.

1 CHAIRMAN RANKIN: Very good. Not to hurry you up, but
2 you can make a closing statement as well. So --

3 JUDGE GRAHAM: Thank you.

4 CHAIRMAN RANKIN: So with that, Mr. Walpole --
5 pronounce it.

6 MR. WALPOLE: A wall and a pole --

7 CHAIRMAN RANKIN: Thank you.

8 MR. WALPOLE: -- Walpole.

9 CHAIRMAN RANKIN: -- wall and a pole -- will be asking
10 you questions without the and.

11 MR. WALPOLE: Thank you, Mr. Chairman. Judge, good
12 afternoon.

13 JUDGE GRAHAM: Good afternoon.

14 MR. WALPOLE: I note, for the record, that based on
15 the testimony contained in the candidate's PDQ,
16 which has been included in the record with the
17 candidate's consent, the Honorable David Shawn
18 Graham meets the constitutional and statutory
19 requirements for this position regarding age,
20 residence and years of practice.

21 EXAMINATION

22 BY MR. WALPOLE:

23 **Q. Judge Graham, how do you feel your legal and**
24 **professional experience thus far renders you**
25 **qualified and will assist you to be an effective**

1 **circuit court judge?**

2 A. So I've been an attorney for 28 years, I believe,
3 right now, in October. I was an assistant solicitor
4 and deputy solicitor for 25-plus of those years. A
5 lot of that practice was a trial practice. So I
6 think, as far as criminal I'm -- understand the law
7 and know how trial court works. I think, like all
8 attorneys, that we're probably all smart enough to be
9 judges. Obviously, we can -- you know, am I light
10 on civil experience? There's no question that I am.
11 And I can talk about my civil experience, if you'd
12 like, or we can do that later, or however you want to
13 handle it.

14 **Q. We'll address that, I guess, in a little bit now --**

15 A. Okay.

16 **Q. -- when there's an opening.**

17 A. But I feel like I've had a lot of trial experience.
18 So as far as my experience, I think that a trial
19 circuit court judge should be somebody with a lot of
20 trial experience. You know, I can go on about
21 demeanor and other things as well, but I figure we'll
22 get that at different point as well.

23 **Q. Yes, sir. Thank you, Judge. Judge Graham, the**
24 **Commission received 154 ballot box surveys regarding**
25 **you with 31 additional comments. The ballot box**

1 survey, for example, contained the following positive
2 comments: Graham is fair, ethical, smart and open to
3 learning. He would be an excellent jurist. Shawn's
4 experience, intelligence, and particularly, his
5 temperament, are ideal for a position as circuit
6 court judge, and was an excellent deputy solicitor
7 trial lawyer in Lexington with the highest ethics and
8 great temperament. Five of the written comments
9 expressed concerns, four of the comments raised
10 concerns with your civil experience. Judge Graham,
11 as to your civil experience, would you like to offer
12 a response to those concerns?

13 A. Sure. I think they're a valid point to bring up.
14 You know, in a perfect world, you would have somebody
15 that has a great amount of criminal, a great amount
16 of civil, he's got all the other categories you're
17 looking for, the right demeanor, the right character
18 and everything like that. I think probably the most
19 obvious place, and those comments are on point, is my
20 lack of civil. I will point out that of the 30-some
21 other or 27 other comments, people who know me well
22 and worked with me, they had no concern about my lack
23 of civil experience. So I would point that out for
24 the Commission. Since I've left the solicitor's
25 office and gone into private practice, I practice in

1 probate court, I practice in family court and civil
2 court as well. I have taken a lot of CLEs and will
3 continue to take CLEs to pick up on my experience. I
4 think I've attended -- either attended or watched
5 online -- four just within the last six months. And
6 then I've been attending motion hearings the resident
7 judges are putting on in Lexington, and that would be
8 Judge McCaslin and Judge McLeod. I've attended four
9 motions hearings, watching them. I've seen a bench
10 trial, watching them, and I will continue doing that.
11 So I'm open to learn. I know that I have a lot to
12 learn. The Rules of Evidence between the two are the
13 same. The trial experience, I think if -- my thought
14 on this is it's not just whether you have civil or
15 criminal. It's really whether you have civil and
16 criminal in trial. So I have criminal -- you know,
17 most of the -- most criminal cases are handled by
18 pleas. And then you have trials to handle the ones
19 that can't be tried. In civil court, you're going to
20 have alternative dispute resolution, you're going to
21 have other avenues like that, and you're going to
22 have motion hearings. Most of them are handled in
23 motion hearings, and then the ones that can't go to
24 trial. So as far as trial, I have a lot of trial
25 experience. I'm good in the courtroom. I'm good on

1 my feet. I understand how the law works. If you
2 look at -- you know, as a solicitor, I could brag
3 about how many convictions I've got. The truth is I
4 should go -- I get to pick the cases I want. So
5 that's not really, you know, the point of saying
6 that. But what I would want to draw attention to is
7 that I haven't had many cases overturned. I've
8 worked on, death penalty cases where I was assisting
9 an elected, so I won't count those, because a lot of
10 those get overturned. But I think the cases -- the
11 rest of the cases that I've tried, I think there's
12 only three of them that have been overturned. And
13 that was -- you know, one would've been, I guess, my
14 mistake for asking the witness a question that I
15 shouldn't have about qualifications. The others
16 would've been really errors on the judge who did it.
17 So I think that that shows the I understand the law
18 and know the law. And I think that's one of the
19 things that actually would make me a good judge, is
20 that, you know, I can learn the law, people can tell
21 me what the law is, and then I can apply the law.
22 Talking to the clerk of courts in the circuit, it
23 seems like about two to one, as far as trials, that
24 are criminal. So there are more criminal trials than
25 civil trials. I guess, that's where I'm at right

1 now.

2 MR. WALPOLE: Thank you, Judge Graham. I would note
3 that the Midlands Citizens Committee reported
4 that Judge Newman is qualified in the evaluative
5 criteria of constitutional qualifications,
6 physical health, mental stability and
7 experience, and well qualified in the evaluative
8 criteria of ethical fitness, professional and
9 academic ability, character, reputation and
10 judicial temperament. The Committee stated, and
11 I quote: Civil experience lacking, but he's
12 working on it. Big improvement in judicial
13 temperament.

14 Q. Judge Graham, just a few housekeeping issues. Judge
15 Graham, are you aware that as a judicial candidate,
16 you are bound by the Code of Judicial Conduct as
17 found in Rule 501 of the South Carolina Appellate
18 Court Rules?

19 A. Yes.

20 Q. Since submitting your Letter of Intent, have you
21 contacted any members of the Commission about your
22 candidacy?

23 A. No.

24 Q. Since submitting your Letter of Intent, have you
25 sought or received a pledge of any legislator either

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

3 A. No.

4 Q. Are you familiar with Section 2-19-70, including the
5 limitations on contacting members of the general
6 assembly regarding your screening?

7 A. I am.

8 Q. Have you asked any third parties to contact members
9 of the general assembly on your behalf, or are you
10 aware of anyone attempting to intervene in this
11 process on your behalf?

12 A. No.

13 Q. Have you reviewed and do you understand the
14 Commission's guidelines on pledging in South Carolina
15 Code Section 2-19-70(e)?

16 A. Yes.

17 MR. WALPOLE: Mr. Chairman, I would not, for the
18 record, that any concerns raised during the
19 investigation by staff regarding the candidate
20 were incorporated into the questioning of the
21 candidate today. I have no further questions.

22 CHAIRMAN RANKIN: Okay. Thank you. Questions by
23 members of the Commission? Senator Sabb.

24 SENATOR SABB: Thank you, Mr. Chairman.

25 EXAMINATION

1 BY SENATOR SABB:

2 Q. Thank you, Mr. Graham. I paid attention to, well,
3 everything, but my attention was drawn to a comment
4 you made about, as a solicitor, being able to choose
5 your cases and being able to get convictions. And I
6 noted, in the cases that you listed, all of them were
7 convictions. I need to know a little bit about your
8 prosecutorial philosophy.

9 A. What would you like me -- so I'll start talking and
10 you correct me if I go down the wrong path.

11 Q. All right. You know, as a prosecutor, it was always
12 my belief and the way I operated to do justice. I
13 had the ability, when cases came in, to decide what
14 should happen. You know, first is, is the case --
15 does it deserve to be brought, should it be brought,
16 is it strong enough to be brought, you know, because
17 as a prosecutor, I wasn't a probable cause
18 prosecutor, I was a reasonable doubt. Cases don't go
19 forward --- they don't go to trial unless there's
20 reasonable doubt. You know, it's -- I don't lightly
21 take away people's rights. It's -- it is a big
22 thing, and I understand that. As a prosecutor, I
23 understood that, and I believe that, and I preach
24 that to younger lawyers. So --

25 Q. I'll just stop you there.

1 A. Sure.

2 Q. Because I prosecuted for 20 years. And I really
3 needed to hear you say that. Quick story. So my law
4 partner was Clifton Newman, and so when he first
5 started practicing law, he was a defense lawyer and
6 he tried a case against then Solicitor Wade Kolb, and
7 was successful. And so then Wade approached him
8 about hiring him, because he liked his skillset.
9 Judge Newman's response was, Well, no, I'm committed
10 to the little guy and making sure that he or she gets
11 a fair shake and a fair trial and they deserve good,
12 competent lawyers. And the response that Solicitor
13 Kolb gave to him was the reason why he became the
14 assistant solicitor. And the response was, Well,
15 look, Clifton, if a person is charged wrongfully and
16 he's before you, you got to fight like the dickens.
17 But if you're the prosecutor and you know it's not a
18 good case, you've got the power of the pen to
19 administer justice. And so I've just always viewed
20 that as being the role and the philosophy of a
21 prosecutor. And so --

22 A. I agree.

23 Q. -- frankly, had I not gotten that response, I
24 would've been disappointed and everything else. But
25 you hit the nail on the head.

1 A. I've got a -- so I have a couple of anecdotes, I
2 guess, I'd like to share, because I think it's I
3 think a fair concern or somebody might think, He's
4 been a prosecutor, so he's biased, you know, He
5 doesn't believe what you just said. And I guess a
6 couple of things that I would share is, you know, as
7 I became deputy solicitor, you get calls from law
8 enforcement, you get cases, you're communicating with
9 them about cases. I remember one of my -- in the
10 last couple of years, there had been a double
11 homicide in Cayce. They made -- they made arrests.
12 The case came, I reviewed it, and I sent it back,
13 because it wasn't there. I know that -- I know, as
14 far as pressure, I'm sure that the department and the
15 chief wanted to make an arrest, but the evidence
16 wasn't there, and it wasn't the right thing to do.
17 So with the stroke of my pen, I sent it back. And
18 they weren't -- they weren't happy. You know, they
19 wanted us to just take what they gave them and go
20 forward with it, even if we lost. But that's not the
21 way that's supposed to work.

22 **Q. I totally agree.**

23 A. Years ago -- so the -- if you can tell from my
24 career, if you stay as a solicitor, you get more and
25 more serious cases. So the last 12, 15 years, I was

1 homicide cases. If you go back before then, I
2 handled a bunch of other cases. One of the cases I
3 had was two brothers who were accused of a home
4 invasion with an elderly woman. They were Colvin and
5 Calvin Washington, they were twins. And the defense
6 attorneys were telling me, you know, Shawn, they did
7 not do that. That isn't something, honestly, defense
8 attorneys say a whole lot. They don't really,
9 honestly, put themselves out there and tell you that.
10 So I -- you know, the case had come, I was working on
11 getting indictments. We started digging deeper.
12 Listened to a 911 call, found out that the actual
13 call came in from, like, a Medic Alert where she had
14 fallen -- you know, I've fallen and I can't get up.
15 So she had pushed her Medic Alert. Well, we got
16 that. And what I heard on the Medical Alert was she
17 was yelling at her own grandson, because her grandson
18 is the one who assaulted her and pushed her down. So
19 she lied about what happened when the police got
20 there and had two innocent young men who lived across
21 the street, which I guess, she had some kind of issue
22 with. So you know, not accepting what law
23 enforcement does, trying to do the right thing,
24 investigating, I dismissed those charges and let them
25 out of jail. The other thing I would share is my

1 first bench trial with the Town of Lexington, it was
2 a speeding ticket and I had an elderly couple, the
3 husband was driving, the wife was a passenger. And
4 he said to the Court, you know, I want a bench trial.
5 I wasn't speeding. I've never had a ticket before in
6 my life. I don't speed. And so everybody went under
7 oath, the officer testified, and I asked the officer,
8 you know, Have you -- Did you run his record? He
9 said that he doesn't have a record. I'd like to know
10 whether he's telling the truth. And he said, no, I
11 haven't. And then I said is there any video, you
12 know, because video would show cars going by and
13 speeding. When you went up to the window, it would
14 show maybe what they said to you. And the response I
15 got was that, This case isn't important enough. And
16 so that was a not guilty. So I -- I guess, I say
17 those just to say that any concern -- I think I was a
18 good prosecutor. I think I am the kind of person you
19 want as a prosecutor.

20 **Q. Well, you know, I'm impressed, because of how quickly**
21 **you were able to go to those instances. And then,**
22 **frankly, I can recount some very similar kinds of**
23 **things, and so I firmly believe that what you're**
24 **telling us is how you've been, which is what I**
25 **believe good prosecutors are called upon to do. So**

1 that you're acting as a judge in drug court. Tell us
2 about how that's going in -- is it Lexington County?
3 What county?

4 A. It's for the circuit. But yes, right now, the drug
5 court is only happening in Lexington County. I
6 really enjoy it. As I kind of mentioned earlier, is
7 I -- when you get to the point, as a solicitor or
8 assistant solicitor or deputy solicitor, that you're
9 only prosecuting murder cases, you know, it's kind of
10 a dim world. You can't do anything to help people.
11 You don't see -- what you see is bad things that
12 people did. When I had the opportunity to go in drug
13 court, I had told the solicitor if that opportunity
14 comes up, I'd always wanted to be part of that. And
15 one of my good friends is actually the national
16 director for All Rise, who is -- gives the training
17 for drug court. But what -- Judge McLeod is the
18 judge. I'm the assistant judge. So basically,
19 anytime he's unable to, can't, then I actually sit on
20 the bench. I'm always there for drug court. I'm
21 always there for the staffing meetings on people.
22 And the thing that it's -- that is so nice is being
23 able to be just a small part. Because we don't do
24 the work. All we do really is hold people
25 accountable and celebrate their successes and

1 encourage them. But to see the pictures of people
2 who came in, you know, because they're there because
3 of their drug addiction, whatever the crime they've
4 committed, it's been determined that the reason they
5 committed those crimes is because of an addiction.
6 And you're seeing their booking photos. I get to see
7 their booking photos. I get to see them when they
8 first come in for an observation period, and people
9 look rough. To get to the point where, you know,
10 they're committing crimes because of an addiction
11 and, you know, getting caught, they're at a bad place
12 in their life. And to be part of that and watch them
13 change and go through the phases -- there's three
14 phases, the one, two and three, and to see them
15 graduate, you get to -- you get to be part of that.
16 And it's not easy. I mean, it's a year-and-a-half,
17 two-year commitment. And like I said, they are the
18 ones doing the work. You know, we can hold their
19 feet to the fire, we can give them sanctions, we can
20 give them more counseling when things go wrong for
21 them, they're expected to go wrong, because addiction
22 is a -- it's a disease and it doesn't -- they
23 shouldn't be in there if it's easy for them. But the
24 things, I guess, I've noticed most is that we get to
25 celebrate things that, you know, you and I take for

1 granted that you've got a family around you on a
2 birthday. One of them was talking about the first
3 time they'd ever had really a family Christmas, and
4 that's a big deal. You also see people who are
5 reunifying -- you know, fathers who are reunifying
6 with their children who, because of their addiction,
7 they got cut out of their lives, and they're getting
8 to repair and rebuild those. You're seeing people
9 who lost their driver's license, are able to work and
10 get their driver's license back, who haven't had a
11 good job, who are able now to hold jobs, who -- I
12 guess, anything that you can think about that's good,
13 we get to see that and we get to celebrate with them.
14 So I've just thoroughly enjoyed being part of that.
15 I think it's a great program.

16 **Q. We've had several judges who have talked about -- and**
17 **I've come to this conclusion that probably 80, 90**
18 **percent of all crime has something to do with**
19 **alcohol, drugs, or in some combination. And it seems**
20 **to me we're catching them on the backends and now,**
21 **we've got to work towards catching them on the front**
22 **end. But at least, we're catching some of them on**
23 **the back end and giving them an opportunity to try to**
24 **clean up their lives and forget -- you know, as long**
25 **as they're victimless crimes nn most -- in those**

1 circumstances. We don't do that very often with
2 victim crimes, but some victimless crimes and
3 circumstances.

4 A. Knowing -- I didn't mean to cut you off, Senator.

5 Q. **At least, that's been my experience in the 8th**
6 **judicial circuit --**

7 A. In mine as well.

8 Q. **-- with Judge --**

9 A. I know different programs and different places handle
10 their screening process and who comes in different.
11 In Lexington, it's basically a plea only. So it is
12 people who would be -- I mean, they have a suspended
13 sentence over their head. So the -- I think that the
14 -- that's the model that's preferred by the drug
15 court, from their studies, is those are the people
16 who, I guess, the -- you know, they know what's going
17 to happen if they can't complete this. So the
18 incentive for them to complete it and do this
19 successfully is very great.

20 Q. **Well, thank you very much. I think that's as good a**
21 **public service as anybody can do in the practice of**
22 **law, maybe other than being a Guardian Ad Litem for**
23 **children.**

24 A. Thank you very much.

25 CHAIRMAN RANKIN: Senator Strom.

1 SENATOR STROM: Thank you, Mr. Chairman

2 EXAMINATION

3 BY MR. STROM:

4 Q. Judge, I join Representative Caskey and looking at
5 your letters, Lee Leventis gave me my first job out
6 of the solicitor's office and I've had the benefits
7 to try a lot of cases with Jack Swerling as a young
8 lawyer, two of the most ethical people I know. And
9 then your answers to Senator Saab and Senator Garrett
10 show me that you've got a heart. You obviously have
11 the temperament that -- you've shown us something
12 different that we don't see every day. I've been
13 doing this a long time. Some people get callous
14 about it, some people care, and I think you care.

15 A. I care.

16 MR. STROM: Thank you.

17 CHAIRMAN RANKIN: Any other comments?

18 EXAMINATION

19 BY CHAIRMAN RANKIN:

20 Q. I am impressed too. And Judge Graham, I'm looking
21 through your -- both attributes Representative Caskey
22 gave you from the ballot box surveys, in addition
23 to these letters of reference, from folks that would
24 not maybe necessarily want to say nice things about
25 you if it weren't so. Lee Leventis ran for congress

1 when I was in undergraduate school and I met him at
2 the Lizard's -- no, at the Winner's Circle.

3 A. Yes.

4 Q. There are three people in here that know what I'm
5 talking about that they're family ran. And didn't
6 know me from Adam, but I think I got credit for
7 meeting a congressional candidate. And so great to
8 see if he's still engaged and involved. And of
9 course, I know his family well. You haven't been
10 asked by Mr. Safran, so I'm going to ask it. Why --
11 I'm going to do a little differently -- why in the
12 world would you want to do this and why now?

13 A. So I won't use the word retire, because that's not a
14 good word. But I had -- I had got to the point where
15 I could get my pension and leave the solicitor's
16 office. It was time to do that. Like I said, I felt
17 that I had done my share of murder trials. And you
18 know, it's a lot emotionally, physically, and
19 mentally, and I wanted to try to do other things. So
20 I went out on my own. I guess, if you look at my
21 background, I started off, I graduated and I worked
22 for IBM for four years. It was a good job. If I
23 would've stayed there, I probably would've made more
24 money than I ever made as an assistant solicitor and
25 a deputy solicitor.

1 Q. Quick interruption.

2 A. Sure.

3 Q. I don't believe I've ever met an undergraduate --
4 mathematics. I can barely say the word, let alone do
5 it.

6 A. So --

7 Q. Then became a -- wanted to go to law school, so...

8 A. Solicitor Meyers was a math major, actually. He
9 was --

10 Q. Never screened him.

11 A. -- the only -- he's the only one I've ever seen too.

12 Q. Yeah.

13 SENATOR SABB: Now, wait a minute. That guy named
14 Ronnie Sabb.

15 JUDGE GRAHAM: There you go. There you go, Senator.

16 A. So there's -- so some of us, you know, there's a
17 usually an answer and it's black and white. I think
18 it helps you -- I do think it helps us look at both
19 sides of the situation. I've always -- I look -- to
20 prepare for cases, I always try to look at, you know,
21 what a defense attorney would want to do; because,
22 obviously, anything I want to do, they want to stop
23 me. So being able to view things from both sides and
24 you look at the whole picture. But I guess -- so I
25 left there. They were changing my job. And my

1 family was not a family. My dad worked for IBM as
2 well, and he was not an attorney fan, because he was,
3 you know -- IBM was a monopoly and so there were
4 anti-trust suits and stuff like that, so he wasn't an
5 attorney fan. But I was -- you know, I came from
6 middle class. My dad was the first to go to college.
7 I wanted to go and serve. And you know, all of us
8 are attorneys here, so we're all serving our fellow
9 citizens, men and women, however -- whatever case
10 that is. You that have gone on to be, you know,
11 senators and representatives, you're serving -- I
12 felt that I served as an assistant solicitor to my
13 community and to the state. I feel, in private
14 practice, I'm serving. But I honestly feel like the
15 epitome of service for an attorney is a judge. I
16 feel like I would be a good judge. I feel like --
17 you know, the big things, I think, that are probably
18 most important -- because like I said, we're all
19 smart enough. It's not going to be -- it's not going
20 to be that issue. We all have the ability to learn
21 the law, we all have the ability to apply the law. I
22 can tell you that, as a judge, I don't have an
23 agenda. If you all tell me the law is something,
24 that's what's going to be applied, and I'm going to
25 apply it. If it should be appealed and needs to be

1 appealed, that's not my issue. That's going to be
2 raised up in the appellate courts. But as a trial
3 judge, y'all tell me law and I apply it. I like
4 having black and white things. You tell me what it
5 is and we can apply it. I just feel, I guess, that
6 the best contribution, you know, that I can make at
7 this point in my career with my experience, is to be
8 a circuit judge. I feel like I'd be good. For me, I
9 guess, probably the -- I feel like my strongest point
10 is not really my trial experience and all that that I
11 did. I really think it's my demeanor. It's who I am
12 and how I treat people. And I think, in the positive
13 comments for the ballot box, I think that probably is
14 echoed in there. I think each and every one of you,
15 if we spend a little bit of time together, you're
16 going to say, Shawn's a nice guy. I am a nice guy.
17 I treat people with respect. I treat people with
18 dignity. As a municipal judge, I found out that a
19 lot of it is, you know, people just want to be heard.
20 They come in and they don't understand, they don't
21 agree, and they want to be heard. And I think, as a
22 judge, that's important to let people be heard, as a
23 circuit judge. So I'm going to let people talk. I'm
24 going to let defense attorneys make motions. I never
25 got upset with a single defense attorney who made --

1 who made motions, even though, from my own
2 standpoint, I might say, Well, that doesn't have a
3 chanced at succeeding or I don't really understand
4 why. The only time I ever got upset was when it was
5 any kind of accusation that was personnel, that I had
6 done something wrong, unethical, and that was an
7 issue. But other than that, I welcome. You know, if
8 you do what you need to do for your client, and I get
9 that. As a judge, I would be the judge that would
10 let those -- let those motions be made, and let them
11 be heard so everybody has their say. You know, I'm
12 not afraid to rule. I'm not afraid to apply the law.
13 But I think that's probably my biggest asset and why
14 I think I would be a good judge, is probably my
15 demeanor.

16 Q. Well, and the Citizens Committee made a note of,
17 obviously, acknowledging the lack of civil
18 experience. But as we all know, the caseload of a
19 civil docket versus a criminal docket, ebb and flow
20 of mediation winnowing out many, many cases, it might
21 be a -- more of a criminal docket duty than civil.
22 But you mention temperament. In the note -- I want
23 you to explain this for me. I don't understand it,
24 Big improvement in judicial temperament.

25 A. I don't either. I didn't understand where that came

1 from either. I'm assuming the -- so I ran seven
2 years ago and so I would've gone in front of the
3 Citizens Committee seven years ago. And I don't know
4 whether that was a personal observation with somebody
5 on the Committee. But I think if you look at my
6 ballot box from seven years ago, it's going to say --
7 I don't think you're going to find complaints about
8 my demeanor at that point either. So I don't -- I
9 can't explain that.

10 **Q. And that was not something discussed during that**
11 **conversation, that interview, with the Citizens**
12 **Committee.**

13 A. They did not -- they didn't bring it up --

14 **Q. Yeah. Yeah.**

15 A. -- during that, so I really don't know. I was --
16 when I saw that, I was kind of surprised, because I
17 didn't know that I had --

18 **Q. But --**

19 A. -- I didn't know that I was starting with a bad
20 demeanor, I guess.

21 **Q. Well, again, it is an outlier comment that does not**
22 **parrot any of the things that we've seen, read or**
23 **heard today. But in that vein, in terms of your**
24 **model, your shining star, the best example of who you**
25 **would like to be compared to in a favorable light if**

1 you were successful, what judge or judges would fit
2 that bill?

3 A. You know, I've tried several cases in front of Judge
4 Newman. I think he has already carried himself well.
5 He's able to keep control of the courtroom, but he
6 treats people well. He lets people have their say.
7 He doesn't let them repeat it too many times, but he
8 lets them have their say. I would say that he is
9 somebody that I would want to emulate. You know,
10 honestly, I guess, if you look at any of them, when
11 you -- you would consider them to be somebody who
12 would be like your grandpa, somebody who's nice, but
13 can be firm when they need to. That's who -- that's
14 what I would -- that's the look I'm going for, I
15 guess, is somebody like that.

16 Q. Representative Rutherford is so -- trying to channel
17 me. Well, let me just advance myself. He's so
18 channeling, now, me not to say, Grandpa, tell me
19 about the good ole days. He might not have heard of
20 that song before, but... Well, and with that, I think
21 you are speaking to the right balance. And levity
22 and allowance to do, but also, accountability in not
23 letting someone run over the process by three times
24 asking or objecting or -- perhaps it's a discovery
25 matter where people are just saying almost to the Bar

1 between each other, civil, plaintiff and defense, Sue
2 me, almost, -- that I'm not going to produce what I
3 need to produce. So anyway, I commend you for your
4 willingness, and you're not looking for a pay raise,
5 it seems to me.

6 A. Yeah, I'm not doing this for the money.

7 Q. **Yeah.**

8 CHAIRMAN RANKIN: Any other question of other
9 members? If not, I will now afford you the
10 right, if you'd like, to make whatever closing
11 remarks before we lose the record.

12 JUDGE GRAHAM: You know, Mr. Chairman, I figured we
13 would, and we did. I think we've covered, you
14 know, why -- why I want to do it, why I think I
15 should -- you know, would make a good judge, so
16 we've covered those. You know, I was proud -- I
17 picked my letters of recommendation with
18 purpose. I didn't have any civil attorneys to
19 call on, but I had people who I had tried
20 serious cases with on the other side. And I
21 can't imagine of any -- any other people who
22 could see me -- honestly, when I could probably
23 be at my worse, when I could be in the heat of
24 battle and, you know, trying serious cases. And
25 I think that the comments I got show you who I

1 am. So I think they're very accurate
2 representations of what you get when you see me.
3 You know, we mentioned Jack Swerling. We
4 mentioned Lee Leventis, of course. One of the
5 other ones is the Sara Maulden. She is actually
6 the circ Public defender. She wrote her -- she
7 wrote her letter as a public defender, because
8 she didn't want to put her credence of her
9 office on it. But she is a circuit public
10 defender. We've had many cases together and I
11 think that - you know the fact that the circuit
12 public defender is willing to go on record and
13 say something about somebody who was a
14 prosecutor they had cases with. I think that
15 says a lot as well. The clerk of court for
16 Lexington also wrote one of my recommendations
17 and I also made an effort -- because I didn't
18 know this the first time I ran, but I did find
19 out that the clerk of courts get polled and that
20 they provide information to you. So I made an
21 effort of meeting each one of them. And I'm --
22 if they responded, I would assume they would be
23 favorable as well. You know, I treat people
24 well; that includes staff, which is why the
25 clerk of court said she thought I'd be a good

1 judge, because that's all the same, according to
2 her. You know, it's not just attorneys. You
3 know, everybody needs to be treated with dignity
4 and respect, and I believe that. So that can be
5 the clerk in there or the custodian. We all
6 have jobs to do and, you know, it's all
7 necessary to have it done. But I would just --
8 and I guess then the last letters that I had was
9 from my paralegal, who is my victim advocate.
10 So she had just seen me day in and day out over
11 the years. Yeah, is she biased because we
12 worked together, I mean, she probably is. But I
13 think the pictures that she paints are true
14 pictures. I have compassion for people. And
15 I've said this because something has -- I mean,
16 I've made mistakes in my life. Just because
17 somebody is a criminal and they've got charges
18 and they're up in front of me, that doesn't mean
19 that they don't need to be treated with respect.
20 They've -- you know, I'm seeing them as a judge
21 or the prosecutor, I'm seeing them on one of the
22 worst days on their life for the decisions
23 they've made. That doesn't mean they don't need
24 to be held accountable, but it doesn't mean they
25 need to be treated with disrespect either.

1 CHAIRMAN RANKIN: Very well.

2 JUDGE GRAHAM: So, but I think that my letters of
3 representation, I think, kind of speak for
4 themselves of who I am.

5 CHAIRMAN RANKIN: Very good. Well, sir, we thank you.
6 And this will conclude this portion of the
7 screening process. You know, and you're familiar
8 with the fact that the record does remain open
9 until the final report of qualifications, and
10 that we take very seriously the law, direct,
11 black and white, or the spirit of the state
12 ethics law. And any appearance of impropriety
13 or suspicion of that on your behalf would
14 warrant us bringing you back. You do know that.

15 JUDGE GRAHAM: Understood.

16 CHAIRMAN RANKIN: All right, Judge. Happy trails.
17 Thank you very much.

18 JUDGE GRAHAM: Thank y'all very much.

19 CHAIRMAN RANKIN: We are going to go to Ms. Keesley
20 next, Paula. Go off the record a second, ma'am.

21 (Off the Record)

22 CHAIRMAN RANKIN: We are back on the record. And
23 before we speak to our next candidate, I just
24 want to take Commission notice of a former
25 member of this Commission who served before my

1 time, joining us in the audience. That is
2 Senator Jakie Knotts. We welcome you back, sir,
3 and glad you are here, doing well.

4 MS. KNOTTS: Thank you.

5 CHAIRMAN RANKIN: All right, ma'am --

6 JUDGE KEESLEY: Yes, sir.

7 CHAIRMAN RANKIN: -- please raise your right hand.

8 WHEREUPON:

9 KYLIEENE KEESLEY, being duly sworn and
10 cautioned to speak the truth, the whole truth
11 and nothing but the truth, testifies as follows:

12 JUDGE KEESLEY: My name is Kyliene Lee Keesley,
13 Kylie, yes.

14 CHAIRMAN RANKIN: Very good. All right. And you
15 have with you the PDQ and the Sworn Statement
16 ready to be introduced into the record?

17 JUDGE KEESLEY: I do.

18 (EXHIBIT NO. 18 MARKED FOR
19 IDENTIFICATION PURPOSES (19
20 pages) PDQ)

21 (EXHIBIT NO. 19 MARKED FOR
22 IDENTIFICATION PURPOSES (8 pages)
23 Sworn Statement)

24 CHAIRMAN RANKIN: All right. You are familiar with
25 this process. But as we start this, before Ms.

1 Benson starts the questions, you're familiar
2 with the nine evaluative criteria that we focus
3 on, which involves a ballot box survey, thorough
4 study of your application materials,
5 verification of compliance with state ethics
6 laws, search of newspaper articles in which your
7 name appears, study of previous screenings and
8 check for economic conflicts of interest. No
9 affidavits or complaints have been file and
10 thus, no witnesses here to testify against you.
11 Did you bring anyone with you that you'd like to
12 call attention to?

13 JUDGE KEESLEY: Never have, and I did not today.

14 CHAIRMAN RANKIN: Very well. I want to introduce you
15 to Senator Jakie Knotts on the way out.

16 JUDGE KEESLEY: He -- I meet him. He's been in my
17 office a few times.

18 CHAIRMAN RANKIN: I think y'all know each other. But
19 you have the opportunity, if you'd like, to make
20 a brief opening statement. Given the hour,
21 which I apologize for your -- this delay, we can
22 dispense with that and Ms. Benson can start
23 questioning, and I'll offer you to make a
24 closing statement if you like.

25 JUDGE KEESLEY: That's fine with me.

1 CHAIRMAN RANKIN: Thank you. Pull that mic close to
2 you, if you would, please.

3 JUDGE KEESLEY: Yeah, I thought it was too loud just
4 a minute ago. I'm pretty -- I'm pretty loud, in
5 general, so okay.

6 CHAIRMAN RANKIN: All right, Ms. Benson.

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

14 EXAMINATION

15 BY MS. BENSON:

16 **Q. Judge Keesley, how do you feel that your legal and**
17 **professional experience thus far renders you**
18 **qualified and will assist you to be an effective**
19 **circuit court judge?**

20 A. Well, y'all have all those materials. It's a lot of
21 information in there. I know you have a lot to read.
22 But my strength, having been here before, has always
23 been in the civil realm. I've handled thousands of
24 cases, all types of different civil cases. I've also
25 expanded my practice into mediation. And I know that

1 in my previous screenings, I've had some deficiencies
2 in the criminal court realm, and I hope that I'm
3 making up for those deficiencies now. I got
4 appointed as a magistrate back in the summer, so I've
5 been serving as a magistrate since I started. I got
6 appointed in June, I started in July. But like I
7 said, thousands of cases. I had a statewide practice
8 and I believe that -- not used to this mic, so y'all
9 tell me if I need to get closer or further away. I -
10 - in having a statewide practice, I was exposed to a
11 lot of different lawyers, a lot of different parties,
12 a lot of different judges. Not doing well with this,
13 am I? It's okay. Erin says it's okay. All right.
14 So I just believe that the experience that I had in
15 litigation combined with my mediation practice, which
16 also exposed me to other causes of action that I had
17 not dealt with in my litigation practice, and that
18 now combined with my judging experience, which I'm
19 very grateful for, makes me a good candidate and
20 qualified for the job.

21 **Q. Thank you. Judge Keesley, the Commission received**
22 **282 ballot box surveys regarding you with 46 having**
23 **additional comments. The ballot box survey, for**
24 **example, contain the following positive comments:**
25 **Smart, well prepared, capable, superior intellect and**

1 strength of character, and excellent mediator. Six
2 of those 46 comments expressed some concerns. Judge
3 Keesley, the first concern expressed was particularly
4 about your experience and, particularly, your
5 criminal experience. What response would you give --
6 and you've already mentioned that to some extent. Is
7 there anything additionally that you'd like to add
8 about your experience?

9 A. Not anything specific, other than perhaps that person
10 or those people that made the comments about the
11 criminal didn't know that I had made this move into a
12 judicial role. And we have a high volume of cases in
13 my office, so I guess I just want to make sure the
14 Commission is aware of that. My office has a
15 particularly high volume of cases. We have hundreds
16 of criminal cases in a day sometimes, and it's just
17 me -- it's a district office. So I handle a high
18 volume of criminal matters in a day. We have to move
19 them quickly. We don't have a lot of time for me to
20 sit and go back. I do try to engage and study as
21 much as possible. So I think I've definitely had
22 exposure to fast-paced, high volume criminal matters
23 recently. I read through my materials and there's a
24 lot of stuff that's not mentioned in there. I have
25 assault and battery cases. I have petty larceny. I

1 have simple possession. I have a lot of those cases
2 every single week. And our office does also have
3 broad jurisdiction. So I seem to be very busy in my
4 office, because we have jurisdiction over places like
5 the airport and Lexington Medical Center. I'm very
6 close to campus. I'm very close to a lot of state
7 agencies and law enforcement offices, and so they
8 come to me for warrants. That's one aspect of the
9 criminal law that I've never had -- had a hand in,
10 never really had any exposure to. So now, we have
11 people coming in with warrant requests all the time.
12 I have to do bond court.

13 **Q. Have you had any chance for a transfer jurisdiction**
14 **for service?**

15 A. So when I first started in Lexington County, we did
16 not. One person was assigned transfer court. I have
17 not had my transfer court duty yet, but I volunteered
18 to do that, and I'm going to have a transfer court
19 term as soon as the chief administrative judge and
20 our chief magistrate get together and schedule that.
21 I'll also say that as of last night, I volunteered to
22 take back some of the domestic violence jury trials
23 that are handled over in the domestic violence court
24 and our central court. So my jurisdiction is growing
25 as we speak. Last night and this morning, I

1 voluntarily added to my workload, which may not be
2 smart, but I have not had my transfer court days yet,
3 but I'll have transfer court. And I have plenty of
4 bond court coming up.

5 **Q. Thank you, Judge. Judge, the second concern was**
6 **about your temperament. And while some of the**
7 **commentators praised your temperament, particularly**
8 **in mediation, others said that you could be irritable**
9 **and difficult. What response would you offer**
10 **concerning --**

11 **A.** I'm not sure about difficult. I'm sure I can be
12 irritable. I live with my dog. I'm sure he would
13 agree with that. I fuss at him a bit. But as far as
14 my temperament is concerned, it's disappointing
15 people would have negative comments about my
16 temperament, because I've always thought that was
17 something that I -- I was a good candidate in that I
18 had a good temperament for the job of a circuit court
19 judge, specifically. Y'all know I teach, because
20 you've seen my materials, and I teach patience and
21 empathy as a part of my class. And so I always tell
22 them you don't know what going on in lawyer's lives.
23 You don't know what their relationship is with their
24 client, and you don't know if they support the
25 position that they're having to take, or if they're

1 taking that position because it's their job to be
2 there doing it that day. And I also have them play
3 party roles so that they get a little bit of
4 experience with the concerns that parties have,
5 because I believe that they need to be empathetic
6 when they become new lawyers. And I do that because
7 of my experience with mediation, but also my
8 litigation practice. So you all know, as a mediator,
9 I would not have been able to grow that mediation
10 practice if I were irritable with people or quick-
11 tempered or easily frustrated, because I had to keep
12 everyone engaged and calm, and that's what I try to
13 do now. I try to keep my courtroom and all the
14 parties in it engaged but calm. And so I hate that
15 somebody would believe that my temperament was poor.
16 I -- you know, one of the reasons I started running
17 for circuit court several years ago was because I
18 thought I had the right temperament for the job.
19 Because I did have that statewide practice, I was
20 exposed to so many lawyers and judges and, you know,
21 I got yelled at and fussed at. And this morning, I
22 was remembering a time that I started out to hearings
23 in Rock Hill and 40 minutes into my drive, realized
24 I'm on I20 headed to Florence and I need to be going
25 the other way. So I've had those experiences and the

1 stresses that lawyers have. And we've had some
2 difficulties. We had three people in our office with
3 cancer. Everybody has to pull their weight and cover
4 things, so I understand the stresses that lawyers
5 experience and I know when they need grace. And so
6 that's one of the reasons that I started running in
7 the beginning was because that I always believed that
8 I had the appropriate temperament, and I understand
9 what lawyers are going through. And I try to teach
10 that to the young lawyers. But I can also say if I
11 were overly irritable -- I'm not sure what the second
12 was --

13 **Q. Difficult.**

14 A. -- difficult, I wouldn't still be teaching and I
15 wouldn't have grown the mediation practice, people
16 wouldn't have hired me for mediation. But my
17 students take anonymous surveys every semester, and
18 they certainly would complain if I were difficult to
19 deal with or irritable or quick -- quick to anger
20 with them. So I guess I ask y'all to look to those
21 things as proof that I can behave appropriately and I
22 know how to -- I know how to treat people. I mean, I
23 teach it. I'm concerned about that in our
24 profession. I have friends that have had a lot of
25 difficulties. I have one friend that might quit

1 practicing law, so I don't -- and she's a very good
2 lawyer. So I try to be mindful of my temperament
3 now, and I try to teach students to be empathetic.

4 Q. Thank you, Judge. All right. I would note that the
5 Midlands Citizens Committee reported that Judge
6 Keesley is qualified in the evaluative criteria of
7 constitutional qualifications, physical health and
8 mental stability, and well qualified in the
9 evaluative criteria of ethical fitness, professional
10 and academic ability, character, reputation,
11 experience, and judicial temperament. The Committee
12 added a note, Have screened her before. Well
13 qualified this time. Judge Keesley, just a few
14 housekeeping issues. Are you aware that as a
15 judicial candidate, you are bound by the Code of
16 Judicial Conduct as found in Rule 501 of the South
17 Carolina Appellate Court Rules?

18 A. I am.

19 Q. Since submitting your Letter of Intent, have you
20 contacted any members of the Commission about your
21 candidacy?

22 A. I have not.

23 Q. Since submitting your Letter of Intent, have you
24 sought or received a pledge of any legislator either
25 prior to this date or pending the outcome of your

1 screening?

2 A. I have not.

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

6 A. I am.

7 Q. Have you asked any third persons to contact members
8 of the General Assembly on your behalf, or are you
9 aware of anyone attempting to intervene in this
10 process on your behalf?

11 A. I have not and I am not.

12 Q. Have you reviewed and do you understand the
13 Commission Guidelines on Pledging in South Carolina
14 Code Section 2-19-70(e)?

15 A. Yes, ma'am.

16 MS. BENSON: Mr. Chairman, I would note for the
17 record that any concerns raised during the
18 investigation by staff regarding the candidate
19 were incorporated into the questioning of the
20 candidate today. Mr. Chairman, I have no
21 further questions.

22 CHAIRMAN RANKIN: Okay.

23 EXAMINATION

24 BY CHAIRMAN RANKIN:

25 Q. Ms. Keesley, we have met, I think -- just trying to

1 check back. You screened in 2017. That's the first
2 time you came; is that correct?

3 A. I -- the first -- I have my materials if you need --

4 Q. No, no, well, that's okay, and I've got it here. But
5 is this your --

6 A. It's the fourth application that I've submitted, yes.

7 Q. And so you know how the questions go and, again --
8 and your father was a circuit court --

9 A. He still is. He's still alive, so the people are
10 able to run for his seat upon his retirement, so I'm
11 pretty happy about that.

12 Q. But --

13 A. Because we didn't think he was going to be for a
14 minute there.

15 Q. Well, and I -- is and will forever be. But a great
16 judge, and you have the benefit of growing up in a --
17 as judge's kid, almost like a PK, a preacher's kid.

18 A. He preaches too.

19 Q. So a parishioner and a child and a student of a
20 lawyer/judge father. As this ebb and flow of public
21 comments, private, anonymous comments, you've got
22 great letters of reference here. But and to the
23 point of satisfying perhaps the unsatisfiable, you
24 might view, it -- of your peers, overwhelmingly
25 positive, I will say, but there are -- the concern

1 continues. How do we, and how do you as the teacher
2 in these classes that you're talking about for
3 patience -- and help me again. Define what these --
4 this class is you're teaching into --

5 A. It's ADR, but I -- we go beyond the scope of ADR,
6 because -- and I won't go down the rabbit hole,
7 because I know y'all are short on time. But I have
8 to tell them a lot about litigation activities and
9 discovery and -- so we do have these exercises that
10 are just about communication. And I'm not sure what
11 the end of your question is, but it's ADR that I
12 teach.

13 Q. And the students are --

14 A. Third-year law students, for the most part. Every
15 now -- I think this semester I have one 2L, but it's
16 usually 3Ls.

17 Q. I don't want to -- I'm not making light of this in an
18 analogy, but you are teaching folks this process --
19 not this, but the resolution of issues, whether it be
20 communication or however and learning the tricks to
21 communicate. You, like others, could teach a class
22 on how to run, or go through the JMSC process. Is
23 that a fair statement?

24 A. If I win a judgeship, I'll be glad to help teach a
25 class on how to run for a judgeship.

1 Q. Well, I didn't say that. I just said going through
2 the JMSC process. And I'm not making light of that
3 and ignoring the fact, of course, that you've still
4 yet to achieve it. Perhaps this is that time. My
5 question to help you with wondering what the point of
6 this is. As we have met and most all of us, some new
7 folks, the ebb and flow of our membership here, what
8 do you take and how do you implement the comments --
9 again, albeit in the minority -- about the patience
10 or the temperament or the, again, the demeanor side?

11 A. Well, I --

12 Q. How do you --

13 A. I completely understand the need for the anonymous
14 surveys. It is terrible to have to subject yourself
15 personally to the anonymous criticisms --

16 Q. That's not --

17 A. -- when you don't know the circumstances.

18 Q. -- I'm interrupting you. That's not my question.

19 A. Okay.

20 Q. The merit of this -- and should we or should we not -
21 - because we've talked about that too.

22 A. Oh, the merit?

23 Q. No, no, no. My question to you -- and it's hard for
24 many people to follow what I'm trying to ask. But
25 the lesson here of the refrain continuing or, again,

1 the few people, perhaps, but is there a day that you
2 think anybody can learn, hey, that's not me; I am all
3 these things, these aspirational qualities that I'm
4 teaching, that is me. Other than being Jesus Christ,
5 again, we know --

6 A. For me personally, they are welcome to come observe.
7 You know, I talked to -- we had a law enforcement --
8 some personnel in the office yesterday and I asked
9 them some questions about me, because I am new to the
10 judicial role and I want to know how I'm perceived.
11 And this is not new. I've gone through this. I've
12 submitted myself to the anonymous surveys here and
13 with the students, and I read those. Some professors
14 have told me not to read those surveys, but I do read
15 those. So I -- anyone is welcome to come over there
16 and observe. I'll tell you, you know, I'm very
17 cautious when I have attorneys and their clients
18 there -- which I wish was more frequently in
19 magistrate's court -- but I don't ever want to
20 embarrass anyone in front of their client,
21 especially. And so I would welcome anybody to come
22 watch. I think that's the only way I can ever prove
23 to someone that has some perception of me that that
24 may be incorrect. I wouldn't want to argue with
25 somebody if they thought I was difficult or had -- or

1 irritable. I wouldn't want to argue with them. I
2 will say I'm not a morning person, so I'm not overly
3 bubbly or cheerful in the morning. So if somebody's
4 a morning person and they want to have a long talk
5 first thing, maybe I was irritable. I don't know.
6 But I always try to be courteous and -- you mentioned
7 teaching. It's just something that I don't think law
8 students think about. And it's a job, and they're
9 preparing for the job, and I try to just keep it in
10 perspective that it's a job, and lawyers are there to
11 do their job like I've been doing for 20 years. So
12 they are welcome to come observe. I don't think I
13 could say much to convince them otherwise beyond what
14 I've already told y'all, that I keep getting hired as
15 a teacher and I kept getting hired as a mediator, and
16 I don't think people would've done that if I had a
17 poor temperament. So did that answer your question?

18 **Q. It absolutely.**

19 A. Okay.

20 **Q. -- perfectly. And I do want to note, again, all**
21 **these touchpoints that we get before we meet, and the**
22 **Citizens Committee wrote, as you've seen, Well**
23 **qualified this time. So again, kudos to you for**
24 **accomplishing and doing -- and the -- and so this is**
25 **not a negative. It is how do we learn.**

1 A. You can be negative if you need to be.

2 Q. Can't be negative to a dog, though. I don't think my
3 wife would allow me to be negative to a dog.

4 A. Oh, goodness. Well, I have animal abuse and neglect
5 cases now, so don't send your wife over to see court.

6 CHAIRMAN RANKIN: My seat mate, Representative
7 Caskey, would like to ask some questions.

8 VICE CHAIRMAN CASKEY: Thank you, Mr. Chairman.

9 EXAMINATION

10 BY MR. CASKEY:

11 Q. Judge, good afternoon. Thank you for being here. I
12 just wanted to applaud you for some of the efforts
13 you have undertaken to broaden your -- broaden your
14 experiences at the law, particularly with respect to
15 the criminal area. I see, not only from your
16 judgeship, but from the CLEs you've submitted, this
17 has been a persistent and ongoing effort on your part
18 to address whatever shortcomings that may've been
19 identified in previous candidacies. I don't know how
20 one fixes concerns about being pugnacious or
21 problematic, or perceived as irritable.

22 A. Irritable, yes.

23 Q. I don't think I'm in any danger of resolving that
24 perception problem myself. So I wouldn't take too
25 much of that with you. But I guess the question I

1 would just pose to you -- it is one that my friend
2 Senator Rankin has asked others today and then other
3 times. When you think about judges who are on our
4 bench now at the circuit court level, whom do you
5 think about -- without naming the other Judge Keesley
6 -- who do you think about as who you would like to be
7 compared to favorably?

8 A. So I know one of my friends who is a circuit judge
9 now, I asked her what she said when that question was
10 posed to her awhile back, and I always would -- but
11 you said sitting on the bench now. So when I was
12 mediating, I had always thought, well, Tommy Cooper,
13 because he's the reason that judges can be retired,
14 active retired and still mediate, and he's -- he has
15 a fantastic demeanor. I'd have to think about that
16 on the sitting judges, because, you know, I ran,
17 initially, because I wanted to ensure that the
18 perception of our judiciary was good. I'm protective
19 of it. I've been around judges my whole life and I
20 want the public to believe that we have an
21 intelligent and fair and conscientious judiciary, and
22 that's why I started running in the beginning.
23 Goodness, gracious. Well, I --

24 **Q. Judge Cooper will do.**

25 A. Well, I mean, that's -- I specifically had this

1 conversation with somebody a long time ago and that's
2 who I always thought I would say if I got asked that
3 question, because --

4 VICE CHAIRMAN CASKEY: I'll put you down as Judge
5 Cooper. Thank you, Your Honor. I appreciate
6 it.

7 JUDGE KEESLEY: Y'all are busy, you don't want to
8 hear? You don't want me to name any more?

9 CHAIRMAN RANKIN: Ms. Safran.

10 MR. SAFRAN: Thank you, Mr. Chairman.

11 EXAMINATION

12 BY MR. SAFRAN:

13 Q. I remember you from the very first time and I just
14 have a few questions. I know you've done a great job
15 as a mediator and I see the letters from people I
16 know who -- you know, Barry George. You know, I
17 think they obviously use you because you must be
18 effective, and they certainly have a great
19 appreciation for you. Just, you know, one thing that
20 you heard repeatedly -- because I think I've been
21 here every time you've come up -- is trying to
22 balance the experience. And I know, I've read in
23 some of the information, that you've tried to do some
24 but there were some limits in terms of what the firm
25 would allow you to do because of some liability

1 issues. And I get it. Okay. My question is, you
2 know, what created the transition? Because I know
3 you've been in this new job for what, three or four
4 months, roughly?

5 A. Since July.

6 Q. Okay.

7 A. I started in July.

8 Q. Okay. So about that, I mean, what led to that?

9 A. Well, that's something that I had been looking into
10 for a while. And this isn't the reason, but y'all
11 know about my dad. My mother's twin sister was a
12 magistrate for years as well, so I wasn't unfamiliar
13 with it. And I had looked into it. I'd talked to
14 people about a magistrate position and it just didn't
15 work out for me until now. I had also inquired about
16 some municipal jobs, and it just didn't work out.
17 The timing worked out for that job now. Senator
18 Setzler had -- it had been a vacant position for a
19 while and we talked and he decided to nominate me for
20 it this time. So I'm very grateful for it. But that
21 wasn't a brand-new thing. It wasn't because of this
22 race. That's something that I had been looking into
23 for quite a while. I had talked to other people
24 about it. It just -- the positions that were open
25 were not available to me.

1 Q. Well, and it sounds like, you know, from what you're
2 describing, and it's not uncommon, you've really kind
3 of hit the ground running, that there's a lot going
4 on. And I'm assuming that you've done some -- at
5 least, have you done some trial work up to now?

6 A. Yes.

7 Q. Have you had some jury trials yet or --

8 A. Yes. And we just scheduled a bunch for February,
9 so...

10 Q. Well, and it's a learning experience, I'm sure.
11 Because I guess as much civil litigation as you have
12 been doing, a lot of it's kind of boiled down to
13 motion practices and discovery as opposed a lot of
14 full-blown trials. I mean --

15 A. Well, we -- I've had trials and I -- I will tell you
16 that, for my first jury trial, I didn't -- I prepared
17 for it and I had somebody show up to conduct it. And
18 I said, No, no, no, I'm doing this. This is what I
19 do. For all these years, this is what I've done.
20 I'm doing this. And I got high praise. They're not
21 here to tell you that today, but I -- they were --
22 they were surprised and I don't know why they were so
23 surprised, because that's -- that's the area I had
24 been in for so long. So it is motion heavy. It is
25 sometimes document heavy these days, especially with

1 e-filing. But I had had trials and so I was prepared
2 for those and really excited to get into that, and I
3 prefer those in the judicial role. I'd rather have
4 jury trials than two days of bench trials and so I
5 encourage any of the lawyers who may appear in the
6 court, please file for jury trials. I would love to
7 have some more of them. So yeah, I mean, I could see
8 the question, but I'm really excited to be doing
9 them. And we haven't had any delay because of me in
10 that area.

11 **Q. Sure. Sure, I understand. Let me ask you. Did you**
12 **pretty much just kind of -- in the civil practice,**
13 **pretty much as you were leading into leaving --**
14 **because I'm assuming you knew you were leaving?**

15 **A.** It was real quick. But my litigation files had -- I
16 didn't have -- I had some bigger cases. I didn't
17 have a lot of the small -- I mean, you all know --
18 heavy litigation, statewide practice. I had -- I
19 used to have dozens and dozens of car wreck cases,
20 premises liability, construction, all the stuff, and
21 that -- that had diminished some. So the cases that
22 I still had pending were larger cases that I could
23 bring someone in on. And we had some changes in our
24 law -- we had somebody retire. And I told him when
25 he leaves, I'm leaving, because he's the best of us,

1 I'm gone. But it's just that the timing worked out
2 that way.

3 **Q. Well, I'm assuming some of the caseload changed**
4 **because of your mediation practice.**

5 A. Because of my mediation practice, my litigation cases
6 and my volume had diminished. But I still had them,
7 and I even -- I got more and more clients. You know,
8 the longer I was practicing, the more clients I had.
9 And the more exposure I had on different types of
10 cases, the more clients I got. So I was getting new
11 cases. I was handling different types of things.
12 But it's tough wrapping up 19 years of a law
13 practice. It's -- it took some time and some effort,
14 but we got it done. I tried to get as much resolved
15 as I could before I left. And it's statewide, so I
16 had to -- some of them went to our Charleston office.
17 And some of them are new. But no one else in the
18 office handled those types of cases, so I had to
19 figure out whether to associate someone or what we
20 were going to do with those, so -- I'm not going to
21 say it was quick, but I was happy to do it and happy
22 to -- I trust them to take over those files and I
23 really do enjoy what I'm doing now, so...

24 **Q. Well, it sounds like what I'm hearing is that what**
25 **you're doing now is kind of like a long planned**

1 **adventure that you really just have started and are**
2 **trying to kind of get knee deep into.**

3 A. I had to dive right in because of the volume. And I
4 didn't -- I'm the only lawyer magistrate right now in
5 Lexington County and I wanted to make a good
6 impression and have a good perception of that. I
7 wanted to come in and know what I was doing. I
8 wanted to be able to help out right away. And so I
9 have been studious. I know that Representative
10 Caskey mentioned CLEs. I'm steadily taking whatever
11 I can get on Fridays. If I don't have court, I'm
12 signing up for some CLEs. So my shopping carts are
13 full. Not of new suits, but of CLEs. So I'm trying
14 to learn as much as I can so that I can do as much
15 work as possible. And I am volunteering. If they'll
16 give it to me, I'll take it.

17 **Q. Thank you very much.**

18 A. Thank you.

19 CHAIRMAN RANKIN: All right. Other questions? If
20 not, anything further you'd like to say in
21 closing remarks?

22 JUDGE KEESLEY: I'm not sure what I should say in
23 closing remarks. I don't really have anything
24 to add, because the materials are so thorough,
25 and I think I've covered a lot of the things

1 introduced into the record?

2 MR. MOBLEY: They are, Chairman.

3 CHAIRMAN RANKIN: Very good. And if you'll hand
4 those to Ms. Putnam, she'll put them in. And I
5 have sworn the oath, I believe, have I? Make
6 sure.

7 MR. MOBLEY: You have.

8 (EXHIBIT NO. 20 MARKED FOR
9 IDENTIFICATION PURPOSES (23
10 pages) PDQ)

11 (EXHIBIT NO. 21 MARKED FOR
12 IDENTIFICATION PURPOSES (1 pages)
13 Amendment)

14 (EXHIBIT NO. 22 MARKED FOR
15 IDENTIFICATION PURPOSES (7 pages)
16 Sworn Statement)

17 CHAIRMAN RANKIN: Thank you. It's been a long day.

18 You are applying for the circuit court position,
19 11th Circuit, seat one. And so you know our
20 role here in our investigation of your candidacy
21 as we focus on the nine evaluative criteria,
22 which includes a ballot box survey, a through
23 study of your application materials,
24 verification of your compliance with state
25 ethics laws and a search of newspaper articles

1 in which your name appears as well as a study of
2 previous screenings, and then finally a check
3 for economic conflicts of interest. No
4 affidavits or complaints have been filed in
5 opposition to your bid, and no one is here to
6 testify in that vein against you. You have the
7 opportunity, though, if you have folks that you
8 brought with you if you'd like to introduce them
9 to us, you're welcome to that if you like.

10 MR. MOBLEY: Okay. Thank you very much. I certainly
11 appreciate that. I have here Jonathan Harling,
12 who is with the civil practice --

13 CHAIRMAN RANKIN: You might want to talk in the mike.

14 MR. MOBLEY: Oh, I'm sorry.

15 CHAIRMAN RANKIN: Yeah.

16 MR. MOBLEY: -- his paralegal, Alissa Trussel.

17 CHAIRMAN RANKIN: Repeat the name again of the first
18 gentleman.

19 MR. MOBLEY: Jonathan Harling.

20 CHAIRMAN RANKIN: Very good.

21 MR. MOBLEY: We have Alissa Trussel, who is his
22 paralegal. I have my paralegal, who is Cindy
23 Corley. She is my paralegal, and then we also
24 have visiting former Senator Jackie Knotts as
25 well. Thank you.

1 CHAIRMAN RANKIN: Well, we have taken judicial notice
2 and/or Judicial Merit Selection Commission
3 notice of his presence. So glad to have him
4 remaining with us here today. You have the
5 opportunity if you'd like to, given the last
6 start, which is not your fault but ours, you can
7 make a brief opening statement now if you'd like
8 or dive straight into the questions from Ms.
9 Foster.

10 MR. MOBLEY: I will respect your time and allow you
11 all to ask me questions.

12 CHAIRMAN RANKIN: And you come back in and offer
13 anything in closing if you decide to at that
14 point.

15 MR. MOBLEY: Yes, thank you.

16 CHAIRMAN RANKIN: Ms. Foster. Thank you, sir.

17 MR. MOBLEY: Thank you.

18 MS. FOSTER: I would note for the record that based
19 on the testimony contained in the candidate's
20 PDQ, which has been included in the record with
21 the candidate's consent, Mr. Mobley meets the
22 constitutional and statutory requirements for
23 this position regarding age, residence and years
24 of practice.

25 EXAMINATION

1 BY MS. FOSTER:

2 Q. Mr. Mobley, how do you feel your legal and
3 professional experience thus far renders you
4 qualified and will assist you to be an effective
5 circuit court judge?

6 A. Thank you, thank you, Ms. Foster. I feel that my
7 experience, which has varied in several different
8 courts that actually go from circuit court, common
9 pleas, municipal court as well as magistrate court,
10 will allow me to make effective rulings that is based
11 in law. I have a varied practice that I have
12 throughout the entire state where I travel from many
13 counties, and I practice before many judges. So I
14 feel that the experience that I've had as an attorney
15 over the last 17 years will allow me to be an
16 effective circuit court judge, whether it's civil,
17 whether it's criminal, and I've also had experience
18 on the bench as well as a part time municipal court
19 judge.

20 Q. Mr. Mobley, the Commission received 154 ballot box
21 surveys regarding you with 38 additional comments.
22 The ballot box survey, for example, contained the
23 following positive comments: Mobley is a gifted
24 orator and exceptionally kind person. He brings
25 humanity to the practice of law, and I enjoy working

1 with him. He is able to calm even the most
2 boisterous defendants and is a zealous advocate for
3 the people he represents. Another stated: Derrick
4 is highly respected by his peers in both the
5 Lexington and Richland County bars. His judicial
6 temperament would be excellent. And finally another
7 stated: intelligent, affable and excellent
8 disposition for a potential candidate and one of the
9 most liked attorneys in Lexington. Though the
10 comments were overwhelmingly positive, two of the
11 written comments expressed concerns, specifically
12 about your prior employment with Richard Breibart.
13 What response would you offer to this concern?

14 A. Well, thank you. Thank you for that question, and I
15 certainly understand those two comments in regards to
16 the concern in regards to Richard Breibart. I will
17 be glad to provide a lot of edification in regards to
18 that situation that many don't have when it comes to
19 that. One day we come to work, and we receive an
20 email that says that you will not get paid today.
21 And we do not know when you will be paid, and we
22 don't know if we're going to be able to keep the
23 doors open. And then two days later there was a
24 closing of the firm, and all the clients were locked
25 out. Now, it was 13 associate attorneys that were

1 employed within this particular firm itself. None of
2 us were ever investigated because we had no idea any
3 of -- anything that Richard Breibart was taking part
4 in, wasn't involved in it at all. We were never a
5 suspect in any of it. We never handled any money.
6 We didn't handle any of that because we had a
7 separate accounting department, and everything went
8 through Richard Breibart's office. We did not accept
9 money. It wasn't a part of our duties at all. So
10 when the firm closed the tension was so high, we were
11 so worried that I would grind my teeth at night, and
12 I broke off the back of my molar from the tension.
13 My entire world had just collapsed, and I was in the
14 middle of a divorce, separation. Didn't have any
15 money in my pocket. All our money had been taken out
16 of our account, out of our savings, retirement
17 accounts, and our healthcare premiums had not been
18 paid. What was I going to do? Now, I had moved out
19 from my home with my estranged wife, and I was
20 renting an apartment as we were going through a
21 divorce. But I could no longer support that
22 particular apartment, so I had to move in with my
23 sister as an attorney at the ripe age in the mid 30s
24 at that particular point in order to make sure I was
25 able to work, but I didn't have a job. So what I

1 ended up doing, I got a job as a janitor cleaning
2 banks. And that's in addition to working as a car
3 salesman at CarMax. Well, I had to open up an office
4 with \$74.00 to my name. That's what I had to do. We
5 were victims of this as well, but I tell you but for
6 that experience I would not have become the man that
7 I am now. I would not have become the attorney that
8 I am now, and I would not have been able to show the
9 compassion to my clients that I do on an everyday
10 basis. The 13 attorneys, what we ended up doing --
11 some of us accepted cases pro bono with no additional
12 pay from those clients because we had and we felt
13 that we had an obligation to those clients to make
14 sure they got through their legal issues at that
15 point. I even had to take one to trial, a three or
16 four day trial, in Williamsburg of a young man. They
17 had given their life savings, their life savings in
18 order to gain representation with the Breibart firm.
19 I didn't know how I was going to drive to the
20 courthouse every day, but I did it. And I had to
21 open up an office on my own with no money, but just
22 from the sheer good will of Mr. Ben Compton. He said
23 you can have this back office. You don't have any
24 money. You don't have any furniture. He allowed me
25 to borrow those for six months. He said you pay me

1 back once you get your office up and running. I got
2 the office up and running, but I continued to
3 continue to take care of the cases that were Richard
4 Breibart's cases pro bono. I continued to work at
5 CarMax from four until eight, and then from nine
6 until one I worked as a janitor cleaning banks at
7 that time. So it was very unfortunate what happened
8 with the Breibart situation. However, it allowed me
9 to bloom into something totally different, and I
10 understand the plight of the clients and understand
11 advocacy and still making sure that you fulfill your
12 duties as an attorney to your clients.

13 **Q. Thank you, Mr. Mobley. Mr. Mobley, you indicated in**
14 **your PDQ that a tax lien was filed by the South**
15 **Carolina Department of Revenue against you and your**
16 **now ex-wife on September 18th, 2012 in the amount of**
17 **\$732.18. You explained that you were separated at**
18 **the time and not residing in the home, and you**
19 **satisfied the lien immediately upon notice. That was**
20 **on November 20th, 2012. You also provided a copy of**
21 **both the tax lien notice as well as the satisfaction**
22 **letter. Is this correct, and is there anymore**
23 **information you'd like to provide for the Commission?**

24 **A. That's correct. The only information I'd like to**
25 **provide to the Commission is that I wasn't living at**

1 the home at the time. My estranged wife and I were
2 living in separate locations. The notice came to the
3 mailbox, and this is right on the heels of the
4 Breibart collapse and me moving to live with my
5 sister in one of her rooms. So my wife did not see
6 or notice the actual notice itself. At some point I
7 found out about the notice. Then I immediately took
8 the money that I had and satisfied the lien.

9 **Q. Thank you, Mr. Mobley.**

10 MS. FOSTER: I would note that the Midlands Citizen
11 Committee reported that Mr. Mobley is well
12 qualified in the evaluative criteria of ethical
13 fitness, professional and academic ability,
14 character, reputation, experience and judicial
15 temperament. The report found Mr. Mobley
16 qualified in the evaluative criteria of
17 constitutional qualifications, physical health
18 and mental stability. The Midlands Citizen
19 Committee also stated no comment, well
20 qualified.

21 **Q. A few housekeeping issues. Mr. Mobley, are you aware**
22 **that as a judicial candidate you are bound by the**
23 **Code of Judicial Conduct as found in Rule 501 of the**
24 **South Carolina Appellate Court Rules?**

25 A. I am.

1 Q. Mr. Mobley, since submitting your letter of intent,
2 have you contacted any members of the Commission
3 about your candidacy?

4 A. I have not.

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

9 A. I have not.

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

13 A. I am.

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

18 A. I have not.

19 Q. Have you reviewed, and do you understand, the
20 Commission's guidelines on pledging in S.C. Code
21 Section 2-19-70(e)?

22 A. I do.

23 MS. FOSTER: Mr. Chairman, I would note for the
24 record that any concerns raised during the
25 investigation by staff regarding the candidate

1 were incorporated into the questioning of the
2 candidate today. Mr. Chairman, I have no
3 further questions.

4 CHAIRMAN RANKIN: All right. Thank you, Ms. Foster.
5 Questions by members of the Commission.
6 Representative Caskey.

7 REPRESENTATIVE CASKEY: Thank you, Mr. Chairman. Mr.
8 Mobley, I just wanted to thank you for being
9 here for offering today. There were a couple of
10 comments that I saw in your survey that I
11 thought were particularly representative of my
12 experiences with you over the years in court.
13 This one, he, being you, not me, obviously -- he
14 is great. He always has a smile and a positive
15 attitude, takes joy in his job, and that joy
16 carries along in his relationship with the
17 defense bar and prosecutors. He would be fair
18 and impartial. Another wrote: Mr. Mobley is
19 smart, passionate and a hard worker. His
20 experience in the various areas of the law make
21 him an excellent candidate for judge. He has
22 not only academic knowledge but also practical
23 knowledge that will make him an asset to the
24 bench and on and on, some which counsel referred
25 to earlier. And I just wanted to thank you for

1 that and wanted you to know that that is not
2 unnoticed by us here, and you certainly should
3 be very proud of the reputation that you're
4 earned in the practice of law.

5 MR. MOBLEY: Thank you, Vice Chairman.

6 REPRESENTATIVE CASKEY: Thank you, sir.

7 CHAIRMAN RANKIN: Mr. Strom.

8 MR. STROM: Thank you, Mr. Chairman. Mr. Mobley, I'm
9 going to tell you that I've had more calls about
10 you than anybody else in this cycle. There are
11 a lot of good lawyers in the Midlands and who
12 just think the world of you. And I also want to
13 put on the record, I'm very familiar with the
14 Breitbart situation, and I know there was a
15 previous candidate that that got hung around her
16 neck. There's not a scintilla of evidence that
17 anybody knew about what Breitbart was doing or
18 Richard Breitbart was doing. I agree with you.
19 All of y'all are victims, everybody's that
20 worked at that office was a victim. I want to
21 put that on the record. You're so well thought
22 of, and I'm delighted that you chose to run.

23 MR. MOBLEY: Thank you, Mr. Strom.

24 CHAIRMAN RANKIN: All right. Other folks with
25 questions? One from me, and again, nice to meet

1 you, sir.

2 MR. MOBLEY: Nice to meet you too.

3 CHAIRMAN RANKIN: You've never screened before, and
4 so in addition to the comments from these folks,
5 Jack Swerling -- we're all familiar with him --
6 to sum it up, I've had many years of contact,
7 and I've had a significant opportunity to
8 observe and judge his character and skills as a
9 lawyer. Intelligent, hard working, dedicated in
10 doing and seeking justice, highly ethical and a
11 skilled trial lawyer. You go the extra mile to
12 assure your clients are receiving justice. So a
13 pretty high compliment from a person that we all
14 know exceedingly well by reputation. So I want
15 to commend you for that in addition to the other
16 attributes that we've heard thus far. If there
17 are no other comments, I will again offer you an
18 opportunity to make a very brief closing
19 statement if you'd like or not. It's not
20 required.

21 MR. MOBLEY: Thank you, Chairman, Committee. Thank
22 you all. I'd just like to leave you all with
23 one thing, one thought. It's the last stanza of
24 a poem, my favorite poem, by Robert Frost. Two
25 roads diversified in a wood, and I, I took the one

1 less traveled, and that has made all the
2 difference. Thank you all. It's a pleasure.

3 CHAIRMAN RANKIN: Very well. All right. Don't leave
4 just yet. We've got to get one more thing on
5 the record. And again, new as this is for you,
6 you understand that the final record is not
7 closed until the release of the formal
8 qualifications. And we here believe and put
9 great credence to and adhere to both the letter
10 and the spirit of the state ethics laws.

11 MR. MOBLEY: Yes.

12 CHAIRMAN RANKIN: Any violation by you, black letter
13 or the appearance of the spirit of violation
14 would be taken very seriously by us, warranting
15 us calling you back. You understand that we can
16 do that and that this record will remain open,
17 correct?

18 MR. MOBLEY: Yes, yes, Chairman.

19 CHAIRMAN RANKIN: Don't expect that to be, but I need
20 to get that verbal affirmation.

21 MR. MOBLEY: Okay, thank you.

22 CHAIRMAN RANKIN: Thank you very much.

23 MR. MOBLEY: Thank you.

24 CHAIRMAN RANKIN: And I hope the road is still less
25 traveled as you make your way home at this hour,

1 MR. SPRADLEY: Yes, sir.

2 CHAIRMAN RANKIN: You have before you the PDQ and the
3 sworn statement. Are they ready to be
4 introduced into the record?

5 MR. SPRADLEY: Yes, sir.

6 CHAIRMAN RANKIN: All right. Ms. Putnam will do
7 that. And, sir, as you know, we've done this, I
8 believe, before one time.

9 (EXHIBIT NO. 23 MARKED FOR
10 IDENTIFICATION PURPOSES (16
11 pages) PDQ)

12 (EXHIBIT NO. 24 MARKED FOR
13 IDENTIFICATION PURPOSES (8 pages)
14 Sworn Statement)

15 MR. SPRADLEY: Yes, sir.

16 CHAIRMAN RANKIN: And you know our process by which
17 we vet and investigate your candidacy involves
18 nine evaluative criteria, which includes a
19 ballot box survey, a thorough study of your
20 application materials, verification of your
21 compliance with the state ethics laws, a search
22 of newspaper articles in which your name
23 appears, a study of the previous screening and
24 check for economic conflicts of interest. There
25 is one Affidavit filed in opposition to your

1 election and one witness to testify -- who is
2 present to testify. And before we do that I
3 note you've brought some folks with you.

4 MR. SPRADLEY: Yes, sir.

5 CHAIRMAN RANKIN: I'd like to allow you to introduce
6 those folks before we get started.

7 MR. SPRADLEY: My wife and my two daughters, Morgan
8 and Reece Spradley.

9 CHAIRMAN RANKIN: Nice to meet y'all. Thank y'all
10 for being here. I'm going to turn this over
11 now. If you'll have a seat. Let's see, Macey,
12 take it away. Mr. Kennedy, come on up.

13 WHEREUPON:

14 RALPH SHEALY KENNEDY, JR., being duly sworn
15 and cautioned to speak the truth, the whole
16 truth and nothing but the truth, testifies as
17 follows:

18 CHAIRMAN RANKIN: And state for the record your full
19 name.

20 MR. KENNEDY: Ralph Shealy Kennedy, Jr.

21 CHAIRMAN RANKIN: Very good. And so before we get
22 into the full discussion here and our questions
23 and answers, I just want for the record to
24 confirm with you, in the three matters that you
25 have raised, three issues in your complaint, is

1 it fair to say, and is it true, that only on
2 item one do you have any personal knowledge.

3 MR. KENNEDY: I only have personal knowledge of item
4 one.

5 CHAIRMAN RANKIN: Okay. And so you understand that
6 we would deem any secondhand knowledge or
7 representation by someone else to be hearsay and
8 would lack knowledge on your part. Anyway, you
9 would not have sufficient personal knowledge to
10 maintain that. Do you agree with that? As a
11 lawyer, you understand that rule?

12 MR. KENNEDY: Mr. Chairman, I have no firsthand
13 knowledge of the other two. That was
14 information brought to me by those people.

15 CHAIRMAN RANKIN: Very good. All right. And at this
16 time I would entertain a motion for us to deal
17 with issues two and three.

18 MR. SABB: Mr. Chairman, if I might -- and I want to
19 thank Mr. Kennedy for sharing that information.
20 It was something, I think, when we read through,
21 that we wondered about. It's obviously now
22 confirmed under oath. So if I'm in order, I'd
23 make a motion that we dismiss complaints two and
24 three.

25 CHAIRMAN RANKIN: Very good. Is there a second? And

1 that would be issues two and three. Only one
2 complaint filed.

3 VICE CHAIRMAN CASKEY: Second. Thank you, Mr.
4 Chairman.

5 CHAIRMAN RANKIN: All in favor of that, say aye.

6 MEMBERS: Aye.

7 CHAIRMAN RANKIN: Any opposition? There being none.
8 All right, Ms. Webb, now questions.

9 EXAMINATION OF COMPLAINANT MR. KENNEDY

10 BY MS. WEBB:

11 **Q. Good afternoon, Mr. Kennedy.**

12 A. Good afternoon.

13 **Q. All right. Mr. Kennedy, thank you for being here.**
14 **And Mr. Kennedy, the Commission has before it now**
15 **your Affidavit of Complaint with matters two and**
16 **three that will be stricken from the record along**
17 **with the supporting documents pertaining to matters**
18 **two and three, which I respectfully request be made**
19 **part of the record, just on issue number one that we**
20 **will address from your Complaint.**

21 (EXHIBIT NO. 25 MARKED FOR
22 IDENTIFICATION PURPOSES (125
23 pages) Complaint)

24 CHAIRMAN RANKIN: And that will be included. Again,
25 items two and three will be redacted, and we are

1 only going to be discussing item issue number
2 one. You understand?

3 **Q.** **Yes.** So going forward today we will be discussing
4 matter number one with issues two and three stricken.
5 And for the record, home addresses have been removed
6 from this Complaint. The purpose of today's hearing
7 is for the Commission to review the qualifications of
8 the candidates to determine whether Mr. Spradley is
9 qualified to serve as a circuit court judge in the
10 11th Judicial Circuit, Seat 1. As you have been
11 told, the Commission is not here to relitigate a
12 case, and they do not have the ability to change the
13 results of the case. Mr. Kennedy, you've submitted
14 your affidavit and supporting documents, which the
15 Commission members have before them and have reviewed
16 prior to this hearing. Is there anything else that
17 you wish to testify to specifically regarding Mr.
18 Spradley's ethics, competency or character that has
19 not already been covered in the documents before the
20 Commission?

21 **A.** Well, I do have an opening statement I would like to
22 make.

23 **Q.** **Yes, sir, go ahead.**

24 MR. KENNEDY: All right. Thank you. Mr. Chairman,
25 ladies and gentlemen of the Commission, thank

1 you for allowing me to come before you today,
2 and thank you for giving of your precious time
3 on this Commission. I believe we have one of
4 the finest if not the finest judiciaries in the
5 nation. We also have the best method of
6 electing judges, but the business of electing
7 judges is serious business. You, the JMSC, are
8 all members of a team, a team making
9 consequential decisions which affects the lives
10 of the people of this state. It is a momentous
11 and daunting task, not to be undertaken lightly.
12 And I applaud your service for this important
13 work. The Commission is charged by our
14 Constitution and statutory law to do its best to
15 look into these candidates' very souls to
16 determine their character, intelligence and
17 worthiness. You, the members of the selection
18 commission, have a Herculean task, and it
19 requires yeoman's work to do well. The people
20 of South Carolina look to you with the highest
21 of expectations. You are the gatekeepers for
22 the integrity of the candidates of the
23 judiciary. I have never before spoken to the
24 JMSC about any candidate. I have always trusted
25 the Commission to carry out its heavy burden.

1 However, having reviewed the statutory
2 requirements for candidates and with my own
3 personal knowledge of Candidate Spradley, I
4 believe him lacking. Several citizens reached
5 out to me concerning Spradley and to convey
6 their strong reservations regarding --

7 CHAIRMAN RANKIN: Mr. Kennedy, again, not other
8 citizens respectfully. I want you to limit your
9 complaint to what you have personal knowledge
10 of, okay?

11 MR. KENNEDY: Yes, Mr. Chairman.

12 CHAIRMAN RANKIN: Thank you so much.

13 MR. KENNEDY: I have the privilege of being in my
14 fourth decade of the practice of law in South
15 Carolina. I was born here and made my home
16 here, but due to my own personal knowledge of
17 Candidate Spradley, the burden now falls to me
18 and then ultimately you, the members of the
19 Commission. I never imagined I would appear
20 before this respected body and speak against a
21 judicial candidate. I stand before you in this
22 room where my grandfather's photo stares back at
23 me from the wall reminding me of the men and
24 women who served before us. When called upon,
25 we must do our duty however unpleasant that

1 might be, and that time is now. I have
2 reverence for the state court system, and I've
3 had the honor to clerk for the Honorable Julius
4 Baggett, and but for him I would not be standing
5 here before you today. Through his mentoring,
6 he taught me to value justice, truth, honor and
7 duty, all characteristics that Candidate
8 Spradley lacks. I trust you have read my
9 Complaint concerning Candidate Spradley which
10 supports the reasons I strongly believe he shows
11 he lacks the qualities and character required of
12 candidates seeking this office. In summary,
13 Candidate Spradley's reputation in the community
14 is poor, and he is frequently involved in
15 needless controversy, which does not shed a
16 favorable light upon lawyers and the practice of
17 law. I fear he will bring those same
18 proclivities and character flaws to our
19 judiciary, this at a time when all of our
20 institutions are under attack by outside forces.
21 He is arrogant and mean spirited. He lacks
22 candor to both his fellow attorneys --
23 CHAIRMAN RANKIN: Mr. Kennedy, respectfully, we are -
24 - and I don't want to cut you off. You did say
25 in summary, but we want to focus on your

1 Complaint issue number one, your knowledge of.
2 And to the degree we have all read it, if
3 there's anything you'd like to say to the
4 specifics of that, I would please urge you to
5 direct your attention to that, again, to the
6 degree that you want us to hear something
7 specific regarding issue number one.

8 MR. KENNEDY: I understand. Thank you, Mr. Chairman.

9 CHAIRMAN RANKIN: And I'm not trying to cut you off,
10 but --

11 MR. KENNEDY: I've got three more lines if I may.

12 CHAIRMAN RANKIN: Sure.

13 MR. KENNEDY: All right. If he is like this now,
14 what will he come when he dons the robe. The
15 practice of law should not be one filled with
16 trickery. True character shows when no one else
17 is looking. What matters most is honesty,
18 integrity, truth, candor and fairness. That's
19 why I'm here today because I have significant
20 concerns regarding the character and fitness of
21 Candidate Spradley. These concerns are based
22 upon my own dealings with him. I'd be pleased
23 to answer any questions you may have about the
24 complaint against Candidate Spradley or any
25 other matters that you as a Commission deem

1 appropriate. Thank you.

2 EXAMINATION

3 BY CHAIRMAN RANKIN:

4 Q. I have a very quick question, and you have -- there's
5 been a subpoena -- rather a deposition, a lengthy
6 deposition, concerning the subpoena between you, your
7 son -- you were present, but you were not
8 representing or questioning that witness and then two
9 other attorneys, Mr. Spradley included, correct?

10 A. That's correct.

11 Q. All right. Is there any other formal transcript that
12 exists about this --

13 A. There is a brief transcript that exists, not Zoom,
14 but Webex where we had a hearing before Judge McLeod
15 concerning Mr. Spradley's motion to quash the
16 subpoena.

17 Q. Okay. Anything else filed in this regard between you
18 or anyone else at any tribunal?

19 A. Well, that is a good question. When you say
20 tribunal, what are you speaking of?

21 Q. Well --

22 A. Are you talking about --

23 Q. -- is it --

24 A. -- the Office of Disciplinary Counsel or some other
25 place like that?

1 Q. Well, have you reported anyone concerning what you
2 allege to have happened in this instance?

3 A. Counsel was retained to do that.

4 Q. But have you done that?

5 REPRESENTATIVE RUTHERFORD: I don't know if that is a
6 proper question.

7 Q. All right. Anything else? I do have one final
8 because, again, we've got that record before us. Has
9 this matter been completed and any final order
10 issued?

11 A. The matter involving the --

12 Q. Subpoena.

13 A. -- subpoena.

14 Q. Yes, sir.

15 A. Yes, it has completed, and if I may I'd be glad to
16 enlighten the Commission about the peculiarities of
17 that whole situation.

18 Q. Well, we've read --

19 A. Very strange.

20 Q. We've read that. And, again, not to belabor this,
21 but has that matter been concluded in the court?

22 A. Oh, yes, it has.

23 Q. Okay. That's all I had.

24 CHAIRMAN RANKIN: Anyone else, any further questions?
25 Representative Caskey.

EXAMINATION

1

2 BY REPRESENTATIVE CASKEY:

3 Q. Mr. Kennedy, thank you for being here. With respect
4 to the matter that the Chairman just asked you about,
5 do you happen to have the case citation for that?

6 A. I do, if I may.

7 Q. Yes, sir, please, if you don't mind.

8 A. Since I've never done this before, I didn't know
9 exactly what the Commission may or may not ask, so --

10 Q. I've only done it a couple of times --

11 A. I brought a lot of --

12 Q. -- so I don't always know what I'm going to ask, but
13 I do want to ask as you're finding that document --
14 because we have so much here -- anyway, I couldn't
15 fine it readily. It was in Saluda County, correct?

16 A. It was.

17 Q. Okay.

18 A. It was.

19 Q. If you -- I just want to be able to pull it up in the
20 public index if I can.

21 A. I can give the name. It was Curtis Graham v. Rawls,
22 R-A-W-L-S. I'm looking right now to see if I see the
23 -- 2019-CP-41-166.

24 Q. That would be 2019-CP-41-1666; is that right?

25 A. 166, one hundred sixty-six.

1 REPRESENTATIVE CASKEY: Thank you, sir.

2 MS. WEBB: All right. Thank you, Mr. Kennedy. Mr.
3 Chairman, I have no further questions for Mr.
4 Kennedy at this time.

5 CHAIRMAN RANKIN: All right. Have a seat, sir.
6 Thank you so much.

7 MR. KENNEDY: Thank you, Mr. Chairman.

8 EXAMINATION OF MR. SPRADLEY

9 BY MS. WEBB:

10 **Q. Good afternoon, Mr. Spradley.**

11 A. Yes, ma'am.

12 **Q. All right. Mr. Spradley, you have provided the**
13 **Commission a written response to the Complaint, which**
14 **the Commission members have before them and have**
15 **reviewed prior to this hearing. I do want to make**
16 **known to you as well as Mr. Kennedy that at this time**
17 **we will redact all information and supporting**
18 **documents around matters two and three that you also**
19 **contained in your response, just as we did in the**
20 **Complaint with Mr. Kennedy.**

21 A. The only thing that I would like to hand up is I
22 brought the originals with me because I emailed them
23 and I never got a phone call to whether we needed the
24 original or not, but I brought the original with me
25 if you want those for the record or not.

1 Q. Yes. Lindi will get those from you. Thank you, Mr.
2 Spradley. And like I said, we will redact any and
3 all information around matters two and three from
4 your response to the Complaint as well as the initial
5 Complaint. And with that in mind, is it your intent
6 to have this published in the record?

7 A. Yes, ma'am.

8 (EXHIBIT NO. 26 MARKED FOR
9 IDENTIFICATION PURPOSES (101
10 pages) Response to Complaint)

11 Q. Thank you. Mr. Spradley, is there anything else you
12 would like to add or address regarding matters one
13 and anything that Mr. Kennedy has said here today?

14 A. I do.

15 Q. Okay, please go ahead.

16 A. I want to apologize to Mr. Kennedy for anything I've
17 ever done to him to get him upset with me. I don't
18 believe that we've ever had a case where we were
19 opposite of each other. I don't know that we have
20 ever had a cross word between the two of us. We're
21 from the same small town. My dad had a drugstore
22 right across the street from his dad's store. I grew
23 on Main Street Batesburg because my parents were
24 there. His dad was a great guy. I think Mr.
25 Kennedy's a great guy. I think his son is a great

1 over at this point, at least as far as your
2 involvement?

3 A. My involvement's over with. I think there was a
4 motion to compel settlement or something that had
5 been filed recently in that case.

6 Q. That was after you kinda stepped away?

7 A. That was way after I got out, that's correct.

8 Q. At least as far as your involvement in it, once that
9 deposition took place that was over?

10 A. That's all I was there for.

11 Q. Right. I mean, you didn't have anything to do with
12 the underlying claim on the UIM coverage?

13 A. No, sir, I didn't. And really the only reason that I
14 believe that my client came to me is because I think
15 at some point somebody learned that the estate had
16 been closed and that she was no longer quote the PR
17 of that estate. And so then it was questioned as to
18 whether she was really represented by the UIM carrier
19 or not because he was actually suing her dad's
20 estate.

21 Q. It was some reason to go into some discovery with
22 her?

23 A. That's exactly right.

24 Q. So they had every right and every opportunity --

25 A. Yes, sir.

1 Q. -- ultimately to do that?

2 A. Yes, sir. When she was subpoenaed to come to court
3 by the UIM carrier, if I was sitting where they were,
4 I would have wanted to know why she was subpoenaed.

5 Q. All right. But I mean, ultimately they had a reason
6 to want it out?

7 A. Yes, sir.

8 Q. Okay. I mean, we don't have any dispute about that?

9 A. No, sir.

10 MR. SAFRAN: Okay. Thank you, that's all I've got.

11 CHAIRMAN RANKIN: Any further questions? All right.

12 We will proceed to the regular line of questions
13 for you as the candidate.

14 EXAMINATION

15 BY MS. WEBB:

16 Q. All right. Thank you, Mr. Spradley.

17 MS. WEBB: I note for the record that based on the
18 testimony contained in the candidate's PDQ,
19 which has been included in the record with the
20 candidate's consent, Christian Spradley meets
21 the constitutional and statutory requirements
22 for this position regarding age, residence and
23 years of practice.

24 Q. Mr. Spradley, why do you want to be a circuit court
25 judge?

1 A. This is something I've wanted to do pretty much my
2 whole career. I'm at a point in my career where my
3 children are both going to be out of college within
4 next few months, and I'm going to be able to step
5 back from practicing law, and I would love to serve
6 as a circuit court judge. I believe that my
7 experiences that I've had throughout my career make
8 me uniquely qualified to do it. I have stood beside
9 defendants when they were up for trial for murder. I
10 have stood prosecuting people for murder. I have
11 represented towns. I have represented counties. I
12 have done civil work on both sides. I have done many
13 things I think make me qualified to do this, and it's
14 something that -- my dad was really, really involved
15 in the community, and he drilled public service into
16 me. And I believe this is another way to give back
17 to the great state of South Carolina. It's something
18 that I have wanted to do for a while.

19 **Q. All right, thank you. And along those lines, Mr.**
20 **Spradley, how do you feel your legal and professional**
21 **experience thus far renders you qualified and will**
22 **assist you to be an effective circuit court judge?**

23 A. Like I jumped ahead just a second ago, I think that
24 I've done a wide range of things being an attorney in
25 a small town, and you have to do many different

1 things. I have prosecuted. I've been at the public
2 defender's office. I have -- again, like I said
3 before, represented the county. I've represented
4 towns. I have represented special purpose districts.
5 I have done wreck cases. I have defended wreck
6 cases. I've done probate work. I've done real
7 estate work. I have done a little bit of everything,
8 and I think that all of that makes me qualified to do
9 this.

10 Q. All right, thank you, Mr. Spradley. And Mr.
11 Spradley, the Commission received 111 ballot box
12 surveys regarding you with 40 additional comments.
13 The ballot box survey, for example, contained the
14 following positive comments: excellent courtroom
15 experience and demeanor, asset to the legal
16 profession, strong civil litigation and criminal
17 experience, exceptionally caring person and has a
18 great work ethic and a fantastic lawyer with a well-
19 rounded skill set. However, 12 of the written
20 comments expressed concerns. Several of the comments
21 expressed concerns over a lack of appropriate
22 demeanor, reputation and ethical fitness. What
23 response would you offer to these concerns?

24 A. I would say that there are many metrics by which you
25 can be judged. One of them is ballot box.

1 Everything else in my life, every other thing that I
2 have touched in my life says that those 12 are not
3 correct. It bothers me that anybody would think that
4 of me, and what I hate about that is what they said
5 is their reality. Whether it's real or not, it is
6 their perception, their perception of reality, and I
7 would definitely want to speak to those people and
8 find out what I did for them to say that about me.
9 If you look at everything else in my life, from the
10 time I was 13 years old, becoming an Eagle Scout.
11 I've been married to the same woman for 30 years. I
12 don't think she would have put up with me if I was a
13 horrible person. On the volunteer fire department, I
14 was elected to be their assistant chief and then
15 their chief. This is a bunch of guys that put their
16 trust in me. If I was -- if I was an ogre that just
17 lorded over people, they would never have elected me
18 to take those positions and make life or death
19 decisions for them. I have been on the house of
20 delegates for the 11th Circuit for a number of years,
21 elected by the people around me in the 11th Circuit
22 to represent them in the house of delegates. I've
23 been on the fee dispute board for the 11th Circuit
24 for a number of years and had some pretty difficult
25 fee disputes that I had to work out. I've been in

1 the same law firm for 22 years, and it's not a small
2 law firm. It's not just me. It's not just me and
3 one other people. There are 12 or ten partners in my
4 firm now with other associates, and they selected me
5 to be their managing partner a few years ago. Again,
6 if I was an ogre, if I was unethical, if I was a bad
7 person, I don't think my partners would have elected
8 me or chosen me to do that. And I mean, I still -- I
9 wish I was doing that right now, but when we lost
10 Stanley it about killed me, and I had to give it up
11 because I -- it was too much personally and
12 professionally to keep doing it, so I chose to give
13 that up. I was found well qualified by the Bar. I
14 was found well qualified by the Citizens Committee,
15 and I've sat on the Bar committee, and I know how
16 that works. I've made those phone calls, and I know
17 what that process is. Every job that I have had -- I
18 don't have people in my family that were at state
19 politic level. My dad was the mayor in Batesburg. I
20 guess if that's a huge political position -- but
21 that's the furthest that I have political connections
22 anywhere. Nobody in my family was ever a lawyer
23 before me. I didn't have somebody else's reputation
24 to stand on to get to where I am. Every job I got I
25 got because of my reputation and the work that I did

1 starting off at the public defender's office and then
2 getting job offers from two different solicitor's
3 offices and then getting a job offer from the firm
4 I'm with now. I don't know who those 12 people are.
5 I don't know if they really know me. It sounds to me
6 like in my mind they don't because every other metric
7 that you can judge me by, every other metric you can
8 judge me by, I am not unethical. I am ethical. I am
9 not an ogre. I don't have robitis. I was a judge.
10 I was a town judge in Ridge Spring. I wouldn't wear
11 a robe because it didn't feel right. I didn't let
12 people call me judge when I was a judge in the town.
13 I didn't use The Honorable. It didn't feel right. I
14 was a judge of a town. That's not somebody that's
15 got robitis.

16 **Q. Thank you, Mr. Spradley. And, Mr. Spradley, one**
17 **other concern indicated is that you lack appropriate**
18 **temperament both in and outside of the courtroom.**
19 **What response would you specifically offer to the**
20 **concern regarding your judicial temperament?**

21 **A.** I'll go through everything I just went through again.
22 My partners would not elect me if I was hard to get
23 along with to run our firm. It's not a small firm,
24 and it touches a lot of people's lives. We have over
25 50 employees. I would not have been voted in as

1 assistant chief and chief of a volunteer fire
2 department if I was a bad person where people
3 couldn't trust me or if I was somehow an ogre that
4 overpowered other people. That's not me, and I want
5 to stress that it bothers me that anybody thinks
6 that. I hate that somebody thinks that, and I wish
7 there was something I could do to fix it for those
8 people, but since it's anonymous, there's no way that
9 I can do that.

10 **Q. All right. Thank you, Mr. Spradley. And, Mr.**
11 **Spradley, you have identified in your PDQ that you're**
12 **a named plaintiff in a lawsuit pending in Saluda**
13 **County. Can you please explain the nature of this**
14 **pending lawsuit?**

15 **A.** That was a law firm -- I think my partner, Jake
16 Moore, actually filed that lawsuit. What it was
17 dealing with is there was a -- if I think back long
18 enough -- I think it was a partition action that I
19 was involved in. And a person that was on the
20 defense side of that who had an attorney of their own
21 after the case was over with didn't like the way it
22 turned out, and they started putting things online
23 with different websites. When we contacted those
24 websites to try to get it taken down, the only way
25 they would take them down is if we had some type of

1 judicial finding that it wasn't true. And so after
2 years of them continuing to put that stuff up, Jake
3 decided to do that to try to protect the law firm to
4 be able to take that stuff down, and I think it
5 stopped, and I expect it to be dismissed in December
6 because I think that's the next term of court in
7 Saluda because the issue has taken care of itself.
8 It was just for the reputation of the firm and the
9 slander libel that was going on online and us trying
10 to protect our own line reputation, I guess is the
11 best way to say it.

12 **Q. Thank you, Mr. Spradley.**

13 MS. WEBB: And I would note that the Midlands
14 Citizens Committee reported that Mr. Spradley is
15 well qualified as to the evaluative criteria of
16 ethical fitness, professional and academic
17 ability, character, reputation, experience and
18 judicial temperament and qualified in the
19 evaluative criteria of constitutional
20 qualifications, physical health and mental
21 stability. The committee noted well rounded
22 candidate. Will be an asset to the circuit
23 court bench.

24 **Q. Now, Mr. Spradley, for a few housekeeping issues.**

25 **Mr. Spradley, are you aware that as a judicial**

1 candidate you are bound by the Code of Judicial
2 Conduct as found in Rule 501 of the South Carolina
3 Appellate Court Rules?

4 A. Yes, ma'am.

5 Q. And, Mr. Spradley, since submitting your letter of
6 intent, have you contacted any members of the
7 Commission about your candidacy?

8 A. No, ma'am.

9 Q. And since submitting your letter of intent, have you
10 sought or received the pledge of any legislator
11 either prior to this date or pending the outcome of
12 your screening?

13 A. No, ma'am.

14 Q. And are you familiar with Section 2-19-70 including
15 the limitations on contacting members of the General
16 Assembly regarding your screening?

17 A. Yes, ma'am.

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

22 A. No, ma'am.

23 Q. And have you reviewed, and do you understand, the
24 Commission's guidelines on pledging and South
25 Carolina Code Section 2-19-70(e)?

1 A. Yes, ma'am.

2 Q. **Thank you.**

3 MS. WEBB: Mr. Chairman, I would note for the record
4 that any concerns raised during the
5 investigation by staff regarding the candidate
6 were incorporated into the questioning of the
7 candidate today. And, Mr. Chairman, I have no
8 further questions.

9 EXAMINATION

10 BY CHAIRMAN RANKIN:

11 Q. **Just a couple if I may, Mr. Spradley. And I remember**
12 **you before. I don't recall whether you brought your**
13 **family or your wife --**

14 A. I did. I'll remind you, you were talking to my
15 youngest daughter about her working at Disney World
16 last year.

17 Q. **Haven't been since. Their stocks doing a lot better**
18 **for what you did over the last few quarters or a**
19 **year. And so forgive me for forgetting that. I**
20 **don't want this line of questioning to suggest to you**
21 **and your family and those four other people that are**
22 **listening beyond those in this room that the negative**
23 **comments are the prevailing view by those who have**
24 **taken the time to participate in the ballot box**
25 **survey. Again, not the end all and be all, but we do**

1 look for trends. We look for temperament. We look
2 for character. We look for all, again, the
3 evaluative criteria that we all have the option as
4 attorneys to participate in. And from temperament,
5 qualified or well qualified, well in excess of the
6 percentage of those who said no. In fact the
7 respondents, the number, again, overwhelming positive
8 comments. And so you're offering yourself again to
9 be a local -- from a local bench obviously, a
10 statewide position. In terms of your curing, not
11 answering, but going forward, if someone is
12 considering you to be worthy, as we are considering
13 now, not the back and how did they say that, but
14 going forward, how do you suggest you would try to
15 approach folks in a different way if they're not
16 seeing it thus far? How do you go forward with this
17 knowledge?

18 A. Well, the first thing that jumps out at me is being a
19 litigator in the ring is much different than being a
20 judge. And it's very hard to answer that question
21 not knowing what the people thought they saw before
22 because I don't believe I've ever done anything. To
23 me -- if I'm going to fill out a ballot box on
24 somebody and I'm going to put down they did something
25 unethical, it's going to be something I reported them

1 for. I have no findings against me anywhere, not
2 even letters of caution, nothing, never had anything
3 like that.

4 **Q. And I appreciate that. I'm not trying to get you to**
5 **move on, but going forward how do you -- and you've**
6 **dealt with judges who you would aspire to be I assume**
7 **in terms of demeanor in a courtroom. Who would you**
8 **say would be the north star?**

9 A. I'll give you the three names I gave you last year,
10 Judge Keesley because I love him. He is somebody
11 that I would emulate. I have always thought of him
12 as a mentor. There are times in my career that I've
13 gone and talked to him about decisions I made in my
14 career. The way he is on the bench is the way I
15 would hope that I would be. He's very thoughtful.
16 He takes everybody's -- when you leave the courtroom
17 you believe that Judge Keesley listened to you, and I
18 think that is very important. Judge Verdin, I mean,
19 how somebody never gets a complaint as a lawyer and
20 as a judge, I hope that -- and I've spent time
21 talking to her, trying to learn from her as to how
22 she would do things like that, and our chief justice
23 that we have now. He is such a great proponent for
24 the bench and the bar and the public. And those
25 would be the three people that I would look to to

1 want to be like. And it's very hard for me to say
2 what I would change when I don't know what somebody
3 thought I did wrong because there have been
4 assumptions made. Just because somebody makes an
5 allegation against you doesn't mean it's true. I
6 don't know how else to answer the question. I don't
7 know how I would change something if I don't know
8 what I'm being asked to change.

9 Q. Well, and then finally on my -- for me, as was noted
10 by counsel, the Citizens Committee, which you have
11 participated in, wrote well rounded candidate. Will
12 be an asset to the circuit court bench.

13 CHAIRMAN RANKIN: Representative Caskey.

14 REPRESENTATIVE CASKEY: Thank you, Mr. Chairman.

15 EXAMINATION

16 BY REPRESENTATIVE CASKEY:

17 Q. Mr. Spradley, it's nice to see you today. Thank you
18 for your many years of service and offering for the
19 judicial circuit. I want to get to the heart of the
20 challenge that I see in this issue, your candidacy.
21 With great respect for what you've accomplished in
22 your career because I don't think there's any
23 question that the breath and depth of your
24 experiences qualify you to be a judge. I think
25 you've had the sort of career that I hope to over the

1 course of my own practice. I am, though, left with
2 an unresolved tension with respect to at least one
3 significant variable in this equation of assessing
4 your candidacy, and it is one that is no doubt
5 problematic specifically with the ballot box surveys.
6 I have argued in defense of our system on this
7 specific point against newspaper columnists, paid
8 detractors, senators and representatives alike, and
9 so I recognize that there are inherent flaws in the
10 use of this particular input in the assessment of a
11 candidate. And this is a long windup to get to a
12 question that really -- it seems to me inescapable
13 that I can't not notice this data point, and that is
14 with respect to the responses in the survey,
15 specifically with respect to three of our evaluative
16 criteria, character, reputation and judicial
17 temperament. I recognize again -- and I want to
18 emphasize the inherent flaws in an anonymous system
19 and the inherent flaws of an in person testimony.
20 People can dispute things. I mean, that's how I stay
21 in business. People dispute things, but as I try to
22 reconcile what I see in this race across the course
23 of our candidates here -- and I don't know that these
24 are necessarily even true, but I know that the
25 respondents in your candidacy, in your ballot box

1 survey -- 20 people found you unqualified in
2 character, 18 percent of respondents, 12 people you
3 were unqualified with respect to reputation, and 16
4 people said that you were unqualified with respect to
5 judicial temperament. Compared to our other
6 candidates where -- again, the three criteria are
7 character, reputation, judicial temperament. The
8 responses for unqualified were four, three, one, two,
9 one, one, one, two, five, zero, two, zero in no
10 particular order. By a significant margin members of
11 the Bar have responded adversely to your
12 qualification as to those three things. I don't know
13 why. My experiences with you have all been positive
14 and have given me no cause to suspect that their
15 assessments are accurate, but I am nonetheless
16 presented with a reality that says how do I ignore
17 that data point. And so I invite your response to
18 that to help me make the case that I should ignore
19 that or the system should flush that or that we
20 should let that be subsumed by some other
21 information, whatever way you want. I want to offer
22 you that full opportunity here, and I would humbly
23 invite you to do it without simply reciting back to
24 the things that you've mentioned a couple of times
25 about being an ogre and the various accolades which

1 you've been -- you've rightly earned over your
2 career. I don't know what to do with this
3 information that seems to be undeniable. What should
4 we do with that as a Commission?

5 A. Again, I think -- you said not to go back to what I
6 previously said, but I think there are many metrics.
7 I think that the ballot box is one metric. I think
8 there are others. I don't understand myself how the
9 bar found me well qualified on everything, and I
10 think when I looked at what came out from the Bar I
11 was the only person in my race that was found well
12 qualified by the bar. What happens on the ballot
13 box, I can't -- I can't answer for that. I mean, you
14 know, there's always been -- could somebody put
15 together a campaign against somebody that they don't
16 want on the bench and call ten of their friends and
17 get them to fill it out. That's not possible on the
18 Bar side because --

19 Q. Well, with respect, sir, to interrupt you briefly.
20 They would have had to call 20 of their friends.

21 A. Well, and I understand.

22 Q. Which is not an impossible task, and I don't want to
23 get into an argument with you here. I just am in a
24 position where as a member of this Commission charged
25 with certain responsibilities under the law. I don't

1 believe -- again, I have -- I readily admit that the
2 ballot box has its flaws. I want you to make the
3 case why we should dismiss this data point with
4 respect to your candidacy. That's what I'm asking
5 you to do, sir.

6 A. I can't do anything but rely on my reputation with
7 the people that know me. There are people in this
8 room that know me. There are people in this room
9 I've had cases with. I don't believe I've had a
10 problem with anybody in this room that I've had a
11 case with. I don't believe that I've ever been -- I
12 mean, on ethics, if I'm unethical, how have I gone
13 for my 20 -- how many years I've been a lawyer -- 25,
14 27 years, and never had ethics complaint filed
15 against me, not even a letter of caution. And as far
16 as temperament, I will say that -- again, that being
17 a lawyer and fighting for your client is much
18 different than sitting on the bench and making
19 decisions. I've done both. When I was in Ridge
20 Spring I -- I mean, you take off a hat, and you put
21 on a different hat. I mean, I remember sitting as a
22 judge in Ridge Spring and worrying about well, I've
23 got this guy that makes \$100,000 a year, and his
24 fine's \$500.00, and I've got this other guy that's on
25 welfare, and his maximum fine is 500, how do I equal

1 that out and make the pain the same. I can't do
2 anything but stand on who I am. And I don't believe
3 that my partners would have me there if I was what
4 those 20 people say I am. I don't believe that I
5 would have gotten the jobs that I've had coming up if
6 what they said was the same. I mean, again -- I will
7 say again, everything that I have done in my entire
8 career is based on my reputation. It's not somebody
9 making a phone call for me and getting me a job.
10 I've never been run off from anywhere. I'm with the
11 same woman for 30 years. Every metric that you can
12 look at me with, other than that ballot box -- and
13 it's only 20 out of 111. Every other metric in my
14 life says it's not true.

15 **Q. And I appreciate that, Mr. Spradley. You know, I**
16 **don't think I would be doing you any service to not**
17 **present this information to you in a framework that**
18 **is most disadvantageous to your aspiration --**

19 **A. And I understand.**

20 **Q. -- because I think as an advocate you deserve the**
21 **opportunity to make the most zealous case possible**
22 **for it, and I think you've gone a long way to do**
23 **that. And so I appreciate that. I certainly hope**
24 **you and your family don't take this as anything other**
25 **than the rigorous and thorough examination that we**

1 are charged under the law to do so as to protect the
2 integrity of our bench. And again, I would go back
3 to my praise of you for what you have done. I do
4 present this to you, though, and I don't want it to
5 get lost as you drive out of here tonight and think
6 about everything. Caskey hates me. No, I want to
7 make sure we undergo this with the diligence that the
8 people have entrusted us to exercise. And so I think
9 you've done that. I appreciate you taking that
10 challenge on. I know we'll have more to talk about,
11 but thank you, sir.

12 CHAIRMAN RANKIN: Ms. McIver.

13 MS. MCIVER: Thank you, Mr. Chairman.

14 EXAMINATION

15 BY MS. MCIVER:

16 Q. Mr. Spradley, you and I don't know each other except
17 by seeing each other in here before --

18 A. Twice.

19 Q. -- and I've probably learned a lot more about you
20 than you know about me. So that is an admitted fact,
21 but I did want to follow up on what Vice Chairman
22 Caskey was talking about, and not because I'm trying
23 to pile on because there are a few comments in here
24 that, you know, I know people can throw rocks. It's
25 an anonymous survey. I do see multiple comments on

1 some issues. I feel I have an obligation to raise it
2 with you. Otherwise I'm going to question myself and
3 not give you the benefit of responding.

4 A. I understand.

5 Q. This is one area that I don't feel like we've touched
6 on. So I'm not going to read the full comments, but
7 I do just want to touch on a couple of these, and it
8 has to do with the treatment of women. This comment
9 said I don't know if he behaves in this manner with
10 everyone or just women, but I dread interacting with
11 him. Another comment: he may have the legal
12 experience to be a judge, but he does not have the
13 temperament. He gives favor to those he respects,
14 and he does not respect women. There's one more. I
15 don't want to waste your time and everyone else's
16 here, but it was another derogatory comment about
17 your treatment of women. And because there were
18 three, and like I said, if it was just one comment, I
19 might just read over it and think that that might be
20 an outlier, but because there were three I did want
21 to give you an opportunity to respond. Is there
22 anything you can think of or a way that you conduct
23 yourself in the courtroom or in the legal practice or
24 anything else or anything else that could have caused
25 someone to submit these comments. Because it's not -

1 - and as you know, I have not since I've been on
2 JMSC, but before when you go to submit these things
3 it's not an easy thing to do. You have to punch a
4 bunch of buttons to get there, and if somebody feels
5 strongly enough to write sentence, I do think we have
6 to at least read them and consider what that means.

7 A. When Macey brought that up to me, the first thing --
8 and I wasn't even thinking -- and then I blurted it
9 out was I'm a girl dad. They are -- baby don't cry.
10 It's okay. They are strong, independent women. I
11 treat women like they are precious, and all I can
12 tell you is I don't know if it's somebody that I
13 held the door open for and they thought I was being
14 sexist by holding the door open. I mean, I'm --
15 that's who I am. I hold doors open for people. I
16 haven't left the courtroom without shaking the hand
17 of somebody that's across from me. I can't answer
18 where it came from because that's not who I am, and
19 you're going to hear me say this over and over. It
20 hurts me that somebody thinks that. Ms. Sheila
21 Robinson's one of my partners. I love her to death.
22 She's like a sister to me. We have associates. We
23 have four associates that are females in my office.
24 Never had a problem with anybody, and nobody has ever
25 said anything to me outside of this ballot box,

1 nothing ever.

2 Q. I appreciate that. And to your daughters, please
3 know I'm not trying to do anything to insult you. I
4 appreciate you being here, and part of what I've
5 done, I hope, is just try to mentor young women that
6 are going into the practice of law, but when I see
7 these types of comments I feel that I have an
8 obligation on this Commission to raise them. I
9 appreciate your response.

10 A. Yes, ma'am.

11 CHAIRMAN RANKIN: Mr. Strom.

12 EXAMINATION

13 BY MR. STROM:

14 Q. Mr. Spradley, another issue I see that I want to
15 address, if I'm reading this right. Mr. Kennedy's
16 letter is this issue of this maximum motion. And for
17 the record, the court is saying that you have a
18 racially neutral reason to strike jurors. Is that
19 what you understand the law to be?

20 A. I wasn't even involved at that point.

21 Q. I read this to be -- okay, if that wasn't you, then
22 that's --

23 A. No, no, that -- I think that was between Carlyle and
24 Jodie. I wasn't involved in that.

25 Q. Okay. Well, that cleared that up. That needed to be

1 **cleared up. Thank you.**

2 A. But I've had to make those motions myself before.

3 **Q. Have you ever had those granted against you?**

4 A. Granted against me?

5 **Q. Yes, sir.**

6 A. No, no, no, no, no, I've never had them granted
7 against me. I've had to make them as a defense
8 attorney before.

9 MR. STROM: Thank you, Mr. Chairman.

10 CHAIRMAN RANKIN: Senator Sabb.

11 SENATOR SABB: And I guess I just have a comment.

12 And I guess what I would want to say is I think
13 it's so important -- and this time it's not me -
14 - but a lot of times I do what Vice Chairman
15 Caskey does or what Lucy Grey did. And it's
16 tough for us because we never want to hurt the
17 feelings, especially of the family. And so --
18 but I just want to share my view of why it's so
19 important. We will have to discuss these
20 issues. We do it every single time amongst
21 ourselves, and typically it's in Executive
22 Session. These comments can't speak back to us.
23 So if we don't put it before a candidate and get
24 you to give us what you have on the other side,
25 we'll never know. And so while it's a painful

1 process for us because, my goodness, it -- I'm a
2 girl's dad too, and to see a baby cry affects
3 me, but I guess I want everybody to know that
4 the reason why we have to do it is because when
5 we deliberate we want to make sure that the
6 candidate has an opportunity to weigh in on
7 whatever it is that's being said. That's the
8 only way we can evaluate it fairly. Otherwise,
9 our whole view is swayed upon what we read and
10 nothing of what we hear. And so I just thought
11 it was important for me to at least share that
12 with you and with your family so that they
13 understand.

14 MR. SPRADLEY: And I appreciate that. And when
15 comments -- well, going over the comments with
16 Macey, there were some that were specific.
17 There were some that were lengthy and specific.
18 I can refute everything that are in those,
19 everything that are in those because of the
20 specificity of them. That's what's in the box.
21 That's what I'm ready to talk about because I
22 can refute that, but when something is -- you
23 don't know who said what, you don't know where
24 it came from -- like I said, maybe I held the
25 door open for somebody that said that was -- I

1 shouldn't have held the door open for them. I
2 mean, I just don't know.

3 MR. SABB: And we get the fact that context is
4 important, and we also appreciate the fact that
5 it is anonymous, and it does challenge you to
6 kind of go various places and all of that. So
7 I've just had the good fortune of serving with
8 most of these folks now for almost -- gosh, I
9 don't know -- eight or nine years, and I just
10 appreciate what they do and appreciate folks
11 like you in offering. And then fortunately or
12 unfortunately this is just --

13 MR. SPRADLEY: It's a process.

14 MR. SABB: -- part of our process, yes, sir. Thank
15 you so much.

16 CHAIRMAN RANKIN: Andy.

17 MR. SAFRAN: And I'll be brief. I share Senator
18 Sabb's and Representative Caskey's thoughts in
19 the sense that this isn't an inquisition. We're
20 not here for that. We are basically given a
21 limited bank of information. The ballot box is
22 one part of it, but I've said it before, and I
23 have to say it again, you know, we've had
24 situations over the time I've been here -- and
25 it's been a number of years now -- where these

1 ballot boxes made a big impact ultimately on
2 what happened in the course of the race, they
3 did. And I think we would be disingenuous to
4 sit here and say that we've got to treat people
5 differently. They all have to take it out of
6 the same spoon. I mean, otherwise I think we're
7 arbitrary and -- we're not fair, okay. And I
8 think we strive to be fair. We heard something
9 earlier today with another candidate. You know,
10 it's kind of resounding in my head right now,
11 and he talked about people remember you -- and
12 quoted a poet -- for how you make them feel.
13 Obviously there's some people who you didn't
14 make feel real good, okay. That's what is
15 probably the answer. Was it a fair commentary
16 on you? Couldn't tell you, wasn't there. I
17 understand that there is a very high potential
18 for these comments to be extreme and not
19 necessarily accurate, but by the same token, you
20 can't always ignore the fact that where there's
21 smoke there's fire. I mean, you can't exclude
22 that from the equation. I don't want to sit
23 here and let you in any way think that we're
24 here to somehow minimize or to fail to recognize
25 that you've had a wonderful career, and there

1 are plenty of good things that are said here,
2 but again, we're getting different pieces. You
3 certainly have made a very impassioned
4 presentation. I'm a daughter father too, and I
5 get it, okay. But I think you have to
6 recognize, I assume, that at least there's the
7 possibility that whether true or not that was
8 their reality. That's what their perception is,
9 and, you know, y'all are here basically to
10 replace somebody that is iconic. I don't think
11 there's anybody in this room to tell you that
12 Judge Keesley wasn't exemplary. And, you know,
13 we're never going to be able to find anybody
14 close, and that's no shot at you or any of the
15 other candidates, but I mean, he was special and
16 still is. What troubles me about this whole
17 process -- and I don't know what all the details
18 are -- is that it just as a group, as a bar, you
19 know, we're supposed to have some collegiality.
20 We're supposed to be on the same team, even if
21 we're fighting with each other. Y'all come from
22 a very small community. Y'all do basically the
23 same thing, okay, in a lot of ways, and it
24 bothers me that it's reached this point. I
25 don't know what, you know, the cause was, but it

1 bothers me, you know. We're all kindred in some
2 respects, and this is not the place for this to
3 be happening. It really isn't, and it's
4 troubled me to have to go through it, really it
5 has because I know all of you. Think the world
6 of all of you, so I hope some way that, you
7 know, maybe we'll reflect on this. Maybe
8 there's something that comes out it positive to
9 just think about. I'm not here in any way, you
10 know, happy that, you know, you're here and
11 you're going through this. It's part of the
12 process, but is very regrettable that we're here
13 doing it today, it really is. So I mean, I hope
14 we all learned something out of it. It does --
15 it sets things in a wrong motion. This is not
16 what we are about. We ought to all be here
17 pulling together to find the best person to take
18 a spot of somebody that we all revere. And, you
19 know, why has it gotten to this point, I don't
20 know, but I think we all need to do some soul
21 searching and see that it doesn't happen again.
22 That's just my opinion. Thank you.

23 CHAIRMAN RANKIN: Anything else? If not, Mr.
24 Spradley, I'm going to offer you the opportunity
25 to make closing remarks if you'd like before we

1 close the record.

2 MR. SPRADLEY: Well, I just want to start out by
3 thanking Erin and Macey and Lindi, wherever she
4 is. Y'all have a great staff. I'm sorry we're
5 here for that issue also, and I don't want
6 anybody to take my answers as being defensive.
7 I always try to learn from every -- everything
8 that I'm ever involved in, I try to learn from
9 it, and I agree with you, the bar is not what it
10 was when I started. I mean, when I started, we
11 -- the public defender's office and the
12 solicitor's office and the judges, we all went
13 out to eat at least once a week during the term
14 of court. And now if you get caught talking to
15 the other side, somebody's going to say that
16 you're saying something you shouldn't be saying,
17 even though you're just shaking hands. And I
18 wish there was something that I could do to fix
19 that going forward. I appreciate what y'all do
20 for the state. I know that what y'all are doing
21 is not easy because you're going off of -- some
22 of you I know, some of you I don't. I just hope
23 you'll look at everything about me. Hope you
24 look at everything about me, not just what's in
25 the ballot box.

1 CHAIRMAN RANKIN: Representative Rutherford.

2 REPRESENTATIVE RUTHERFORD: Mr. Spradley, I just want
3 you to know that -- you know, part of it is by
4 virtue of me being in elected office for 24
5 years, I get to hear what people think about me
6 constantly, and it allows me to look inside
7 myself and see how it is that I'm treating
8 people and understand that communication -- to
9 restate the obvious is that it's two ways. It's
10 what you say and what people hear, and, you
11 know, I know you. I've known you since you
12 started practicing law. You and I have only
13 talked and laughed together, but I can't ignore
14 the fact that somebody may see us talking and
15 laughing and feel like oh, he's just talking to
16 him, he won't talk to me and take offense at
17 that, but I will just tell you that, you know,
18 it is -- whether you are successful or not at
19 this that you listen to these comments and that
20 you make sure that what you think you are is
21 what other people think you are and that they
22 take you as that. I had somebody call me a long
23 time ago, and they talked about wanting to be a
24 judge, but they were afraid of how they got
25 treated. I said listen, JMSC is one of the most

1 professional bodies I've been a part of. And
2 they said no, but you're the problem. You're
3 the one that's mean to people. Me, like I'm the
4 one that's mean, and this is what they had heard
5 from other candidates, and I didn't know that
6 that's what people thought, but I have to listen
7 to it and understand, and so I let Micah do the
8 mean stuff. But in doing so -- and you've tried
9 enough cases to know that but for Micah asking
10 you the hard questions, if we just let you leave
11 and you don't get the chance to retort, then
12 we've got all these comments that we get to see
13 and no answer from you. And so there are other
14 people that have been pressed and not done as
15 well as you did by trying to respond, but if you
16 leave here with nothing else, leave with the
17 fact that holding the door may not be enough,
18 that shaking the opposite person's hand or the
19 opposite lawyer's hand may not be enough. And I
20 don't know what the answer is, but I know that I
21 get criticized for thinking that I'm special
22 because I'm a lawyer legislator that went to
23 court. And the solicitor says oh, well, the
24 judge is afraid of him. The judge didn't grant
25 a single motion I made, but if that's your

1 thought, then maybe I need to figure out how to
2 address that moving forward just because, again,
3 communication is what you say and also what
4 people hear. So I don't want your family to
5 leave feeling dejected or like we attacked. I
6 think that this is the process. This will not
7 be the process anymore, but it was certainly an
8 honor to have you. It's an honor for you to
9 continue to come back and try and do what most
10 people believe is reaching the pinnacle of the
11 practice of law. And a lot of people feel like
12 you deserve it, and those that wanted to make
13 sure that they were heard by expressing their
14 displeasure, I hope that they watch this and
15 feel like they've been heard. And hopefully
16 they feel like you addressed their situation.
17 So, again, I just want to thank you for coming
18 and just give you that cautionary tale of being
19 careful about what it is that people see in you
20 when they see you.

21 MR. SPRADLEY: I appreciate that.

22 CHAIRMAN RANKIN: All right, sir. We will now
23 conclude this portion of the screening, and I
24 want to remind you as you know the rules, this
25 Commission takes very seriously both the letter

1 and the spirit of the ethics laws. Any
2 violation of that or the appearance of
3 impropriety on your part would warrant our
4 bringing you back. The record is not closed
5 until the formal release of the qualifications.
6 You know that, yes, please?

7 MR. SPRADLEY: Yes, sir.

8 CHAIRMAN RANKIN: And I know you know that, and so
9 with that, Mr. Spradley, your beautiful family,
10 the Kennedys, former Senator Jakie Knotts and
11 everyone else who have come today, this will
12 conclude this portion of today's hearing. Thank
13 you so much, and we will now go in Executive
14 Session on motion of Senator Garrett, seconded
15 by me.

16 (Executive Session was held from 5:43 to 5:46 pm)

17 (Off the record)

18 CHAIRMAN RANKIN: All right. We are back on the
19 record. For the record while in executive
20 session, no votes were taken, no decisions were
21 cast. We will proceed until the morning. Thank
22 you so much.

23 (There being no further questions, the hearings
24 concluded at 5:46 p.m.)

25

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