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HEARING PROCEEDINGS

November 20, 2024

2024 SC Judicial Merit Selection Commission

REPORTER: Jennifer Nottle

1 STATE OF SOUTH CAROLINA)

2 COUNTY OF RICHLAND)

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JUDICIAL MERIT SELECTION COMMISSION

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TRANSCRIPT OF PUBLIC HEARINGS

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BEFORE: SENATOR LUKE RANKIN, CHAIRMAN

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MICAJAH PICKETT "MICAH" CASKEY, VICE CHAIRMAN

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SENATOR RONNIE A. SABB

11

SENATOR BILLY GARRETT

12

REPRESENTATIVE J. TODD RUTHERFORD

13

MS. HOPE BLACKLEY

14

MS. LUCY GREY MCIVER

15

MR. ANDREW N. SAFRAN

16

REPRESENTATIVE WALLACE H. "JAY" JORDAN

17

MS. ERIN CRAWFORD, CHIEF COUNSEL

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DATE: November 20, 2024

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TIME: 9:00 a.m.

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LOCATION: Gressette Building

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1101 Pendleton Street

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Columbia, South Carolina 29201

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REPORTED BY: JENNIFER NOTTLE, COURT REPORTER

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1 CHAIRMAN RANKIN: Good morning everybody. Jimmy, will
2 you please stand up. Today is Jimmy's birthday.
3 We will have an on-the-record birthday song.
4 Kick it off, Todd!

5 (Happy Birthday is sung by all.)

6 CHAIRMAN RANKIN: And now on a motion of
7 Representative Rutherford, we will go off the
8 record, into Executive Session.

9 EXECUTIVE SESSION

10 CHAIRMAN RANKIN: All right. We are back on the
11 record and for the record, during executive
12 session, no votes were taken, no decisions were
13 made. We will now proceed to a ballot. Ms.
14 Crawford.

15 MS. CRAWFORD: Mr. Chairman, we still have not voted
16 on the qualifications of The Honorable Monét
17 Pincus, Family Court, At-Large, Seat 4. She was
18 screened on 11/18/24.

19 CHAIRMAN RANKIN: Will there be a motion?

20 VICE CHAIRMAN CASKEY: Mr. Chairman, I move that we
21 find her qualified and nominated.

22 CHAIRMAN RANKIN: Alright, second. All in favor say
23 aye.

24 (Ayes are heard.)

25 CHAIRMAN RANKIN: Any opposition. There being none,

1 all right.

2 MS. CRAWFORD: Mr. Chairman, from yesterday, we have
3 the Circuit Court, Fifth Circuit, Seat 1. I will
4 read each candidate, then I'm going to remind you
5 that each Commission member has three votes. Any
6 candidate that receives six or more votes for
7 qualified and nominated will be considered
8 qualified and nominated at the end of that vote
9 unless there's a tie. And at that point we got
10 to the next ballot. If anybody receives zero
11 votes, we remove them from the subsequent ballot.
12 The candidates are, let me read them through
13 first. Ashley A. McMahan, Christopher Dolan
14 Taylor, Justin T. Williams and William K.
15 Witherspoon.

16 CHAIRMAN RANKIN: All right. Is there a motion as to
17 these candidates' qualifications?

18 VICE CHAIRMAN CASKEY: Mr. Chairman, I would move that
19 all of these candidates be found qualified.

20 CHAIRMAN RANKIN: Second? All right. All in favor of
21 the motion as seconded say aye.

22 (Ayes are heard.)

23 CHAIRMAN RANKIN: An opposition, there being none. We
24 will proceed to a ballot.

25 MS. CRAWFORD: Yes, sir. And, again, you have three

1 votes. The first candidate is Ashley McMahan.

2 CHAIRMAN RANKIN: Hands up, please.

3 MS. CRAWFORD: Eight. The next --

4 CHAIRMAN RANKIN: It's eight, correct? You need a re-
5 showing of the hands or no?

6 MS. CRAWFORD: Christopher Dolan Taylor.

7 CHAIRMAN RANKIN: Hands up, again. Let's make sure
8 we've got that count correct.

9 MS. CRAWFORD: Ten.

10 CHAIRMAN RANKIN: Hands up.

11 MS. CRAWFORD: Ten votes. Ten.

12 CHAIRMAN RANKIN: Very good, all right.

13 MS. CRAWFORD: The next candidate is Justin T.

14 Williams. Three. The next candidate is William
15 K. Witherspoon. Nine. So the three candidates
16 that are qualified and nominated are Ashley
17 McMahan, Christopher Dolan Taylor and William K.
18 Witherspoon. In the next race for the Circuit
19 Court, 11th Circuit, Seat 1, we have five
20 candidates. Let me say those candidates first.
21 the honorable David Shawn Graham, The Honorable
22 Kyliene Lee Keesley, Derrick E. Mobley and
23 Christian Spradley.

24 CHAIRMAN RANKIN: Will there be a motion as to
25 qualifications?

1 VICE CHAIRMAN CASKEY: Mr. Chairman, I move that all
2 of these candidates be found qualified.

3 REPRESENTATIVE JORDAN: Seconded.

4 CHAIRMAN RANKIN: Motion made and seconded. All in
5 favor say aye.

6 (Ayes are heard.)

7 CHAIRMAN RANKIN: Any opposition, there being none.

8 MS. CRAWFORD: The four candidates are -- I'll say
9 them in alphabetical order. The Honorable David
10 Shawn Graham. This is to nominations.

11 CHAIRMAN RANKIN: And there -- oh, I'm sorry, you're
12 calling for the vote.

13 MS. CRAWFORD: Yes, sir. Eight. The Honorable
14 Kyliene Lee Keesley. Three. Derrick E. Mobley -
15 -

16 CHAIRMAN RANKIN: I'm sorry, four on Ms. Keesley.

17 MS. CRAWFORD: Derrick E. Mobley. Eight. Christian
18 Giresi Spradley. (Vote count is not said
19 verbally.) The three candidates that are
20 qualified and nominated are the Honorable David
21 Shawn Graham, Derrick E. Mobley, and Christian
22 Spradley. Mr. Chairman, that's all the voting we
23 have at this time.

24 CHAIRMAN RANKIN: All right. We will now proceed to
25 our first candidate, Ms. Webb, Bryan Alfaro.

1 BRYAN A. ALFARO, being duly sworn, testifies as
2 follows:

3 CHAIRMAN RANKIN: If you will, make sure that mic's
4 on.

5 MR. ALFARO: It is.

6 CHAIRMAN RANKIN: Okay, great. Please state your name
7 for the record.

8 MR. ALFARO: Brian Alfaro.

9 CHAIRMAN RANKIN: Nice to meet you, sir. Good
10 morning.

11 MR. ALFARO: You as well.

12 CHAIRMAN RANKIN: You have a couple of documents ready
13 to be submitted into the record, the PDQ and the
14 Sworn Statement. Are those ready to be put in
15 the record?

16 MR. ALFARO: Yes, they are.

17 (Exhibit Number 1 was marked for identification
18 purposes - (16 pages) Personal Data Questionnaire for
19 Bryan A. Alfaro.)

20 (Exhibit Number 2 was marked for identification
21 purposes - (10 pages) Sworn Statement of Bryan A.
22 Alfaro.)

23 CHAIRMAN RANKIN: All right. Mr. Alfaro, we have not
24 met before, I don't believe. Forgive me if we
25 have, but this is your first time in running for

1 a candidate for a judgeship; is that correct?

2 MR. ALFARO: Yes, sir.

3 CHAIRMAN RANKIN: So, a little new to you. A number
4 of times folks have been here before, and so it's
5 almost like a rote listening to, but let me just
6 reel off, as you know, what our evaluative
7 criteria, the nine things that we focus on in
8 terms of your candidacy. That includes the
9 ballot box survey, a thorough study of your
10 application materials, verification of your
11 compliance with state ethics laws, a search of
12 newspaper articles in which your name appears,
13 and then a check for economic conflicts of
14 interest. No affidavits have been filed in
15 opposition to your campaign, your candidacy. No
16 witnesses have come or requested to be heard in
17 connection with any complaint or affidavit. And
18 so we welcome you, and you did bring someone with
19 you, perhaps known by at least one person here.
20 You're welcome to introduce, if you would like,
21 whoever you may have brought with you.

22 MR. ALFARO: Yes, sir. I brought Sean Kent with me,
23 an attorney from Manning and a longtime friend.

24 CHAIRMAN RANKIN: Very good. Mr. Kent, stand up so
25 everybody can get a good hello to you. Thank you

1 for joining. You have the opportunity, if you
2 want, to make an opening statement. Given our
3 hour and the delay in starting, which I apologize
4 for to both of you, you can do that, or you can
5 reserve any comments that haven't been made in
6 exchange for questions from staff or us for
7 later.

8 MR. ALFARO: I'll waive any opening. I just
9 appreciate the opportunity to be here before you.

10 CHAIRMAN RANKIN: Okay, very good. Ms. Webb, thank
11 you.

12 MS. WEBB: Thank you.

13 MR. ALFARO - EXAMINATION BY MS. WEBB:

14 **Q. Good morning, Mr. Alfaro.**

15 A. Good morning.

16 MS. WEBB: I note for the record that based on the
17 testimony contained in the candidate's PDQ, which
18 has been included in the record with the
19 candidate's consent, Brian Alfaro meets the
20 constitutional and statutory requirements for
21 this position regarding age, residence, and years
22 of practice.

23 **Q. And, Mr. Alfaro, why do you want to be a Circuit**
24 **Court judge?**

25 A. When I first started, when I first got out of law

1 school, I started working at the solicitor's
2 office back in 2004, and I learned very early on
3 that the best way to become a better lawyer was
4 to not only go to court and watch other lawyers
5 but to watch judges and see how they interacted
6 with attorneys, how attorneys interacted with
7 them, and kind of learned what they expected and
8 what they liked and what was effective. And
9 since I left the solicitor's office, you know, I
10 was in a leadership and mentoring position within
11 the solicitor's office. One of the things that
12 I've missed since leaving when I left last year
13 to open my own practice was that sort of leading
14 by example and mentorship. And it's something
15 that I hope that if I am elected to the bench
16 that I'll be able to do, kind of lead by example
17 in terms of working with other attorneys.

18 **Q. Thank you. And, Mr. Alfaro, how do you feel your**
19 **legal and professional experience thus far**
20 **renders you qualified and will assist you to be**
21 **an effective Circuit Court judge?**

22 **A.** As I said, I've been, you know, I started in the
23 solicitor's office in 2004. My first year, I was
24 a Family Court prosecutor, juvenile prosecutor.
25 A year later I moved into General Sessions, and I

1 remained in General Sessions in the solicitor's
2 office until 2023 when I left. During that time,
3 in 2007, I was promoted to deputy solicitor for
4 the circuit working out of Berkeley County. In
5 that capacity, I had the opportunity to try a
6 capital case. I've tried murder cases with
7 multiple defendants, multiple victims, armed
8 robberies, criminal sexual conduct, criminal
9 sexual conduct with minor cases and just about
10 every other case there is to try. I've done that
11 in General Sessions. In addition, in Berkeley as
12 a deputy solicitor, I was responsible for the
13 docketing and the management of the docket in
14 terms of scheduling pleas and scheduling bonds
15 and trials. So I believe that that experience
16 allowed me to work directly with the judiciary,
17 work directly with our clerks of court and their
18 staff, as well as with the public defender's
19 office and the private bar. So I believe that
20 that experience and background will be very
21 useful to me as a circuit judge, especially in
22 dealing with the backlog that we're currently
23 experiencing. And in addition to those things,
24 like I said, I've tried all kinds of cases in a
25 supervisory role. I also was involved in the

1 planning and also the conducting of trials by
2 other attorneys. So I have a great deal of
3 experience when it comes to that. I'm
4 comfortable in a courtroom. I know what it takes
5 to try a case, what it takes to move cases,
6 pleas, bonds, sentencing, all those things. I do
7 obviously lack civil experience in comparison to
8 my criminal, but I think it's important to
9 realize that, the way I look at it, and I've had
10 conversations with current judges and former
11 judges as well as attorneys who do both, that the
12 learning of the civil rules and the civil
13 procedures, that will come with work and that
14 will come with experience. But the experience
15 that I already have in terms of trials and
16 courtroom experience, being in front of judges on
17 my feet, arguing motions, conducting hearings for
18 the state, I believe that translates well to the
19 circuit bench as a whole.

20 **Q. Thank you. And Mr. Alfaro, the Commission**
21 **received 176 ballot box surveys regarding you**
22 **with 47 additional comments. The ballot box**
23 **survey, for example, contained the following**
24 **positive comments. Would be a no drama judge who**
25 **calls balls and strikes. Great ethical and**

1 judicial temperament. Excellent attorney, but
2 even better person. Would be fair, respectful,
3 and very thoughtful in his rulings. Has
4 dedicated his legal career primarily to public
5 service, and he has the ability to see both sides
6 of an issue while still being fair and impartial.
7 However, seven of the written comments expressed
8 concerns. One of the concerns indicated that you
9 were part of the good-old-boys club. What
10 response would you offer to this question?

11 A. I would say that I am the complete opposite of
12 that. Both of my grandfathers came over to this
13 country from the Philippines, served in the
14 military in order to gain their citizenship. My
15 mother and father were born. They eventually
16 settled in Moncks Corner, my grandparents, in
17 Berkeley County. My dad was career Air Force
18 followed by career civil service. My mom was a
19 nurse. I'm the first person in my family on
20 either side to go to law school. I'm one of the
21 first to go graduate college, but I'm certainly
22 the first to graduate law school. I'm not
23 related to any judges. I'm not related to any
24 legislators. I believe that I'm the complete
25 opposite of being part of the good-old-boys

1 system. If somebody just from the outside knows
2 that I worked for the government for 20 years,
3 then maybe that's where that comes from. But
4 outside of that, I would say I'm the antithesis
5 of the good-old-boys system.

6 **Q. Thank you. And Mr. Alfaro, the second concern**
7 **indicated that you have a reputation as a**
8 **heavy-handed prosecutor. What response would you**
9 **offer to this concern?**

10 A. I would say that that's someone that didn't work
11 with me too often. I have -- I believe, my
12 reputation with public defenders as well as
13 private attorneys and as well as judges is that I
14 am reasonable and that I am fair to both sides.
15 I've never -- I never did my job as a prosecutor
16 with the goal that the max was always the right
17 thing. Sometimes it is. Sometimes someone has
18 had every chance they could deserve to not get a
19 harsh sentence, but sometimes you have to dole
20 that out. But until then, I have always been
21 open to conversations with the defense bar, as I
22 said, public defenders or private attorneys in
23 terms of trying to reach resolutions. And in
24 almost every case I put before a judge, I had
25 some sort of a recommendation. Sometimes that

1 was as beneficial as time served or probation,
2 but sometimes it was a harsh sentence. But I
3 don't think I'm heavy-handed. I think I'm the
4 opposite of that as well. I believe that I have
5 -- I've been heavy-handed when I needed to be,
6 but not when I did not need to be.

7 **Q. Thank you, Mr. Alfaro.**

8 MS. WEBB: And I would note that the Low Country
9 Citizens Committee reported that Mr. Alfaro is
10 well-qualified as to the evaluative criteria of
11 ethical fitness, professional and academic
12 ability, character, reputation, criminal
13 experience, and judicial temperament and
14 qualified in the evaluative criteria of
15 constitutional qualifications, physical health,
16 mental stability, and civil experience. The
17 Committee noted level-headed, objective judicial
18 temperament, hard worker, quick study, short on
19 civil experience, solid person, good judgment.

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

25 A. I am.

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

4 A. I have not.

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

9 A. I have not.

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

13 A. I am.

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

19 A. I have not, nor am I aware.

20 Q. All right. Thank you. And have you reviewed and
21 do you understand the commission's guidelines on
22 pledging in South Carolina Code Section
23 2-19-70(E)?

24 A. I do. Thank you.

25 MS. WEBB: Mr. Chairman, I would note for the record

1 that any concerns raised during the investigation
2 by staff regarding the candidate were
3 incorporated into the questioning of this
4 candidate today. And, Mr. Chairman. I have no
5 further questions.

6 CHAIRMAN RANKIN: All right. Members of the
7 commission, questions of Mr. Alfaro? Senator
8 Garrett.

9 SENATOR GARRETT: Thank you, sir, for offering. Thank
10 you, Mr. Chairman.

11 MR. ALFARO - EXAMINATION BY SENATOR GARRETT:

12 **Q. You said you had been involved in a death penalty**
13 **case.**

14 A. I have.

15 **Q. Tell me about it, briefly.**

16 A. It was a Berkeley County case where the defendant
17 had murdered his aunt with a hammer, sexually
18 assaulted her, and then attempted to murder his
19 cousin as well when she tried to intervene. And
20 then he burned the trailer in an attempt to cover
21 up the evidence of the crime. So our office
22 elected to seek the death penalty in that case.

23 **Q. Was that your decision, or was that a decision by**
24 **your circuit solicitor?**

25 A. Those decisions are always with the circuit

1 solicitor. I had input. I agreed with the
2 decision to proceed with that. And it's not a
3 decision that I would take lightly. I understand
4 the implications of it, but in a situation like
5 that, as gruesome and as horrific as those crimes
6 were, I agreed with the decision that it was
7 warranted to seek it.

8 **Q. Okay. And were you successful at it?**

9 A. We were not. He was convicted of all counts and
10 sentenced to life.

11 **Q. Okay. And that was a jury decision?**

12 A. Yes.

13 **Q. You were fine with that?**

14 A. Yes.

15 **Q. And as far as life without possibility of parole,
16 have you been involved in some of those?**

17 A. I have. I have served notice for the intention
18 to seek life without parole on some cases, not
19 all cases where it's eligible and someone will be
20 eligible for it. I have done it on occasion. I
21 have had people convicted of crimes that were
22 receiving life pursuant to that notice but also
23 have tried murder cases where they were convicted
24 of murder or burglary first and received life.

25 **Q. Okay. And did you make those decisions at the**

1 **lower level, or was that also at the solicitor's**
2 **level?**

3 A. Those would have been my decisions with,
4 obviously, the consent of the solicitor.

5 **Q. You were a former police officer, right?**

6 A. Yes, sir.

7 **Q. Some of the things that people want is fairness,**
8 **obviously, and your slant seems to be towards**
9 **prosecution. Yet, when I was reading here, I saw**
10 **where you defended someone.**

11 A. My experience is primarily as a prosecutor. I
12 left the solicitor's office last year, opened up
13 my own solo practice. I do primarily criminal
14 defense. So while I have -- most of my
15 experience has been as a prosecutor, I take
16 criminal cases. I tried a case as a defense
17 attorney in August against the Charleston
18 solicitor's office. So I'm comfortable on both
19 sides. And I've always -- people ask me the same
20 kind of question when I left the solicitor's
21 office to go in private practice. How are you
22 going to go from being a prosecutor to defending
23 people?

24 **Q. I think they say wearing the white hat to the**
25 **black hat, but go ahead.**

1 A. I would say this. If you're doing your job right
2 as a prosecutor, which I think I did, you're
3 seeking justice. And while your role may change,
4 the responsibilities remain the same. The job is
5 to get the best result. As a prosecutor, you're
6 looking for the best result that's fair to
7 everybody, including the defendant, victims and
8 the community. As a defense attorney, obviously
9 your job is to get the best result for your
10 client. But you can do both jobs efficiently and
11 effectively without changing who you are or how
12 you do things. And I believe I've shown that
13 ability as a defense attorney now. I'm
14 comfortable taking cases. There's cases that I
15 have that I didn't think I'd ever be defending,
16 but, you know, I'm comfortable doing it. I'm
17 going to do everything I can to give them the
18 defense that they're entitled to in every case I
19 have.

20 **Q. As a constitutionalist, would you follow the**
21 **Constitution in all cases?**

22 A. Yes.

23 **Q. Would you try to legislate from the bench?**

24 A. I don't think that's the role. I think your role
25 is to apply the law as it exists in a fair and

1 just manner, and I think that would be the role
2 that I would take on the circuit bench.

3 SENATOR GARRETT: Thank you, Mr. Chairman.

4 CHAIRMAN RANKIN: Thank you. Other questions? Mr.
5 Strom.

6 MR. STROM: Thank you, Mr. Chairman. I'm just looking
7 at your letters of reference. I'm impressed
8 that, obviously, Mr. Kent, you've got here, Andy
9 Savage, who we all hold in high regard, and we
10 all have this concern about being balanced. A
11 lot of us may, the Senator over here, the
12 Representative back here, we all started in the
13 Solicitor's Office and went into to practice and
14 understand that transition. It sounds like you
15 can make that without any bias. Do you agree
16 with that?

17 MR. ALFARO: I agree.

18 MR. STROM: I can tell from your letters that other
19 people who know you will agree with that. Thank
20 you, Mr. Chairman.

21 MR. ALFARO: Thank you.

22 CHAIRMAN RANKIN: Thank you, Mr. Strom. Anybody
23 else?

24 MR. ALFARO - EXAMINATION BY CHAIRMAN RANKIN:

25 **Q. I will ask this, kind of particularly with first**

1 **time candidates, and you have spoken and I've**
2 **read some of your PDQ and responses, but the**
3 **blunt question, why now for you?**

4 A. Why now is that the timing is right. I believe
5 I'm qualified now for it. Some may say this has
6 been a detriment, but I've always been very self
7 aware of what I know and what I don't know and
8 what I'm capable of. And there were openings
9 before where people asked me if I considered
10 running, and I didn't think I was ready. You
11 know, and since the last time I considered it, I
12 was still in the Solicitor's Office, promoted to
13 Chief Deputy. That was something I wanted to do
14 before I left that office. And then I made the
15 step last year to open my own practice, and I've
16 enjoyed private practice. If I'm not fortunate
17 enough to be elected to the bench, I will go back
18 to my practice in Moncks Corner and enjoy every
19 minute of it. But I think now is the right time
20 for me, and I think it's also the right time
21 where I think I have attributes and abilities
22 that I can bring to the bench that I think will
23 be beneficial for the system as well as the
24 community as a whole.

25 **Q. Your ding, which is not a ding, but the lack of**

1 civil experience, the ebb and flow of -- as you
2 now, I think you have three plaintiff's cases,
3 one in suit two, at least at that time, in terms
4 of the civil practice and your civil experience
5 growing. You know from your work as a
6 prosecutor, the majority of the judge's time is
7 spent not on the civil except for motions, but
8 it's criminal or general sessions. Has that been
9 your experience?

10 A. That's been my experience, and that's been the
11 subject of conversations I've had with sitting
12 judges and former judges. Civil practice is its
13 own unique animal, but it is pleadings based,
14 motions based, and discovery based. And in order
15 to -- whereas with general sessions, there are
16 very few cases that as a prosecutor, especially
17 at the level prosecutor I was, that you lay hands
18 on that you're not in front of a judge for
19 something, whether it's a bond setting, a bond
20 reconsideration, a bond revocation, a plea, a
21 stand your ground hearing, or a full-blown jury
22 trial. So I think the actual in-court experience
23 that I have in general sessions will be the base
24 that I learn and improve the civil knowledge that
25 I have with the rules, and I think that's what's

1 going to make me a good servitor.

2 Q. Obviously, there's a transcript here. People can
3 watch, but people can look at your material, your
4 letters of reference, of which you've got
5 exemplary letters from all sides of the Bar. If
6 there's a concern that a defense attorney who you
7 would have encountered, and I am not stating this
8 from fact but a hypothetical, that you are so
9 gung ho and so prosecutorially based and focused
10 and/or biased that they might think you would be
11 a difficult judge to appear before. How would
12 you speak to that? What would be your disarming
13 or assuring response to that group that might be
14 concerned?

15 A. I believe that my reputation with the defense
16 bar, both public defenders and private attorneys,
17 along with my reputation with our judges, is such
18 that I am fair. I am reasonable. I will say
19 this. I have dismissed many cases as a
20 prosecutor, and I was never scared -- if I had a
21 case that came to me that had no merit or needed
22 to be dismissed for a complete appropriate
23 reason, that I was never scared to make that
24 decision and dismiss that myself and not put it
25 on a judge to make that decision for me. So I

1 can be fair. I have been fair. I believe that
2 my almost -- as you saw from the letters that
3 have been mentioned, you know, I've got letters
4 from defense attorneys, and we had to list out
5 attorneys that tried cases against you that might
6 have good or bad to say -- the head public
7 defender in Berkeley County was one of the ones
8 that was more than willing to, you know, stand in
9 that role for me. So I believe I have shown a
10 disposition of fairness and reasonableness and
11 the ability to work with everyone and get the
12 appropriate result. I would disagree that I am
13 heavy handed. As I said, I believe that when the
14 time came for me to be heavy handed, I was. But
15 that was not always the time, and that is not
16 always what happened in my case.

17 **Q. We have had prior solicitors come or deputy**
18 **solicitors, assistant solicitors come before us,**
19 **and I'm curious how you, in your walk as a**
20 **prosecutor, have dealt with victims. And I want**
21 **to say when you dismiss cases, keeping the peace**
22 **with victims. How have you done that?**

23 **A.** The way I did my job was I always wanted to meet
24 with victims early in the process. I believe
25 that if you met with them early and gave them

1 reasonable expectations, that it became easier
2 down the road if you had to make a decision that
3 they might not agree with. But they were
4 informed of every decision. That's part of the
5 Victim Bill of Rights, and I adhere to that
6 strictly. But ultimately, in those cases, it's
7 the prosecutor's decision. But in meeting with
8 them early and establishing what to expect from
9 the process and what the early stage good and bad
10 might have been about their case, I believe that
11 I was able to get that trust early and, along
12 with the respect that it garnered, make the
13 decisions that needed to be made. Victims were
14 not always happy. No victim is happy when their
15 case is going to be dismissed. But you owe it to
16 them as a prosecutor to explain to them why a
17 decision is being made and why the discretion
18 that you have is being exercised in the manner
19 that it is.

20 **Q. As a, again, assistant solicitor -- and that was**
21 **your role before you started your private**
22 **practice, correct?**

23 **A.** I was an assistant solicitor for about three
24 years. I was the deputy solicitor in Berkeley
25 County from 2007 to 2021, and then I was the

1 chief deputy solicitor for the circuit from 2021
2 to 2023.

3 Q. Okay. And, again, in terms of your
4 qualifications, sometime back we had a very
5 unique situation where there was a complaint
6 about a judge who ultimately had a personality
7 conflict with a solicitor to the degree that they
8 filed a complaint against a sitting judge,
9 unopposed sitting judge, which is unique and
10 unprecedented. I'm not asking you to comment on
11 that, no need to. But to the degree you, as a
12 deputy solicitor, interaction with a sitting
13 judge, as you would be if you were successful in
14 this effort, with almost like to me a victim's
15 group or an advocate, what would be your
16 temperament in dealing with a perhaps overzealous
17 solicitor or prosecutor as a sitting judge?

18 A. I think it comes down to you have a job to do,
19 and you have a job to do the right way. And if
20 you are doing things the right way in terms of
21 dealing with the victims, if you give them the
22 opportunity to say their piece in court and they
23 have the opportunity to say what they think and
24 what they feel, whether you agree with them or
25 not, at the end of the day, I think most victims

1 will acknowledge they had their day in court,
2 even if they disagree with the result. And I
3 think that's important to do from the bench. I
4 think it is most important to allow them to have
5 the opportunity to have their day in court. Some
6 of these cases, you're not talking months, it's
7 years before these people get to come into a
8 courtroom and get their day in court and get what
9 they believe is justice. And so I think you owe
10 it to them to allow them the opportunity to speak
11 their piece and express themselves about it. And
12 I would do that from the bench. In terms of the
13 solicitor, I will say this as deputy solicitor
14 and chief deputy solicitor, I did not agree with
15 everything my solicitor did all the time, but
16 that was my job. My job was to give my opinion
17 and be a sounding board for decisions that were
18 made. And ultimately, from the bench, I don't
19 work for the solicitor. I will work for the
20 judiciary, and I'll work for the people of South
21 Carolina. The decisions that I make will be the
22 decisions that I think are the appropriate
23 decisions, applying the law as I see them, not
24 what someone, whether it's an elected official or
25 an assistant solicitor or a public defender,

1 thinks I should do.

2 Q. And you speak to the tension, again,
3 unprecedented tension, that I've witnessed in my
4 time here between the disparate groups, whether
5 it's a victim's group or whether it's the
6 solicitors. To the degree that we hear that
7 tension here as if we have -- this body has
8 anything to do with personalities or the flow of
9 work that a judge gets, to the degree that
10 complaints are filed or you read things, as a
11 judge, how are you going to withstand the loudest
12 person in the room demanding what they think they
13 deserve to the prejudice, perhaps, of the other
14 side?

15 A. Again, I think all parties in a proceeding should
16 have the opportunity to say their piece. At some
17 point, any person can go beyond saying their
18 piece and move into disrupting the entire
19 proceedings or the whole process. And as a
20 judge, you have to control your courtroom. And I
21 think if you give people the opportunity to say
22 their piece, usually that works out fine. But
23 you're going to have instances where people
24 aren't going to -- any job you have, somebody's
25 not going to agree with what you do. And a judge

1 being up on a bench and being the one that's
2 ruling on, for some of these people, the most
3 important day of their life, you're going to have
4 that tension, you're going to have that stress.
5 And you just have to deal with it and do your job
6 the way you're supposed to do it. And if there
7 are repercussions for you doing something wrong,
8 then you deal with that, and that would be
9 appropriate. If the repercussions are because
10 you did the right thing and they just didn't like
11 it, you can't make everybody happy.

12 **Q. What goes on in the courtroom obviously is on the**
13 **record. What we read in the newspaper is not on**
14 **the record. So my challenge to you, and you see**
15 **and know generally what I'm maybe referring to,**
16 **that I guess you're giving everybody ample**
17 **notice, time, and communication within the**
18 **courtroom and then expectations with whatever**
19 **group they would learn to respect you and let you**
20 **call those balls and strikes. Is that fair?**

21 **A.** I believe it's fair. I think the bottom line is
22 that it would be my job to call balls and
23 strikes, and that's what I would do, and
24 hopefully they would like that.

25 **Q. Two quick things, and then we'll move on. I'm**

1 not trying to dominate this, but I do want to
2 call attention to the Citizens Committee who took
3 the unusual step of writing a note about you in
4 terms of your ability, rating you very highly in
5 every metric they can, not as high on civil, only
6 because for the stated reasons not that much
7 experience. So that is a compliment to you.
8 Finally, at the beginning of this football
9 season, what did you predict Florida State's
10 record would be at this point?

11 A. Eight and four, nine and three.

12 Q. Wow.

13 A. And if that doesn't show my temperament that I
14 still have all the TVs in my house, nothing will.

15 Q. And for the record, those watching, a bright
16 smile is on his face. You have kind of a sense
17 of a Gamecock maybe, though this is the year that
18 we are seven and three. Pray next Saturday we'll
19 be eight and three. So, all right.

20 CHAIRMAN RANKIN: Other questions? Mr. Safran.

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

22 MR. ALFARO - EXAMINATION BY MR. SAFRAN:

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

24 Q. I just want to follow up on a couple things that
25 the Chairman initiated. Let me take a step back

1 in terms of the why now. At least in the time I
2 was coming up, and obviously that was back when
3 we had the dinosaurs, okay? But I had plenty of
4 people I knew that went and started out with the
5 solicitor's office and stayed there for a period
6 of time primarily to get trial experience. And
7 usually you're seeing two, three, four years.
8 Usually by the time somebody's got the tenure
9 you've got, they've kind of committed themselves
10 to be a lifer. So what was it that prompted you
11 a year ago to say, I'm leaving basically this
12 second in command position and go out and do
13 this?

14 A. Well, at some point you have to decide whether
15 you want to be the first in command. And I
16 didn't have a desire to do that, but, you know,
17 with my law enforcement time as well as my
18 solicitor time, I was at close to 25 years. And
19 age factored in because I decided that if I was
20 ever going to make the move and I'd had that itch
21 to do it, if I was ever going to make the move, I
22 was 50 and I needed to do it while I was 50. I
23 didn't want to be 60 years old and being told, we
24 don't need you here anymore, now go up in a
25 private practice and figure out how to do all

1 these things that you've never done before. So
2 it's a move that I wanted to make, and it just
3 felt like the right time to do it.

4 **Q.** And it sounds like to me you've been satisfied
5 with it.

6 **A.** I have been.

7 **Q.** Switching to something else that he alluded to,
8 there seems to be at times when we talk about the
9 tension, some solicitors, and I'm not saying --
10 I'm not going to call them overzealous or not,
11 but they seem to think that effectively they
12 control all aspects, whether it be the docket or
13 whether it be the sentence. And I know there are
14 situations that I'm aware of across the board
15 where the solicitor wants to be the one that says
16 this is how much time you get, and they expect
17 the judge to rubber stamp it, and that some
18 judges actually get pushback when they say, wait
19 a minute, that's my call, not yours. To the
20 extent that some solicitors will basically just
21 withhold bringing the cases up until they find
22 somebody who will just simply rubber stamp it,
23 and that happens. Now, I'm sure you may or may
24 not have experienced it, I can't tell you. But
25 what's your take on that because I know there's a

1 part of you that would probably say, you know,
2 when I was a solicitor, my preference would have
3 been for them to give them what I wanted them to
4 give them. But, you know, I'm sure you haven't
5 gotten that necessarily across the board that a
6 judge is on board with that. So kind of how do
7 you have it -- or how do you take it because I'm
8 sure some solicitors can be pretty pushy about
9 wanting to have it done.

10 A. Well, I'll say this. As a defense attorney,
11 there are some judges you don't want to be in
12 front of with some of the cases that you have as
13 well. And in some instances, it may almost be
14 malpractice to walk somebody in front of a judge
15 --

16 **Q. No doubt.**

17 A. -- and hammer them for something that most other
18 judges would not. I have always been -- when I
19 first started in the solicitors -- the judges
20 I've appeared in front of the most are Judge
21 Markley Dennis and Judge Roger Young -- there was
22 no doubt who controlled that courtroom. There
23 was no doubt who was making the ultimate
24 decision. And we -- especially both of them, I'm
25 proud to say that I have become friendly with

1 them over the course of my career and since Judge
2 Dennis has retired. He knew that if I stood in
3 front of him and I asked him for something, I
4 meant it. It wasn't for show. And he also knew
5 that if he said, I appreciate that, Bryan, but
6 we're not doing that, that I was going to say,
7 yes, sir. Thank you, Your Honor, take the
8 sentence and walk out of the courtroom. That's
9 how I came up, and that's how I think we should
10 still be. Now, if a judge is completely wrong,
11 then maybe you have to -- you know, you might
12 have some feathers ruffled, but generally
13 speaking, again, you give people the opportunity
14 to say their piece. They have the chance that
15 both sides have explained themselves and asked
16 for what they want to ask for. At the end of the
17 day, it's the judge's decision, and I think you
18 have to respect that.

19 **Q. All right. Thank you.**

20 A. Thank you.

21 CHAIRMAN RANKIN: Senator Sabb.

22 SENATOR SABB: Thank you, Mr. Chairman. Just a couple
23 of things.

24 MR. ALFARO - EXAMINATION BY SENATOR SABB:

25 **Q. Number one, thank you. We don't get the**

1 opportunity too often to be in the presence of
2 Superman, and so we appreciate you bringing him
3 our way. A couple of things. Well, most of us.

4 CHAIRMAN RANKIN: You're talking about Todd, right?
5 You've been hitting with him all week.

6 Q. Obviously not talking about Todd. But what do
7 you do for the City of Hanahan?

8 A. I'm a part-time prosecutor for them. Primarily I
9 work with their law enforcement and with defense
10 attorneys in terms of resolving their cases. The
11 primary focus would be if there is a jury trial,
12 I would conduct that.

13 Q. Tell me about your relationship with the
14 bailiffs, the janitorial workers at the
15 courthouse.

16 A. I will say this. During this process, one of the
17 things that's been the most humbling for me is
18 having staff members from the clerk's office that
19 I worked with for years coming up to me and
20 telling me how happy they are that I'm doing this
21 and how they hope I'm successful. I have always
22 tried to treat everybody the same way, whether
23 that's the elected clerk of court or, as you
24 said, the custodial staff and everybody in
25 between. Again, back to the good-old-boy thing,

1 I know my roots. I know where I came from, and I
2 know that I'm not better than anybody else no
3 matter what my job might be, and so I've always
4 tried to treat people with that respect. I worked
5 well with the clerk staff in Charleston and
6 Berkeley, and they have been very supportive of
7 me during this process, so I'm happy with that.

8 **Q. Thank you.**

9 SENATOR SABB: Thank you, Mr. Chairman.

10 CHAIRMAN RANKIN: Anything else?

11 MR. STROM: One more. Thank you, Mr. Chairman.

12 MR. ALFARO - EXAMINATION BY MR. STROM:

13 **Q. You mentioned several judges. Thinking about all**
14 **the judges you've appeared in front of, who would**
15 **you most like to emulate if you become a judge?**

16 A. You know, I've answered that with I think you
17 take a little bit from everyone. You know, I
18 said Judge Dennis was always in control of his
19 courtroom, but, you know, he and I have had these
20 conversations as well. Sometimes, you know,
21 Judge Dennis is known for some things other than
22 temperament, but he was always quick to, you
23 know, acknowledge that, and we had those
24 discussions, but his work ethic was unparalleled.
25 Knowing that he was going to start on time, and

1 if you had ten things or 20 things or 30 things
2 scheduled, he was going to get through that
3 docket without overworking the staff in the
4 process, clerk of court staff. So his work
5 ethic, his control of the courtroom. Again, as I
6 said Judge Young has been the other judge that
7 I've been in front of the most. You know, his
8 control of the courtroom, and he's also -- you
9 know, everybody seems comfortable in his
10 courtroom. I had the opportunity when I was the
11 Berkeley Deputy Solicitor to still be involved in
12 the Michael Slager trial, the North Charleston
13 police officer that shot the unarmed motorist at
14 the traffic stop. And Judge Newman was the judge
15 presiding over that, and that was a very
16 contentious, high profile, seven-week trial with
17 Andy Savage, who wrote one of the letters for me.
18 And no matter what happened in that courtroom,
19 and it got contentious at times between Andy and
20 the judge or Andy and Solicitor Wilson, but Judge
21 Newman kept complete control of that courtroom.
22 He never changed. He was always in control of
23 everything in front of him, and I had an
24 unbelievable amount of respect for the way he
25 conducted that trial. And we saw it again with

1 Murdaugh later on, but those are the three that
2 stand out to me.

3 Q. So control of the courtroom is an important
4 thing, but in most instances, it's the
5 temperament that is critical, and that is what
6 this Commission sees as complaints about judges
7 more than anything else because you have trials,
8 obviously, and you have contentious moments. But
9 most of the time you have citizens in there.
10 It's their only day in court, whether it's civil
11 or criminal, and the way the judge treats them,
12 whether they're the victim, whether they're the
13 defendant, whether you're the lawyer on the other
14 side is critical. And so I would admonish you
15 that if you get on the bench, look at some people
16 like Judge Tommy Cooper, who retired. Go sit
17 with some people and see the real civil, polite
18 judges. They control their courtroom too, but
19 they do it with a smile and with respect. And,
20 you know, we all love Mark Lee Dennis, but that
21 style is no longer the style that is supported by
22 the citizens of this Commission.

23 A. Yes, sir, and that's what I meant by Judge Young,
24 that he controls the courtroom, again, with a
25 smile. Everybody's comfortable in there. They

1 know they're going to get their piece. And, you
2 know, I've appeared before Judge Cooper. Judge
3 James Williams from years and years ago from
4 Orangeburg, he was the same way. There are a lot
5 of judges that come through. Judge McCoy has an
6 incredible temperament in Charleston. And I
7 think that's, you know, as the surveys have said,
8 and I believe my reputation is, is that I have
9 that temperament and I will be even keeled and
10 not rip my glasses off in terms of what I read.
11 But, you know, I understand that that's
12 important, and I do believe it's -- in addition
13 to my experience, I think that's one of the
14 things I bring to this position. Thank you.

15 MR. STROM: Thank you, Mr. Chairman.

16 CHAIRMAN RANKIN: Mr. Rutherford.

17 MR. ALFARO - EXAMINATION BY REPRESENTATIVE RUTHERFORD:

18 Q. Mr. Alfaro, you grabbed ahold of the -- and Mr.
19 Strom mentioned it, the control of the courtroom,
20 but you clearly, because you're in private
21 practice now, also have a grasp of the fact that
22 lawyers have lives and that a child's baseball
23 game, flag football game, is in some ways even
24 more important than that case that may be
25 pending. You also, because you're in private

1 practice, understand the difficulty of balancing
2 earning a living and practicing law, and
3 sometimes the two conflict. I was, in fact --
4 and Sean was in front of the same judge, not
5 exactly at the same time, but we both tried a
6 case in front of Judge McLeod, and we started at
7 9:15, 9:30 most mornings. We ended at 4:30, and
8 it was my first time being in front of a judge
9 that didn't believe that a trial was a marathon
10 and you had to go until you couldn't anymore.
11 And it was -- and Rick Hubbard -- Rick Hubbard
12 and I don't agree on anything, but we both seemed
13 to agree that this was a preferred method of
14 trying cases rather than the, you know, let's go
15 right now, right now, where are your witnesses,
16 let's go, let's go, let's go. So I say that just
17 to encourage you, if you win, to think about that
18 aspect of it. Let me ask you something. We got
19 a letter in another case, and it talked about how
20 in Charleston, somebody that wants a bond
21 reduction, that it may take up to eight months to
22 get a bond reduction. Why is that? Who allows
23 that, which I would contend is certainly
24 unconstitutional? What's the problem, and why
25 has that not been fixed?

- 1 A. That's a very good question. I filed a motion to
2 have an ankle monitor removed from somebody who
3 had one on a property crime. I filed that in
4 July, and it was not scheduled until December.
5 So I don't know what the delay is. I understand
6 the clerk's office may be handling the scheduling
7 for those. I'll say this, not specifically to
8 bonds, but the backlog in general and the delays
9 in general, we may not be suffering the effects
10 of Covid, but the effects of Covid on our docket
11 are never -- it's going to be a long time to dig
12 out of that hole. There were some jurisdictions
13 that were not having court at all for a year or
14 two years, and the people were still being
15 arrested, and people were still being charged.
16 And the cases that were old before COVID got
17 really old during Covid, and they're super old
18 now. And we've moved through a lot of those, but
19 as you get through the super old, you still have
20 to keep the old from becoming really old. I
21 agree that there should be more dockets that are
22 geared towards the bond issues. You know, I
23 think that it is --
- 24 **Q. Solicitor's motions to revoke, do they wait eight**
25 **months?**

1 A. In some cases they do, yes.

2 **Q. So they don't have the ability to do an emergency**
3 **motion to revoke in Charleston?**

4 A. Whether they -- I believe they have the ability.
5 Whether there is a mechanism in place to schedule
6 those, I do not know. I know that, as I said,
7 there's motions that I filed that take a long
8 time to be heard, re-considerations. I know
9 there are cases that I have where a revocation
10 has been filed but not heard yet. When you're
11 trying to have a discussion about a new bond or
12 modification, but you know that that revocation
13 is still sitting out there, it kind of makes that
14 moot. But, yeah, the delay in that does need to
15 be addressed, and I think that's part -- when you
16 talk about the backlog, I think that's part of
17 the backlog that has to be addressed.

18 **Q. But I don't talk about backlogs. I agree with**
19 **you. I think Covid had an impact on us, and**
20 **those that don't realize it probably don't**
21 **practice law at this level to see it. But having**
22 **someone whose bond was set in an unconstitutional**
23 **manner, making that person wait eight months for**
24 **a hearing, to me is per se unconstitutional.**
25 **Your solicitor spent a lot of time in Columbia**

1 **talking about this. Did she ever talk about**
2 **that?**

3 A. We had -- there were lots of discussions about
4 getting things overall scheduled more
5 efficiently, not only bonds and revocations or
6 modifications or settings, but, yeah, that's a
7 thing that needs to be addressed. It needs to be
8 fixed. Whether that's more court time that are,
9 again, I said just specifically addressing bonds,
10 then if that's what needs to be done, that's what
11 needs to be done. And I think that's a
12 conversation that the chief administrative judge,
13 along with the solicitor and public defender's
14 office, need to have and get that addressed, and
15 I think they are having those conversations. But
16 I'm not on that inner circle anymore, so I don't
17 know how those are progressing. But I know it
18 has been a concern for both prosecutors and
19 defense attorneys.

20 **Q. Okay.**

21 MR. ALFARO - EXAMINATION BY CHAIRMAN RANKIN:

22 **Q. You have a letter of reference from a solicitor**
23 **who enjoys a unique reputation and wonderful**
24 **reputation, but who has assailed the work of this**
25 **Committee and assailed the work of individual**

1 members of this Committee. As a judge, again,
2 you can't rule on things that aren't brought
3 before you, but you are aware, I trust, of the
4 activism by certain solicitors, yes?

5 A. Yes, sir.

6 Q. Okay. Is that healthy?

7 A. I think debate and discussion is healthy. When
8 it becomes personal, I don't believe that's
9 healthy. You know, from a -- related to this
10 process, the general public that doesn't know
11 what this entails, whether as a candidate or as a
12 person deciding who's appointed, to some people
13 in the general public, it does look like there's
14 things that need to be changed. And you hear
15 buzzwords that come out in stories that makes
16 that an issue, but the process itself is solid.
17 The process that we go through is solid. It's a
18 difficult process for candidates, but it should
19 be. I mean, it's a high ranking position that
20 you're putting people on that are going to be
21 making decisions about people's lives every day.
22 So I personally have no problem with the system
23 or how it's set up, but I believe that there's
24 always room in every part of our system for
25 healthy discussion and debate, but when it

1 becomes personal and, you know, crosses that
2 line, then it ceases to be beneficial.

3 Q. If they're assailing a sitting judge, again, back
4 to my earlier question, advocates, victims,
5 groups, if they're assailing you in the press,
6 which calls into question how did that judge ever
7 get elected, which calls into question the
8 integrity of the judiciary, which is going to be
9 you, if you're successful.

10 A. Yes, sir.

11 Q. How do you anticipate your handling that when
12 they call you into question, unfairly or without
13 a factual basis?

14 A. Well, I believe that it comes back to you have a
15 job to do and you have to do it the right way,
16 and you don't owe anybody anything when you're on
17 the bench. All you owe people is the opportunity
18 to say their piece, present their cases, preserve
19 what they need to preserve for the record, hear
20 both of their positions and their sides and make
21 a ruling. Inherently in an adversarial system,
22 someone's not going to like the ruling, but what
23 is important is that they respect the process and
24 they respect that the ruling -- and believe that
25 it was fair, and I think that's all that you can

1 control from the bench. All you can do is
2 conduct yourself in an appropriate manner, make
3 rulings that you believe are based on facts and
4 based on the law and do what you are supposed to
5 do. And if someone does not like that, if their
6 only complaint is they don't like the result,
7 then there's nothing to say to that. If the
8 complaint is that they don't like the result and
9 they didn't think the process was fair and you in
10 fact did something that was not fair, then that
11 is a problem, and you should take that criticism.
12 But if you do things the way it's supposed to be
13 done, that's all you can do. Again, in an
14 adversarial system, not everybody's going to be
15 happy, and if at the end of the day you can say I
16 did it the right way and I did what I believe I
17 should have done and I didn't do it to owe favor
18 to anybody or curry favor with anybody, then
19 that's all you can do and that's all you should
20 do and that's all I will do because I can't
21 control anything else. I can't control how the
22 press reacts. I can't control how victim
23 advocates react or solicitors react.

24 **Q. And finally, with regard to your experience with**
25 **this -- this process thus far, has it been what**

1 you expected given the chatter and the complaints
2 of some solicitors as to how this Commission has
3 done its work?

4 A. Well, I will say I had no idea what to expect.
5 All I really knew going into it is the
6 application process was very daunting and that's
7 100 percent true. And in the course of this, you
8 get opinions on everybody on what you should or
9 should not do, and everybody's got a different
10 answer. But in terms of the fairness of it, yes,
11 I'm very comfortable with how the process is
12 shaking out. And you get criticized, you get
13 told what your weaknesses are when they tell you
14 what your strengths are and you have the
15 opportunity to address it and try to make the
16 people that are making the decision comfortable
17 with you as a candidate, and that's all you can
18 ask. Again, it's the same thing, if the process
19 is fair, the result is the result.

20 CHAIRMAN RANKIN: All right, Mr. Alfaro. Any other
21 questions? And I appreciate your time. At the
22 outset, two and a half hours ago it seems, I
23 offered you an opening opportunity or now an
24 opportunity to make a brief closing statement, if
25 you'd like.

1 MR. ALFARO: Again, I just will reiterate that I
2 appreciate the time of the Committee and the work
3 that you put in. I'm honored to be part of the
4 process, and I hope that my experience in general
5 sessions and my overall experience in Circuit
6 Court along with my administrative experience,
7 will tell you that I am the best candidate for
8 the position, and I appreciate your time.

9 CHAIRMAN RANKIN: Very well. As part of this, now you
10 understand, as we conclude this portion of the
11 screening, that the Commission takes very
12 seriously state ethics laws, compliance with both
13 the letter and the spirit of it. Any violation
14 on your part would be deemed very serious, and we
15 could call you back. I need you to affirmatively
16 acknowledge that you understand that the record
17 is not closed until the final release of the
18 Report of Qualifications.

19 MR. ALFARO: Yes, sir, I understand that.

20 CHAIRMAN RANKIN: Very good. Thank you for your time
21 today, your candor and your responses and your
22 offering for this position. So thank you very
23 much.

24 MR. ALFARO: Thank you. Thank you, everybody.

25 CHAIRMAN RANKIN: We will take a quick moment off the

1 record for a quick recess.

2 MR. ALFARO: Thank you.

3 OFF THE RECORD

4 REPRESENTATIVE JORDAN: All right we are back on the
5 record. Judge Hilton, welcome.

6 JUDGE HILTON: Good morning.

7 REPRESENTATIVE JORDAN: I am neither Luke Rankin or
8 Micah Caskey.

9 JUDGE HILTON: I knew that one.

10 REPRESENTATIVE JORDAN: I have the helm for just a
11 moment here. So welcome. I believe you've been
12 through these proceedings before. You know the
13 drill. I believe you have someone with you
14 today. Would you like to introduce them?

15 JUDGE HILTON: I do. Again, this is my wife, Beth
16 Hilton. She's up here supporting me today.

17 REPRESENTATIVE JORDAN: Welcome. Glad to have you.

18 THE HONORABLE RUSSELL D. HILTON, being duly
19 sworn, testifies as follows:

20 REPRESENTATIVE JORDAN: All right. You're duly
21 sworn. I believe staff, Ms. Lindi, is bringing
22 to you the Personal Data Questionnaire, Sworn
23 Statement. Are those the documents that you
24 submitted to the Commission?

25 JUDGE HILTON: They appear to be.

1 REPRESENTATIVE JORDAN: And are they both correct?

2 Does anything need to be changed or updated at
3 this time?

4 JUDGE HILTON: It does not.

5 REPRESENTATIVE JORDAN: Do you have any objection to
6 making those documents or any amendments, if
7 applicable, which I don't believe there are, as a
8 part of the record to your sworn testimony?

9 JUDGE HILTON: No objection.

10 (Exhibit Number 3 was marked for identification
11 purposes - (20 pages) Personal Data Questionnaire for
12 The Honorable Russell D. Hilton.)

13 (Exhibit Number 4 was marked for identification
14 purposes - (8 pages) Sworn Statement of The Honorable
15 Russell D. Hilton.)

16 REPRESENTATIVE JORDAN: All right. That will be done
17 at this time. All right, Judge, it's my job at
18 this point to tell you that the Judicial Merit
19 Selection Commission has currently investigated
20 your qualifications for the bench. Our inquiry
21 has focused on the nine evaluative criteria and
22 has included, number one, a ballot box survey, a
23 thorough study of your application materials,
24 verification of your compliance with state ethics
25 laws, a search of newspaper articles in which

1 your name appears, a study of previous
2 screenings, as well as the check for economic
3 conflicts of interest. We have received no
4 affidavits filed in opposition of your election.
5 No witnesses are present to testify. You have
6 the opportunity for a brief opening statement, if
7 you would like, but you may wish to waive that,
8 given that we are, I apologize, running a little
9 bit behind this morning, and you will be afforded
10 an opportunity to give closing remarks at the end
11 of the proceeding.

12 JUDGE HILTON: Other than to say thank you for having
13 me, I'll waive any opening.

14 REPRESENTATIVE JORDAN: Very good. Please answer
15 counsel's questions.

16 MR. TRIPLETT: Good morning, Judge.

17 JUDGE HILTON: Good morning.

18 MR. TRIPLETT: I note for the record that based on the
19 testimony contained in the candidate's PDQ, which
20 has been included in the record with the
21 candidate's consent, Judge Hilton meets the
22 constitutional and statutory requirements for
23 this position regarding age, residence, and year
24 of practice.

25 JUDGE HILTON - EXAMINATION BY MR. TRIPLETT:

1 **Q. Judge Hilton, why do you want to be a Circuit**
2 **Court judge?**

3 A. You know, I've spent some time in the solicitor's
4 office at the outset of my career, and I enjoyed
5 my time in public service there. I've been in
6 private practice now for, I think, a little over
7 11 years, and I'm ready to go back to more of a
8 public job. I enjoy private practice, don't get
9 me wrong. I love practicing law, but I'm ready
10 to do something other than the daily grind of a
11 law practice.

12 **Q. Thank you. Judge Hilton, how do you feel your**
13 **legal and professional experience thus far**
14 **renders you qualified and will assist you to be**
15 **an effective Circuit Court judge?**

16 A. You know, I spent most of my career in Circuit
17 Court. I, again, started out as an assistant
18 solicitor prosecuting criminal cases. In private
19 practice, I do a lot of criminal work. I also
20 have done civil work. I've done a lot of the
21 things that the Circuit Court does, so, you know,
22 magistrate court appeals. I've handled the civil
23 asset forfeiture. I've done that. I've tried
24 civil cases, at least in front of the Master-in-
25 Equity, which is referred from the civil court,

1 just many things that the Circuit Court does that
2 not everybody does. A lot of people fall into
3 one particular category, and I've covered a lot
4 of those areas, and so I think my almost 20 years
5 -- 19 years of practice now have certainly
6 prepared me for what this job would entail.

7 Q. Thank you, Judge. Judge Hilton, the commission
8 received 210 ballot box surveys regarding you
9 with 36 additional comments. The ballot box
10 survey, for example, contained the following
11 positive comments. Would make a fantastic
12 Circuit Court judge. Honest, knowledgeable, and
13 follows the law. Excellent attorney and very
14 smart. He has a great temperament and will make
15 a very good judge. Russ is a talented lawyer
16 with a sharp legal mind. He works very hard for
17 his client. I believe he'll bring this diligence
18 to the Circuit Court bench and make a great
19 judge. Other 36 written comments, 34 were
20 positive, but two expressed concerns with your
21 demeanor. What response would you like to offer
22 to those concerns?

23 A. You know, out of 19 years of practice, and I can
24 count on one hand the time I've, you know, gotten
25 sideways with anybody, and I apologize if I've

1 given the impression to anyone practicing that my
2 demeanor is somehow off. Those are certainly the
3 outlier comments. My day-to-day demeanor is
4 pretty much what you see right now, and I'm
5 pretty easy to get along with, I think, as is
6 reflected by the other, I think you said 34
7 comments or whatever, that were in there. So to
8 those people, whoever they are, I apologize for
9 that, and certainly didn't intend to do anything
10 to make them feel like I was getting sideways
11 with them.

12 **Q. Thank you, Judge Hilton.**

13 MR. TRIPLETT: I would note that the Lowcountry
14 Citizens Committee reported that Judge Hilton is
15 qualified in the evaluative criteria of
16 constitutional qualifications, physical health,
17 mental stability, and civil experience. The
18 Committee found Judge Hilton well qualified in
19 the evaluative criteria of ethical fitness,
20 professional and academic ability, character,
21 reputation, criminal experience, and judicial
22 temperament. The Committee made the following
23 comments about Judge Hilton: likable, good
24 temperament, impressed by an effort to attain
25 more civil experience, good criminal experience.

1 Q. Just a few housekeeping matters, Judge. Judge
2 Hilton, are you aware that as a judicial
3 candidate, you are bound by the code of judicial
4 conduct as found in Rule 501 of the South
5 Carolina Appellate Court Rules?

6 A. I am aware.

7 Q. Since submitting your letter of intent, have you
8 contacted any members of the commission about
9 your candidacy?

10 A. I have not.

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

15 A. I have not.

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

19 A. I am.

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

24 A. I have not and I'm not aware of any.

25 Q. Have you reviewed and do you understand the

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

3 A. I'm aware.

4 MR. TRIPLETT: Mr. Chairman, I would note for the
5 record that any concerns raised during the
6 investigation by staff regarding the candidate
7 were incorporated into the questioning of the
8 candidate today, and with that I have no further
9 questions.

10 REPRESENTATIVE JORDAN: Thank you, sir. Questions from
11 the Commission? I'll start us out then.

12 JUDGE HILTON - EXAMINATION BY REPRESENTATIVE JORDAN:

13 Q. **Let's talk about your civil experience. I do**
14 **remember that came up, if I remember correctly,**
15 **last time you were with us, last year I believe.**
16 **I do note, as has already been said, you were**
17 **found qualified in the civil as opposed to well**
18 **qualified in the criminal, but the Citizens**
19 **Committee notes some of the effort as far as your**
20 **experience in the civil realm. Talk to us about**
21 **that, please.**

22 A. You know, a lot of times I probably sell myself
23 short in my civil experience. My 19 years have
24 been overshadowed with criminal work. People
25 know me as a criminal practitioner. I do a lot

1 of criminal work, but you know, thinking back on
2 it and in preparation for this question and
3 talking with other people about, you know, how
4 much civil work have I done, I've done a lot of
5 civil work. I've done a lot of accident cases.
6 One of the first cases that I did when I went
7 into private practice -- you know, they say 98
8 percent or whatever settle -- well, this one
9 didn't and it was the first one that I got. It
10 was a prescriptive easement case that ended up in
11 a full-blown trial in front of the Master-in-
12 Equity. Depositions, discovery, all the things
13 in that case all the way to a full-blown trial in
14 front of the Master-in-Equity. So I've done
15 other civil cases.

16 **Q. I've done some out of the ordinary things. I did**
17 **a public road closure. And these are just some**
18 **of the outliers that I'm talking about. But over**
19 **the 11 years of private practice, I've done a lot**
20 **of civil work. You know, we don't think about**
21 **it, but even when I was in the solicitor's**
22 **office, I did all the asset forfeitures for the**
23 **solicitor's office at the time. All that's civil**
24 **stuff. So I think along the way -- and I've**
25 **shared with the Citizens Committee, you know,**

1 I've always wanted to be up front with people to
2 say, listen, people, I mean, you know, this group
3 and the Citizens Committee, Bar Qualifications
4 Committee -- I have said, I don't want to mislead
5 anybody that, you know, the criminal work has
6 certainly overshadowed the civil, but I have a
7 lot of civil experience. And sometimes I think
8 maybe I should maybe not sell myself short in
9 that category.

10 Q. Let's go back just briefly and we'll wrap up it
11 sounds like. And you've already addressed the
12 question concerning your demeanor. Did it
13 surprise you at all to have that issue raised?
14 Or was that something you'd ever been asked to
15 address before?

16 A. With regard to the comment you're talking about?

17 Q. Correct.

18 A. You know, I suspect I know where those comments
19 are coming from. I'm not going to go into the
20 facts of what that was about because I might be
21 wrong about it. But there have been a couple
22 times, you know, in the practice of law, and
23 Representative Jordan, you're an attorney, I
24 mean, you know, sometimes you have to stand up
25 for your client or yourself or whatever's going

1 on. And it might come across as being short with
2 somebody, or it might come across as maybe not,
3 you know, just pleasant dinner talk. But
4 sometimes you have to stand up for what's right.
5 And I suspect that that's where those comments
6 came from, unless it was just somebody with other
7 intentions. And I hope that's not the case
8 either, but, you know, that's where those
9 comments would have come from, is there's a
10 couple times where I've had to say, no, you're
11 wrong, and here's why. And I'm standing up for
12 what I believe in and what's right for my client.
13 And, you know, looking back on all those
14 occasions, I don't feel like I did anything
15 wrong. They certainly made no ethical complaints
16 against me. There was nothing out of the
17 ordinary in that respect. And so, you know, I
18 would stand by what I said to those people,
19 assuming, again, that these are the occasions,
20 but that is not my ordinary way of operating.
21 And I apologize to anyone if I made them feel
22 like I was not cordial.

23 **Q. Thank you for addressing those issues, those**
24 **questions.**

25 REPRESENTATIVE JORDAN: Any other questions from the

1 Commission? All right, seeing none, when we
2 started we discussed opening and closing
3 statements. Do you have anything you'd like to -
4 - any remarks in close?

5 JUDGE HILTON: You know, I would just say briefly,
6 again, I appreciate y'all having me. I'm looking
7 forward, hopefully, to the opportunity to coming
8 back up here and spending some more time. And
9 this whole -- you know, I was encouraged to run
10 for Circuit Court by a lot of people. And I do
11 think it is something that I would do quite well
12 at, if given the opportunity. Civil experience,
13 criminal experience. I think it was Theodore
14 Roosevelt that said, if somebody asked you to do
15 something, tell them absolutely you can and
16 figure out how to do it. I don't think I'm in
17 that category. I think I know how to do it. I
18 think I've been doing it for almost 20 years, and
19 I do think I would make a great Circuit Court
20 judge for Berkeley County, which is where I'm
21 from, or the Ninth Circuit. So again, I
22 appreciate y'all having me, and thanks.

23 REPRESENTATIVE JORDAN: Thank you, Judge Hilton. This
24 will conclude this portion of the screening
25 process. I do have to take this opportunity to

1 remind you that pursuant to the Commission's
2 evaluative criteria, the Commission expects
3 candidates to follow both the spirit as well as
4 the letter of ethics laws and will view
5 violations or the appearance of violations -- of
6 impropriety as serious and potentially deserving
7 of heavy weight in screening deliberations. On
8 that note, as you know, the record will remain
9 open until the formal release of the Report of
10 Qualifications, and you may be called back at
11 such time a need arises. I thank you for
12 offering. Thank you for your already service to
13 our state, and I appreciate y'all coming up today
14 and wish you the best as you head back.

15 JUDGE HILTON: Thank you very much.

16 REPRESENTATIVE JORDAN: Thank you. All right.

17 OFF THE RECORD

18 REPRESENTATIVE JORDAN: One time before, is that
19 right?

20 MR. RODE: That's right, yeah.

21 REPRESENTATIVE JORDAN: So you're familiar with the
22 process?

23 MR. RODE: That's correct.

24 REPRESENTATIVE JORDAN: I'm going to go ahead and
25 swear you in.

1 THOMAS J. RODE, having been duly sworn, testifies
2 as follows:

3 REPRESENTATIVE JORDAN: All right. I'm going to ask
4 you to review your PDQ and Sworn Statement. I
5 believe you have that before you, correct?

6 MR. RODE: Yes, Mr. Chairman.

7 REPRESENTATIVE JORDAN: Are they both correct? Does
8 anything need to be changed or updated at this
9 time?

10 MR. RODE: These both appear to be correct. The only
11 thing I would note, as a way of update is,
12 although it's redacted, my children's age needs
13 to be updated. They're now seven and four and
14 not what's reflected in the un-redacted version.

15 REPRESENTATIVE JORDAN: It is true that time flies,
16 does it not?

17 MR. RODE: That is very true.

18 REPRESENTATIVE JORDAN: Any objections to making those
19 part of the record?

20 MR. RODE: No objections, Mr. Chairman.

21 (Exhibit Number 5 was marked for identification
22 purposes - (21 pages) Personal Data Questionnaire for
23 Thomas J. Rode.)

24 (Exhibit Number 6 was marked for identification
25 purposes - (9 pages) Sworn Statement of Thomas J.

1 Rode.)

2 REPRESENTATIVE JORDAN: We'll do that. Also, I'm
3 going to need to go over with you our nine
4 evaluative criteria, which would include, number
5 one, a ballot box survey, number two, a thorough
6 study of your application materials, verification
7 of your compliance with state ethics laws, number
8 four, a search of newspaper articles in which
9 your name appears, number five, a study of
10 previous screenings and number six, a check for
11 economic conflicts of interest. We have no
12 affidavits filed in opposition to your election.
13 No witnesses are present to testify. I'm going
14 to give you the opportunity for a brief opening
15 statement, but you can feel free to waive that
16 since we're running a little bit behind. You
17 will have the opportunity to give a closing
18 statement, but before any of that, I jumped --
19 missed a step. I believe you have someone with
20 you today. If you would please --

21 MR. RODE: I do. This is my wife, Julie Moore. She's
22 a partner with Duffy and Young and Charleston
23 also.

24 REPRESENTATIVE JORDAN: Welcome. Glad to have you
25 with us today.

1 MS. RODE: Good evening.

2 MR. RODE: Here for moral support and not to testify.

3 REPRESENTATIVE JORDAN: So to that, please answer any
4 questions counsel has.

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

12 MR. RODE - EXAMINATION BY MS. FOSTER:

13 **Q. Mr. Rode, how do you feel your legal and**
14 **professional experience thus far renders you**
15 **qualified and will assist you to be an effective**
16 **Circuit Court judge?**

17 A. Thanks for that. I would start with sort of a
18 general overview of my experience being criminal
19 experience. I have civil experience. I have
20 appellate experience. After my appellate
21 clerkship, I started for the first five years or
22 so of practice in doing criminal defense with
23 Andy Savage in Charleston and then subsequent to
24 that, doing it as a sole practitioner. That
25 gradually transformed into a civil practice where

1 I practice now at Thurmond Kirchner and Timbes
2 with a pretty broad scope, everything from
3 business litigation to real estate litigation,
4 1983 claims, which again kind of involves
5 criminal aspects and constitutional law. And
6 then I've also developed a pretty substantial
7 appellate practice. I probably average about
8 three to four appeals, five appeals, a year on
9 all sorts of topics. Since I was last before
10 this Commission, I've argued, I think, five cases
11 in the South Carolina Court of Appeals. And so I
12 think that gives me sort of a good insight into
13 kind of the progression and cultivation of the
14 law. On sort of a personal level, you know I
15 have represented plaintiffs, defendants, criminal
16 defendants. I've represented big clients as big
17 as Kroger and Orvis and as small as, you know,
18 local mom and pops. I have practiced in a firm.
19 I have practiced as a sole practitioner. I know
20 what it's like to be your own accountant, to be
21 your own, you know, marketing person, to pay the
22 bills. And I think what that does -- in
23 addition, I've also been married to a litigator,
24 so I sort of like understand how this impacts,
25 you know, your personal life. But I think what

1 that does is just sort of informs my ability to
2 kind of do this job with empathy and grace and
3 understanding to the litigants because, you know,
4 at the end of the day, a appellate court can fix
5 you when you mess up the law, but if you can't do
6 it kindly or with grace, they can't undo that.
7 So that's how I think my experience would help me
8 be a Circuit Court judge.

9 **Q. Thank you, Mr. Rode. The Commission received 183**
10 **ballot box surveys regarding you with 42**
11 **additional comments. The ballot box survey, for**
12 **example, contained the following positive**
13 **comments. Thomas has substantial experience**
14 **litigating a broad variety of civil matters, has**
15 **tried criminal cases in General Sessions Court,**
16 **and routinely handles appeals at the South**
17 **Carolina Court of Appeals and the South Carolina**
18 **Supreme Court. He would be an excellent trial**
19 **judge. Another added, Thomas would be an**
20 **excellent addition to the Circuit Court bench, he**
21 **has plenty of experience in criminal and civil**
22 **law, which is great for most judicial candidates**
23 **who have not served before. And finally, another**
24 **said, I have always respected Thomas as a**
25 **colleague. I think he has a varied experience --**

1 I think his varied experience would be invaluable
2 to the judiciary. He is intelligent and has a
3 calm and contemplative demeanor that I've always
4 admired.

5 MS. FOSTER: I would note that the Low Country
6 Citizens Committee reported that Mr. Rode is well
7 qualified in the evaluative criteria of ethical
8 fitness, professional and academic ability,
9 character, reputation, experience, and judicial
10 temperament, and qualified in the evaluative
11 criteria of constitutional qualifications,
12 physical health, and mental stability. The
13 Committee commented very well qualified, well
14 spoken, committed trial and appellate experience,
15 intellectual, diplomatic.

16 Q. And finally, some housekeeping issues. Mr. Rode,
17 are you aware that as a judicial candidate, you
18 are bound by the Code of Judicial Conduct as
19 found in Rule 501 of the South Carolina Appellate
20 Court Rules?

21 A. Yes, ma'am.

22 Q. Mr. Rode, since submitting your letter of intent,
23 have you contacted any members of the Commission
24 about your candidacy?

25 A. No, ma'am.

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

5 A. No, ma'am.

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

9 A. Yes, ma'am.

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

14 A. I am not, and I have not.

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

18 A. Yes, ma'am.

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

24 REPRESENTATIVE JORDAN: Thank you, Ms. Foster.

25 Questions from the Commission? Ms. McIver.

1 MS. MCIVER: Thank you, Mr. Chairman. I don't think I
2 have any questions, and you've come through
3 before. I don't know you personally, but I've
4 seen you here in this forum before, so I'm
5 familiar with your qualifications and your
6 experience in civil, criminal, as well as the
7 appellate arena. But I just wanted to point out
8 for the benefit of the Commission, as well as
9 anyone else who may review this record, some of
10 your letters of recommendation. I think you
11 mentioned Andy Savage, also John Massalon, who is
12 a well esteemed member of the Bar, who has
13 certainly done a lot for many of us in the room,
14 as well as the folks that you work with. They
15 were all in my law school class, so I'm familiar
16 with Michael Timbes and Jesse Kirchner and Paul
17 Thurmond. And I wanted to point out a couple of
18 the comments from your letters here. The first
19 is from Michael Timbes. Despite his exceedingly
20 rare intelligence, finishing number three in his
21 law school class for starters, Thomas remains
22 today a tireless student of the law, always
23 searching to better understand and apply it. And
24 I point that out -- obviously, you are a bright
25 guy, but more importantly, there's a comment in

1 here from one of your adversaries that I may have
2 seen something like this before from Ainsley
3 Tillman, I'm not sure, but she points out that
4 she was on the other side of you in a contested
5 appellate matter. Sounds like it got pretty
6 heated, and that while she was distraught at the
7 end of arguments, you sent her a message that
8 said good work. And in this day, we seem to have
9 a lot of issues with judicial temperament as
10 being one of the main things that comes before us
11 when people want to bring our attention to a
12 certain issue. So that is certainly something
13 that I've read about you indicates how you would
14 treat people in the courtroom, and so thank you
15 for offering to serve. And best of luck.

16 MR. RODE: Thank you.

17 REPRESENTATIVE JORDAN: Mr. Rode, I do want to ask you
18 a couple of questions before we let you go.

19 MR. RODE - EXAMINATION BY REPRESENTATIVE JORDAN:

20 **Q. You spent the entirety of your practice in**
21 **Charleston; is that right?**

22 A. With the exception of the time that I was
23 clerking for Judge Thomas on the Court of
24 Appeals. I was in Columbia at that time and then
25 moved to Charleston. That's right.

1 Q. So every time I go to Charleston, I feel like it
2 gets to be a bigger and bigger city. It's
3 growing like crazy. Do you think that has helped
4 your scope of practice in that you've gotten to
5 see things and participate in things that perhaps
6 don't exist -- not to pick on a rural part of the
7 state over near my part of the state, but has
8 that allowed you to create a deeper practice, so
9 to speak, when it comes to some of the civil
10 things you might run into?

11 A. I think that absolutely it does. I think that,
12 you know -- I think that's kind of the great
13 thing about South Carolina is we have these
14 circuits where, you know, if you practice around
15 the state, you realize things are a little bit
16 different in different places. But absolutely, I
17 think being in Charleston has given me the
18 ability to practice on things that are perhaps a
19 little bit more complex, a little bit more
20 complicated than, you know, you would in a rural
21 place.

22 Q. So that leads me to my next question. How well
23 prepared do you think you are to deal with, as
24 you just referenced, the other side of that coin
25 is when you go to the Darlington, South Carolina

1 **or Chesterfield, South Carolina to deal with the**
2 **more rural aspects of the practice?**

3 A. And I think that's a great question. I still do
4 some of that. And I have spent over the years
5 time doing that. I've tried cases in Dorchester
6 County. I've tried cases in Berkeley County and
7 more rural places. I wouldn't reflect that the
8 only part of my work is that more sophisticated
9 stuff. There is certainly, you know, the sort of
10 regular disputes that happen all across the state
11 that we deal with. But I think that goes back to
12 just understanding the audience, so to speak,
13 having the ability to operate as a Circuit Court
14 judge with humility, with understanding, with
15 compassion to the litigants. And how that
16 operates might change from place to place.

17 Q. **Thank you very much. I also will compliment you**
18 **before we wrap up. The Citizens Committee used**
19 **some very fine language in describing you as very**
20 **well qualified, well spoken, committed, so far as**
21 **to say, I can tell it's from Charleston. They**
22 **describe you as intellectual and diplomatic.**

23 REPRESENTATIVE JORDAN: But at any rate, any other
24 questions from -- the --

25 SENATOR GARRETT: More of a comment. Thank you, Mr.

1 Chairman. I'm very impressed with your resume.

2 MR. RODE: Thank you, Senator.

3 SENATOR GARRETT: It's very seldom that we see folks
4 with your degree of intelligence, knowledge,
5 skill, experience that comes before us, and I
6 just want to thank you for offering. We need
7 great jurists, and you have all the credentials
8 as far as I'm concerned.

9 MR. RODE: Thank you.

10 REPRESENTATIVE JORDAN: Thank you, Senator. Mr.

11 Safran, you're recognized.

12 MR. RODE - EXAMINATION BY MR. SAFRAN:

13 **Q. I don't in any way disagree with all the fine**
14 **things that have been said. You mentioned**
15 **humility. I mean, have you run into maybe a lack**
16 **of that in terms of maybe some of the encounters**
17 **you've had over time in court?**

18 A. This is a high-pressure, high-stress job that we
19 have endeavored to do to the best that we can.
20 And sometimes that can get the better of people.
21 Sometimes it gets the better of them more regular
22 than you would hope. I have run into it, yes. I
23 mean, but I also kind of understand that it on a
24 one off basis can happen sometimes. I think the
25 goal is to on the whole carry yourself as best

1 you can.

2 **Q. Well, and look at yourself. I mean, with**
3 **somebody who possesses as many commendable**
4 **qualities, who's done as well in terms of their**
5 **academic background, in terms of their**
6 **professional career, do you find yourself**
7 **sometimes wondering about the humility thing to**
8 **have to kind of remind yourself here and there?**

9 **A. Yeah. I mean, I think it would be untruthful to**
10 **say I don't have to remind myself of it. I think**
11 **that I had a great privilege of working at the**
12 **South Carolina Court of Appeals when I came out**
13 **of law school. And the humility of the judges**
14 **was the singular thing that blew me away when I**
15 **started there, right? I didn't under -- I knew I**
16 **was going to be among sort of the elite jurists**
17 **of the state. And what I came to learn is that**
18 **is what makes them elite because that requires**
19 **the self awareness to understand you're not**
20 **always right and to always kind of give benefits**
21 **of the doubt where they're due and not assume**
22 **that you're the smartest person in the room.**

23 **Q. And I think it served them well from what I could**
24 **tell. I mean, I think you had a great experience**
25 **up there, and I've had that opportunity to**

1 **experience that myself both in front of the court**
2 **-- but those clerkships can make a big deal for**
3 **you. They can make -- they can really mold you.**

4 A. And I think it did. And it did in that regard.
5 I think it was eye opening to see what the
6 attributes of a great judge were, but equally as
7 eye opening to see what the attributes those
8 great judges thought made great judges, and
9 that's stuck with me.

10 **Q. Thank you for your comments.**

11 A. Thank you, sir.

12 REPRESENTATIVE JORDAN: Thank you, Mr. Rode. Any
13 closing remarks?

14 MR. RODE: No, I won't stand between you and lunch.

15 Thank you for having me. I'm honored to be here.

16 REPRESENTATIVE JORDAN: All right. Thank you. That
17 concludes this portion of the screening process.
18 Before we let you go, though, I want to take this
19 opportunity to remind you that pursuant to the
20 Commission's evaluative criteria that we've
21 discussed, the Commission expects candidates to
22 follow both the spirit as well as the letter of
23 the ethics laws. And we will view violations of
24 or the appearance of impropriety as a serious and
25 potentially deserving of heavyweight in the

1 screening deliberations. On that note, and as
2 you know, the record will remain open until the
3 formal release of the Report of Qualifications,
4 and you may be called back at such time if need
5 arises. Thank you for being here today. Thank
6 you for offering for this very important
7 position, and we wish you all the best going
8 forward.

9 MR. RODE: Thank you, Mr. Chairman. Thank you.

10 OFF THE RECORD

11 REPRESENTATIVE JORDAN: Mr. Wallace, how are you
12 today?

13 MR. WALLACE: Good morning, how are you?

14 REPRESENTATIVE JORDAN: We're going to go ahead and
15 swear you in.

16 R. BRUCE WALLACE, being duly sworn, testifies as
17 follows:

18 MR. WALLACE: Can you all hear me?

19 REPRESENTATIVE JORDAN: We can. We can. Before we go
20 any further, I believe you've brought someone
21 with you today. Do you wish to introduce her?

22 MR. WALLACE: I did. I brought my wife Sally with me.

23 REPRESENTATIVE JORDAN: Welcome, glad to have you.
24 Let's cover your PDQ and sworn statement. I
25 believe you have that before you, correct?

1 MR. WALLACE: I do.

2 REPRESENTATIVE JORDAN: Do those appear to be complete
3 and accurate as you have submitted them?

4 MR. WALLACE: They are complete. There is one
5 inaccuracy with regard to Paul Campbell, the
6 former state senator. I inadvertently added
7 Esquire to his name, and so that needs to be
8 stricken from the PDQ. But other than that,
9 Exhibit 7, which is my personal data
10 questionnaire, is accurate.

11 REPRESENTATIVE JORDAN: With that caveat, any
12 objection to those becoming part of the record?

13 MR. WALLACE: Oh, I have no objection.

14 (Exhibit Number 7 was marked for identification
15 purposes - (14 pages) Personal Data Questionnaire for
16 R. Bruce Wallace.)

17 (Exhibit Number 8 was marked for identification
18 purposes - (5 pages) Sworn Statement of R. Bruce
19 Wallace.)

20 REPRESENTATIVE JORDAN: I'm going to go over the
21 Judicial Merit Selection Commission evaluative
22 criteria. Our inquiry is focused on nine
23 criteria. That includes a ballot box survey,
24 thorough review of your application materials,
25 verification of your compliance with state ethics

1 laws, a search of newspaper articles in which
2 your name appears, a study of previous
3 screenings, if applicable, check for economic
4 conflicts of interest. We have received no
5 affidavits filed in opposition of your election.
6 No witnesses are present to testify. You have
7 the opportunity to make a brief opening statement
8 if you wish, or you can simply waive that and
9 we'll give you time to make a closing statement.
10 It's up to you, your call.

11 MR. WALLACE: Mr. Chairman, I'll waive my opening
12 statement.

13 REPRESENTATIVE JORDAN: With that, please answer Ms.
14 Crawford's line of questioning.

15 MR. WALLACE: Yes, sir.

16 MS. CRAWFORD: I was going to say good morning, but
17 good afternoon. Mr. Chairman, I note for the
18 record that based on the testimony contained in
19 Mr. Wallace's PDQ, which has been included in the
20 record with his consent, Mr. Wallace meets the
21 constitutional and statutory requirements for
22 this position regarding age, residence, and years
23 of practice.

24 MR. WALLACE - EXAMINATION BY MS. CRAWFORD:

25 Q. Mr. Wallace, we touched on this, I guess, was it

1 last year you were before the Commission or two
2 years ago?

3 A. It was November 15th, 2023.

4 Q. How do you feel your legal and professional
5 experience thus far renders you qualified for
6 this position and will assist you in becoming an
7 effective Circuit Court judge?

8 A. Well, if doing is evidence of ability, then I've
9 done it all. I've appeared in all 16 judicial
10 circuits of the state. I've argued in the
11 circuit courts, not every county, but about half
12 the counties. I've tried cases before juries.
13 I've tried non-jury cases. I've argued
14 dispositive motions. I've argued motions to
15 dismiss. I've argued motions to compel. When I
16 think of the scope of things on the civil side
17 that I've done before the Circuit Court, I've
18 done everything I think that you can do. I've
19 even argued appeals from the Probate Court. On
20 the criminal side, I recognize and I think my
21 application reveals that I don't have current
22 criminal defense experience or prosecutorial
23 experience. However, I do have criminal defense
24 experience in my past, both as a young lawyer and
25 extending into somewhat my more mature years.

1 I've handled probably -- it was more than five
2 years ago because the PDQ asked going back that
3 far -- but before that, I've handled and
4 represented criminal defendants in circuit courts
5 and in Federal Court. So to the extent that,
6 again, experience is an indication of ability, I
7 have experience in the criminal defense area, and
8 therefore I believe I have some latent and
9 remembered ability in that realm. I will go
10 ahead and say, though -- because this came up
11 last year and I believe it was Representative
12 Caskey that asked me the questions -- what am I
13 doing to sort of bridge that gap of lack of
14 criminal, relevant criminal defense experience?
15 And as I said then and I've continued this, I've
16 read the advance sheets. I've always read the
17 advance sheets since I became a practicing
18 lawyer, but since I announced last year, 2023,
19 I've added all the criminal cases that the Court
20 of Appeals and the Supreme Court have published
21 in the realm of criminal law and procedure. I
22 have now, I think -- if my study of the online
23 CLEs available is accurate, I have taken and
24 either listened to or watched every online CLE
25 available under the criminal law categories with

1 the exception of the magistrate court CLEs. I
2 didn't listen to those, mostly DUI things. I
3 have read through and annotated Doug Strickler's
4 book on offenses and penalties. Now, I know this
5 isn't a substitute for doing, but I'm trying to
6 give the Commission an understanding of the work
7 I've done to date. I have observed PCR hearings.
8 I've observed guilty pleas before several judges.
9 I've attended bond revocation hearings, and I've
10 met with certain court judges who are active
11 today to get a sense of -- particularly the ones
12 that didn't have relevant or current criminal
13 defense experience -- get a sense of how they
14 learned how to do this job well. And so I think
15 I'm as prepared as I can be for day one in both
16 the civil and criminal arenas. And this has been
17 a fascinating experience for me, and I appreciate
18 the opportunity to do that. But I also want the
19 Commission to understand that it doesn't end with
20 what I've done. This is the beginning of what
21 I'm going to do to become a competent Circuit
22 Court servant for this state.

23 **Q. Thank you, Mr. Wallace. The Commission received**
24 **204 ballot box surveys regarding you with 34**
25 **additional comments. All the comments were**

1 positive and included such comments as: Bruce is
2 easily the best overall candidate running for the
3 circuit bench during this election cycle,
4 exceptionally intelligent, a great communicator,
5 and a tremendous strength of character. This is
6 exactly the person you want on the bench.
7 Attorney Wallace is a firm yet soft spoken man
8 with the heart of a servant. He is not
9 condescending or egotistical. He is a fine
10 lawyer and will be an even better judge.

11 MS. CRAWFORD: Members of the Commission, we talked
12 some about SLED reports. Mr. Wallace's SLED
13 reports listed, I mean, pages of cases, and we
14 went through all of them, and it appears that one
15 of those cases was a matter we discussed last
16 year. I think that your father sued a cruise
17 line or something.

18 MR. WALLACE: He did, yes.

19 MS. FOSTER: The others appeared to be just cases in
20 which you were involved as an attorney, so there
21 are no concerns in his SLED report.

22 Q. Mr. Wallace, in your PDQ, you noted that you and
23 your siblings are members of an LLC that owns a
24 residential lot and a house on Lake Moultrie,
25 subject to easements and covenants that benefit

1 **Santee Cooper. If you were to become a Circuit**
2 **Court judge and a civil matter involving Santee**
3 **Cooper came before you, how would you handle it?**

4 A. I think just the better practice with Santee
5 Cooper, while I own an interest in a home that's
6 subject to Santee Cooper's restrictions, I would
7 probably -- I know I would at least at a minimum
8 disclose the existence of that potential conflict
9 and request if the parties want me to recuse
10 myself. Depending on the matter, for instance,
11 Santee Cooper sometimes enforces those easements
12 and those restrictions, I would recuse myself
13 completely from that matter because it's a little
14 too close to the reason why I have a potential
15 conflict to begin with. So I wouldn't want to
16 put myself in a position to interpret easements
17 or overtly enforce or do anything like that if I
18 could avoid it, so I would.

19 **Q. Thank you.**

20 MS. CRAWFORD: Mr. Chairman, I would note that the Low
21 Country Citizens Committee reported that Mr.
22 Wallace to be qualified in the evaluative
23 criteria of constitutional qualifications,
24 physical health, and mental stability, and well
25 qualified in the remaining evaluative criteria,

1 ethical fitness, professional and academic
2 ability, character, reputation, experience and
3 judicial temperament. The Committee noted
4 extensive trial experience, compassionate, smart,
5 very good judgment, integrity, impressed by his
6 intense immersion in criminal law over the last
7 year. And we've touched on what you've done so
8 far. I just have a few housekeeping issues.

9 **Q. Mr. Wallace, are you aware that as a judicial**
10 **candidate you are bound by the Code of Judicial**
11 **Conduct as found in Rule 501 of the South**
12 **Carolina Appellate Court Rules?**

13 A. Yes.

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

17 A. No.

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

22 A. Actually, if I could amend my last sentence. I
23 did send a congratulatory note to Senator Garrett
24 after the election, but before I received notice
25 that he had been appointed to the Commission to

1 replace Senator Talley. So there is a
2 handwritten thank you note. I don't know if
3 Senator Garrett's gotten it or not, but I sent
4 that before he was appointed, and so I obviously
5 didn't know not to contact him then, but since
6 then, I haven't contacted anybody.

7 Q. That's fine. I thought I remembered that in the
8 back of my head because you notified me.

9 A. Right.

10 Q. Are you familiar with 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 talked to any third parties to contact
15 members of the General Assembly on your behalf?
16 Have you talked to any third parties to contact
17 members of the General Assembly on your behalf,
18 or are you aware of anyone attempting to
19 intervene in this process on your behalf?

20 A. No, as to both.

21 Q. Okay, thank you. Have you reviewed and do you
22 understand the Commission's guidelines on
23 pledging in South Carolina Code Section 2-19-
24 70(E)?

25 A. I am.

1 Q. Thank you.

2 MS. CRAWFORD: Mr. Chairman, I would note for the
3 record that any concerns raised during this
4 investigation by staff regarding the candidate
5 were incorporated into the questioning of Mr.
6 Wallace today. And, Mr. Chairman, I have no
7 further questions of Mr. Wallace.

8 REPRESENTATIVE JORDAN: Thank you, Ms. Crawford.

9 MR. WALLACE - EXAMINATION BY REPRESENTATIVE JORDAN:

10 Q. Mr. Wallace, very impressed by your resume, very
11 impressed by the ballot box comments. I do want
12 to talk to you about temperament for a minute,
13 and I'm going to qualify that and say I have
14 absolutely no reason to question. Everything
15 would appear that you would have an excellent
16 temperament. I looked back over your resume, and
17 I see that you clerked for Judge Houck. I came
18 along practicing law at the very end of Judge
19 Houck's reign. He was friends with my father
20 from Florence. He absolutely did not tell me
21 that he would not be around long enough to teach
22 me how to practice law in court. That was a
23 joke, by the way. But tell me about your
24 experience with Judge Houck. Tell me how all of
25 your experience would impact your views on

1 **temperament should you be successful in going to**
2 **the bench.**

3 A. Certainly. Thank you. And, again, I apologize.
4 I didn't thank the Commission for the opportunity
5 to appear before you today, and so I do
6 appreciate the opportunity to stand and explain
7 my qualifications. With regard to temperament,
8 as you know, Mr. Chairman, Judge Houck had a bit
9 of a reputation for being tough on lawyers. He
10 may have mellowed by the time I clerked for him,
11 but certainly in the early years and even
12 afterwards, he had kind of a tough reputation,
13 but often stories that came back to me would
14 indicate that he was irritated or perhaps short
15 with lawyers. And so I observed that and
16 observed the effect that it had on lawyers that
17 appeared before him. Oddly enough, if you were
18 well prepared before Judge Houck, you got no
19 biting, sarcasm, no temperament, nothing. You
20 got a well-reasoned decision, and you were able
21 to do what you wanted. So it was with those who
22 were less prepared, but make no mistake, I don't
23 agree that when a lawyer comes into court that he
24 or she should be the recipient of any kind of
25 irritation by the Court or any kind of ill

1 tempered disposition. I believe that practicing
2 law is hard enough as it is. Practicing
3 litigation is specifically hard. So to come into
4 a courtroom, I believe that lawyers are entitled
5 to an impartial judge who's willing, ready, and
6 able to listen to their arguments and render a
7 just and fair decision thereon. So perhaps what
8 I observed when Judge Houck was on the bench is
9 certainly not what I would practice and certainly
10 not what I preach. As I told the Commission last
11 year on this very topic, I think Judge Houck was
12 okay with the reputation that he had with regard
13 to his temperament, because while we never talked
14 about it, I believe he felt like that made
15 lawyers be more prepared. Because if you were
16 prepared, as I said, you didn't get the guff. I
17 believe lawyers are prepared exactly how they
18 want to prepare, and their case will be ruled on
19 based on that. So having that temperamental
20 response seems unnecessary. So my philosophy as
21 a result would be you leave that at the courtroom
22 door, leave that in chambers. If I'm having a
23 bad day, that's on me. The lawyers that appear
24 before me would not suffer as a consequence of
25 it. So that's essentially it based on my

1 experiences with Judge Houck. I could go further
2 as my own experience as a lawyer in other arenas,
3 but to answer your specific question.

4 Q. Thank you, sir. Any questions, comments from the
5 Commission? Mr. Safran.

6 MR. WALLACE - EXAMINATION BY MR. Safran:

7 Q. Mr. Wallace, I guess it's afternoon now, so good
8 afternoon and good to see you again. I was very
9 impressed with you last year, and I have seen
10 nothing to change that. What's important to me
11 also is, is that having looked at more of these
12 ballot box surveys than I could probably ever
13 remember, you're one of those unique ones where
14 nobody had a bad thing to say, which is almost
15 unheard of. That's a big plus. I think that you
16 come across certainly with a measure of humility.
17 You have kind of seen the good and the bad from
18 the other side of the bench. Judge Houck was the
19 only judge I ever went in front of that scared
20 me.

21 A. Yes, sir.

22 Q. And the problem was, even if you were prepared,
23 you were sitting there shaking in the process.
24 And I mean, it was within my first two years of
25 practice, so, you know, I hadn't maybe taken

1 enough whippings to be hard skinned by that
2 point. But, you know, everybody's got their
3 style, and I think what I've learned over time,
4 that while I certainly look back as some of us
5 do, and say that there were some experiences that
6 made us better, even though they were rough at
7 the time, I still tend to prefer the ones where
8 you have a more kindly reception. I get the
9 sense that you would be that way. I think,
10 again, somebody of your caliber who's sitting
11 behind the bench -- I know sometimes it's hard
12 because you expect a certain amount out of
13 yourself. That's what you do day to day as far
14 as being a practitioner, that it kind of troubles
15 you when somebody comes in less than that. And,
16 I guess, how do you handle that because I know
17 you seem like a good guy. I never knew your dad,
18 but I knew of him, legendary in many ways. And I
19 think that how do you handle it when somebody
20 comes in and maybe they've got a good argument,
21 but they're really just not hitting on it the way
22 they should? What do you do with that situation?

23 A. Well, so there are certainly -- in the realm of
24 the practice of law and litigation there are
25 certain arguments that if they're not raised,

1 they don't help the advocate, right? And there
2 are some that -- I'll give you an example, motion
3 to dismiss. That's based on the complaint. If
4 the complaint contains allegations, it really
5 doesn't matter what argument the lawyer makes,
6 the lawyer in favor of or opposing the motion to
7 dismiss. If the complaint, reading the four
8 corners, says there's sufficient facts to
9 constitute cause of action, motion to dismiss
10 should be denied. So there are sort of the
11 objective rulings, right? The merits and the
12 facts and the law before me as a judge indicate
13 this is the right ruling. Whether or not they
14 hit on all of them is immaterial in that
15 instance, but there are certain circumstances
16 where if you fail to raise the argument, then the
17 question becomes, okay, what's my responsibility
18 as the Court to unearth this argument? For
19 instance, same circumstances, motion to dismiss.
20 Perhaps a plaintiff's lawyer doesn't argue that
21 the motion should be granted, if the judge is
22 going to grant it, but without prejudice, with
23 leave to file, right? Well, it's my job to know
24 the law as the judge, and the law says, for the
25 most part, unless there's futility, the motion

1 should be denied without prejudice. So even if
2 the plaintiff's lawyer fails to raise that
3 argument, the law requires that result. And I
4 think that's a corollary basis to my first point.
5 What does the law require based on the facts and
6 rulings or facts and law before me as the judge?
7 And so I think without getting into specifics,
8 that's where I start. What's the law? What are
9 the facts? What's the outcome dictated there?
10 But I'll give you a second example that I've sort
11 of observed in the realm of criminal law. I was
12 watching a motion in front of a Circuit Court
13 judge for the revocation of a bond. The person
14 was out on bond, and the facts that came up
15 sounded bad. It sounded like this person was
16 going to go to jail. But the Court asked a
17 couple of questions that seemed to change
18 everything because they were questions, the
19 answers to which the court found material. One
20 of them was the fellow was outside of the area
21 where he was supposed to be on house arrest.
22 Well, it turns out he was living there where they
23 found him, but nobody had updated the address.
24 So he was technically in violation of the terms
25 of his bond, but he was living with his wife and

1 his children at the place where they had lived
2 for a while, but the address was wrong, so it was
3 a technical violation. The judge asked the
4 question, where was he living? Nobody thought to
5 say, Judge, this is where he's living. So in
6 that case, I think there is -- and it is inherent
7 upon the judge to ask good questions, to elicit
8 the facts so that the law can then be properly
9 applied. And that would be the second place I
10 would go. So the first step is, what does the
11 law and the facts as presented require, and then
12 what additional facts or inquiries should the
13 Court make in order to determine that that is the
14 right ruling and there isn't some exceptional
15 fact that needs to be known?

16 **Q. Let me ask you just one other thing. I don't get**
17 **the sense that this is how you practice law, but**
18 **unfortunately there are a number of people who**
19 **do. I think the way we handle things and the way**
20 **the rules are structured, it's more or less**
21 **screaming disclosure, let's make this final**
22 **determination on the merits with everybody having**
23 **their opportunity. No hiding the ball. No**
24 **gotcha moments. But yet they happen with more**
25 **regularity than I think any of us would want to**

1 **tolerate. What's your thought on that?**

2 A. Our system of litigation is by nature
3 adversarial, and the rules are meant to level the
4 playing field and bring forth all the material
5 information so that a just result can happen. In
6 the context as you sort of generally propose, I
7 think it's inherent upon the advocates, the
8 lawyers, to do their job. So at some point it
9 has to fall to the lawyers on that day or those
10 days, if it's a trial, to bring forth the facts
11 and the arguments that support their client,
12 irrespective of the other party's -- and I don't
13 want to say malfeasance, that's not fair, but
14 their litigation style --

15 **Q. Or lack of diligence, potentially.**

16 A. -- or lack of diligence or disclosure. And in
17 that sense, the adversarial system has to be
18 allowed to play out. I represent lawyers. I do
19 a lot of legal malpractice defense, and there are
20 days where we aren't our best, and there are days
21 we don't make the arguments we should make. And
22 there are consequences to those, but that's also
23 our adversarial system. And unfortunately there
24 may be a collateral proceeding involving that
25 lawyer to deal with the failure to make the

1 argument, but at the point of contact with the
2 court, you have to let the adversarial proceeding
3 play out. The only judging I can do right now is
4 mock trial judging. And so when these high
5 schoolers and middle schoolers come in -- and
6 some of them are fantastic lawyers. Some of them
7 are just they know the rules, they know the
8 objections. And sometimes they ask those leading
9 questions that the other side doesn't object to,
10 and it takes every fiber of my being not to say,
11 objection, but that's not my job.

12 Q. Well, I guess here's what I'm asking. I'm
13 completely on board with you because I'm
14 subscribed to the same view. It's not my job to
15 do theirs for them, okay? I get that. There are
16 other situations, though, where I think things
17 arise where clearly people are playing games.
18 And, you know, my experience over the years has
19 generally been judges take a dim view of that
20 because, again, it doesn't really advance things.
21 It more or less creates more problems than the
22 system really wants. And I guess that's really
23 where I'm looking at is, I mean, when you see
24 something where it's pretty obvious somebody was
25 doing something less than candid, something that

1 **really should have been dealt with at an earlier**
2 **stage -- I mean, what do you do to relate that, I**
3 **guess?**

4 A. Well, thankfully, in our state court system,
5 there's a lot of grace for that type of thing.
6 So that if it comes to the court's attention in a
7 timely fashion, and that's all we can hope is
8 that it comes to the court's attention in a
9 timely fashion, there are a variety of equitable
10 remedies. The court has inherent power to right
11 wrongs as an equitable remedy. Let's talk about
12 the case of an expert witness. Someone hasn't
13 disclosed an expert witness in a timely fashion.
14 So it looks like there's going to be an unfair
15 advantage. Well, one remedy could be to give the
16 opposing side additional time to name their own
17 expert, depose this expert, find out what facts
18 and opinions they truly are going to express in a
19 testimonial hearing. Another remedy could be
20 strike that expert. You didn't disclose them.
21 We're here for trial. And there's, of course, a
22 couple of appellate court decisions on that very
23 issue. But if you can't remedy it on the point,
24 you can't allow for discovery and additional
25 naming of opposing witnesses, then equity could

1 in some sense dictate that that witness not be
2 allowed to testify.

3 Q. I guess that's my point, that doesn't basically
4 the system -- don't the rules basically lend
5 themselves to making things right in many
6 instances that say, okay, you know, yeah, I see
7 it, but that at the end of the day I'm not
8 throwing this guy or that guy under the bus when
9 I can fix the problem and keep everybody on that
10 same level playing field.

11 A. I think so. I think, again, it requires coming
12 to the attention of the Court in order for the
13 Court to be able to take that action. But at the
14 end of the day, what we want, both as advocates,
15 as personnel, as the state of South Carolina -- I
16 think what we want is justice be done. And if
17 justice is being miscarried because of
18 gamesmanship, for lack of a better description,
19 then we're not doing our jobs either as advocates
20 or as the Court. And I hope that given the
21 opportunity to level the playing field in a way
22 that is appropriate, because the rules also talk
23 about your failure to timely object. All right,
24 well, unfortunately at the point, again, of
25 contact, it's not the court's job to undo that,

1 even though there may be collateral effects of a
2 failure to object, a failure to move to strike, a
3 failure to challenge an expert opinion under the
4 relevant Rule 702 case law. But then that's more
5 adversarial than perhaps what your point was,
6 like a miscarriage of justice or a fundamental
7 unfairness. I think the court's job is to make
8 sure there's no fundamental unfairness taking
9 place, but otherwise allow the adversarial
10 proceeding, the adversarial nature of the
11 proceeding to progress.

12 **Q. Well, I appreciate your insights.**

13 REPRESENTATIVE JORDAN: Mr. Strom.

14 MR. STROM: Thank you, Mr. Chairman.

15 MR. WALLACE - EXAMINATION BY MR. STROM:

16 **Q. I join Mr. Safran in commending you on your work**
17 **to get up to speed on the criminal piece, but I**
18 **want to talk to you a little bit about sentencing**
19 **philosophy.**

20 **A. Yes, sir.**

21 **Q. As you've not done that, and here's where I come**
22 **from. I'm very reluctant to support someone to**
23 **be a Family Court judge if they hadn't been in**
24 **private practice and just worked for DSS or DHA.**
25 **And the reason is because if they get on the**

1 bench, they unilaterally decide how much money
2 somebody gets, who gets the children, who gets
3 the house, and they have broad discretion. And
4 unless they've been in private practice and the
5 members of the Bar and their community kind of
6 understand where these people come from and know
7 whether they should support them or not, it's
8 hard to know what they will do within that broad
9 discretion. And like that, on the criminal side,
10 you clerked for Judge Houck. We don't have the
11 benefit, I don't consider them a benefit, of
12 sentencing guidelines. They have very broad
13 discretion, zero to ten, you know, three to ten,
14 seven to 25, one to 15. And a judge can give
15 anything from zero to 15. And it's been my
16 experience that most new judges end up adopting
17 the sentencing philosophy of who they train
18 under. So if the court assigns you to judge X
19 and judge Y and judge Z, you sort of find a
20 combination of those three as to what you do, and
21 there's great disparity in judges. You know, if
22 you go to York County, people go to jail in York
23 County for things that people get probation for
24 in Richland or Charleston. So if you get on the
25 bench, and I think you'll make an excellent

1 judge, how would you go about developing your
2 sentencing philosophy given the fact that you've
3 not done this before? And how are you going to
4 get this wisdom of Solomon to make sure that
5 you're doing this right?

6 A. Well, Mr. Strom, thank you. It's true, I've
7 never sentenced anybody before. And I've been
8 thinking about this for a year or more because
9 it's going to be a challenge to me. There, of
10 course, are some -- within that broad discretion,
11 there's minimum statutory penalties. There are
12 things that -- the floor is set by the General
13 Assembly.

14 **Q. I'm talking about within the range.**

15 A. So what I want to know when I'm going to be a
16 sentencing judge -- obviously, victim impact is
17 important. The circumstances of the crime
18 charged, or is the defendant properly charged,
19 right? I've talked with folks on both sides of
20 the aisle, prosecutors and defense lawyers, about
21 being properly charged. Has this person really
22 been charged with the right felony? Let's talk
23 about felonies mostly, even though there's dozens
24 of misdemeanors that can give you significant
25 jail time. Have they been properly charged

1 because there are rightsizing, and then there's
2 just overly indicted? The Court has to deal with
3 that reality, right? What actually happened?
4 What crime was actually committed? What are the
5 circumstances leading to the crime? All that
6 matters, right? And, of course, I'm assuming
7 you're talking about in the context of a plea
8 where it's not been negotiated between the
9 parties as to recommended sentence, right? So
10 the court has to decide based on two competing
11 views. While I'm developing, I'm going to be a
12 sponge of information. I want to know, right,
13 where this defendant has been. If he's been on
14 bond, how has he been conducting himself, right?
15 Because that matters if you're going to consider
16 probation. Can this person rejoin society today?
17 Good indication is whether or not they've been on
18 bond, and they've been able to keep a job or at
19 least keep their nose clean versus if they've
20 been in jail. I want to know how they've been in
21 jail because that matters. If in that
22 controlled, restricted environment you're still
23 breaking bad, that is a fact that should have
24 some indication of what penalty to apply.

25 **Q. Let me just stop you and ask you this. So if --**

1 **let's say we've got a zero to ten range.**

2 A. Okay.

3 **Q. Do you start at five in your analysis? Do you**
4 **start at zero? Do you start at ten? Have you**
5 **thought about that?**

6 A. I have. I start at what's charged. I start at
7 what the circumstances of the crime are, and I
8 build into that person's sentence what that
9 person did and to whom and why. I believe all
10 that matters. The statutes say it matters. Mr.
11 Strickler's big book says it matters. So I don't
12 start with a number. I start with the defendant
13 and the crime. That's where I'm going to start.
14 Where I end will be dictated by those factors,
15 the law, the victim, if there's a victim, the
16 circumstances, if there's drugs, how much drugs,
17 what were the purpose of the drugs, what did this
18 guy or woman do to get the drugs, right? Those
19 circumstances matter because they dictate within
20 that discretionary range what the penalty should
21 be.

22 **Q. Thanks. I agree with that. Thank you.**

23 REPRESENTATIVE JORDAN: Senator Garrett.

24 SENATOR GARRETT: Thank you, Mr. Chairman

25 MR. WALLACE - EXAMINATION BY SENATOR GARRETT:

1 Q. I want to go to two different areas with you. I
2 want to talk first on the civil side, and your
3 resume as far as defense is just spectacular. I
4 mean, your writings are on very, very important
5 issues for the defense side of the bar. I'm
6 interested in where you're at on this because
7 there's been a lot of debate going on. Where you
8 would be at as it relates to frivolous lawsuits
9 and making people who bring frivolous lawsuits
10 responsible for that. Can you just tell us what
11 your judicial philosophy is on that subject?

12 A. Certainly. And I think it's important to
13 understand in the context of frivolous lawsuits,
14 there's two sort of reigning rules. There's Rule
15 11, which a lawyer has to sign each pleading
16 certifying that basically it's not -- in this
17 context, not frivolous. But there's also the
18 South Carolina Civil Frivolous Proceedings
19 Sanctions Act, which has a proper procedure for
20 bringing a motion by the party agreed by such a
21 claim or defense, and then setting forth what the
22 court should consider in that regard. So in
23 large measure, Rule 11 involves the Court more
24 sort of sua sponte on its own initiative. But
25 the Frivolous Proceedings Sanctions Act requires

1 a movant, I believe. So if it's initiated, then
2 you look at what the claim or defense was made,
3 and then there are hallmarks of how do you do it?
4 Would a reasonable attorney have brought this
5 claim or defense? And if so, well, then you
6 stop. So there's a framework, statutory
7 framework, that I would apply initially. Beyond
8 that, I don't have a philosophy one way or the
9 other about how I would handle such a thing
10 because sitting here today, I don't know -- there
11 could be a defense, for instance, since you
12 raised defense side, that would be appropriate 60
13 percent of the time. It's not appropriate in
14 that case. It wasted a lot of time, it wasted a
15 lot of resources, and it should not have been
16 brought in that particular case. Well, that
17 might be frivolous, but 60 percent of the time it
18 would be the right defense to raise. Similarly,
19 you may have a claim or a cause of action that 60
20 percent of the time is the right claim or cause
21 of action under the facts, but as the facts
22 develop, it becomes inappropriate. Well, does
23 that make it frivolous? I don't know. I think
24 it depends on the circumstances and facts
25 underlying the claim or defense. So it's a fact

1 intensive question, but generally speaking, the
2 law is there. And if it's frivolous, it needs to
3 be ruled on, and it needs to be addressed, and
4 then sanctions need to be applied.

5 Q. I've just found in watching judges over many
6 years, even though we've passed that, it seems
7 that it's seldom used. And I was just wondering
8 from your defense posture if that's going to be
9 something that you've thought about because
10 you're going to have to think about it because I
11 think there's going to be those types of things
12 going forward. Going back to a question that was
13 asked by Mr. Strom as it relates to zero, you
14 know, you start at five or whatever, also the
15 idea is you can start at zero. In other words,
16 you don't have to give him any time. You have
17 such broad discretion sitting there as a trial
18 judge. If the facts -- if you feel like he was
19 overcharged or whatever and he's guilty of
20 something other than that, then you might give
21 him time. You've got to follow what the jury
22 says, though because you're not the finder of
23 facts. You are the 13th juror.

24 A. Certainly.

25 Q. And you realize that you can actually set aside

1 that verdict. In the appropriate case you have
2 that. When we put that robe on you, you have
3 that authority. You understand that?

4 A. I do.

5 Q. Also on the criminal side, I wanted to ask you
6 for a moment. Are you familiar with something
7 called an Alford plea?

8 A. I am.

9 Q. Okay. And different judges have different
10 philosophies about the Alford plea. And
11 basically for those who may not know what that
12 is, that's basically where somebody says, I'm
13 really not guilty of this, but the evidence
14 against me is overwhelming, and if I don't take
15 this deal, I'm facing a longer time in jail. And
16 therefore I'm going to plead Alford. Some judges
17 will accept that. Some judges won't. Have you
18 decided how you want to -- have you thought about
19 how you would handle that, whether you would
20 accept an Alford plea or not?

21 A. In all candor, I have not thought about how I
22 would specifically handle an Alford plea.
23 However, generally speaking, I've thought about
24 how to handle guilty pleas. I was speaking with
25 somebody the other day who was complaining about,

1 why does the colloquy take so long? Can we speed
2 that up? And part of the colloquy of a guilty
3 plea is to make sure that the defendant has
4 knowingly and voluntarily pled guilty, right? So
5 you want to make sure the defendant knows what he
6 or she is doing and the consequences thereof.
7 Alford plea obviously is a little bit different,
8 but the same scenario, right? You want to make
9 sure that the defendant knows what he or she is
10 doing and the consequences of it, that if he or
11 she refuses to accept responsibility, perhaps the
12 -- and I'll change your scenario a little bit.
13 Perhaps the evidence is overwhelming of guilt.
14 They just don't want to admit they did it.
15 That's one thing, whereas if the evidence
16 supporting guilt is -- might convince a jury, but
17 it's not overwhelming, that strikes me as a
18 potential factor. But again, without -- that's
19 such a fact-intensive question, I can't say that
20 I would categorically reject Alford pleas because
21 there's a -- the courts allow for it -- or
22 appellate courts have allowed for it or
23 categorically accept them. I just -- I don't
24 have a default position for that because I
25 believe that each one has to be taken on its

1 facts with the defendant under the law based on
2 the facts and circumstances of the crime that's
3 being pled to.

4 Q. Some judges in their discretion just take a carte
5 blanche view, I'm not going to accept an Alford
6 plea. So as I'm hearing you, right now at least,
7 you're open to that. And the reason they don't
8 do it often, they expressed to us or others is
9 that they're not truly admitting their guilt.
10 And until there's an admission of guilt, they
11 don't feel comfortable imposing a sentence. And
12 also, they don't feel like that if they haven't
13 accepted responsibility for it, it undermines the
14 whole purpose of justice as to have
15 responsibility for one's actions. So again, I
16 understand both sides of it. I just thought it
17 was an interesting thing. One other brief thing.
18 I've always wondered this, and I went to a small
19 law firm and created my own after getting out of
20 law school, and others with high degrees as yours
21 -- you know, you went on to other things. But
22 when you had an opportunity to be a lawyer for a
23 pro bono lawyer or a lawyer for somebody that the
24 court appointed you to do -- we all have that
25 appointment, a lot of people don't know that --

1 in larger firms, sometimes they farm that out or
2 had specific people to do that. In one sense, I
3 respect that because I don't want somebody who
4 doesn't know what they're doing handling my
5 criminal case. On the other hand, you have the
6 responsibility -- you know, that also gives you
7 an ability to learn. And I was wondering, as you
8 were coming up through those firms, did you have
9 an opportunity to actually work as a second or
10 work as a defense lawyer in that capacity?

11 A. Well, first of all, let me clarify my experience.
12 After finishing my clerkship with Judge Houck, I
13 went into private practice with my dad, Bob
14 Wallace, and we were what I call through the door
15 law. Whatever came through the door, we'd try
16 it. But he had particular experience in family
17 law, criminal defense, personal injury, and we
18 did a little bit of probate litigation. And so I
19 practiced criminal defense law. So with
20 everything that came in, poor clients, pro bono
21 clients, wealthy clients, whatever you had from a
22 financial basis. And I practiced whatever they
23 brought to us. And so I have that, historically
24 that experience. Through the years, our firm did
25 use third-party lawyers to handle our 608

1 appointments, which is what you're talking about.
2 So unless I accepted a pro bono appointment, I
3 didn't have 608s. In fact, it never even came to
4 my desk. I didn't even know if I'd been
5 appointed. So I can't tell you if there was an
6 appointment under 608 that I got notice of
7 because it was handled administratively through
8 our office. But I did undertake pro bono
9 representation of clients otherwise in the
10 criminal realm. The last one was in Federal
11 Court involving a gentleman who'd gone through a
12 diversionary program but had pled guilty to
13 heroin possession and trafficking. And so I
14 represented him along with Cameron Blazer, who's
15 now the public defender in the Ninth Circuit, to
16 address the sentencing issue, to basically ask
17 for no time, for the zero that you mentioned
18 earlier. And so I had opportunities like that
19 through my career to engage in some limited
20 criminal defense practice. I've represented
21 paying clients up until, like I said, more than
22 five years ago, but so I had some of that, but
23 no, the answer to your specific question is no, I
24 didn't do 608 appointments.

25 **Q. Well, thank you for offering for service.**

1 SENATOR GARRETT: And that's all the questions I have,
2 Mr. Chairman.

3 REPRESENTATIVE JORDAN: Mr. Wallace, any closing
4 remarks?

5 MR. WALLACE: Looking back over my notes and my
6 application, I think I've said everything that I
7 wanted to before this Commission, so I appreciate
8 the time. I know I'm standing between y'all and
9 lunch, so I don't think it would behoove my
10 application to hold you any further.

11 REPRESENTATIVE JORDAN: Excellent observation. This
12 will conclude the portion of our screening
13 process. I want to take this opportunity to
14 remind you that, pursuant to the Commission's
15 evaluative criteria that we reviewed earlier,
16 that the Commission expects candidates to follow
17 both the spirit as well as the letter of the law.
18 And we will view violations or the appearance of
19 impropriety as serious and potentially deserving
20 of heavy weight in the screening deliberations.
21 On that note, and as you know, the record will
22 remain open until the formal release or the
23 Report of Qualifications, and you may be called
24 back at such time if the need arises. Again,
25 thank you for your appearance. Thank you for

1 offering to serve in this very important
2 position. We wish you all the best and safe
3 travels as you return home.

4 MR. WALLACE: Thank you so much.

5 OFF THE RECORD

6 REPRESENTATIVE JORDAN: Ms. Inzerillo.

7 MS. INZERILLO: Good morning. I mean, good afternoon.

8 REPRESENTATIVE JORDAN: Did I say that correctly?

9 MS. INZERILLO: Yes, sir, you did.

10 REPRESENTATIVE JORDAN: Welcome. I'm going to swear
11 you in. I am the vice vice chair.

12 MELISSA A. INZERILLO, being duly sworn, testifies
13 as follows:

14 MS. INZERILLO: Yes, sir.

15 REPRESENTATIVE JORDAN: Thank you very much. Before
16 we get to the -- I believe you have some folks
17 with you. You may not want to recognize Mr.
18 Barraclough, but recognize who you brought with
19 us.

20 MS. INZERILLO: Yes, sir. Here with me today is my
21 mom, Sue Inzerillo --

22 REPRESENTATIVE JORDAN: Welcome.

23 MS. INZERILLO: -- and 16th Circuit Public Defender BJ
24 Barrowclough.

25 REPRESENTATIVE JORDAN: Welcome to you both. Glad to

1 have you. I believe you have a copy of your PDQ
2 as well as your sworn statement before you. Is
3 that correct?

4 MS. INZERILLO: Yes, sir.

5 REPRESENTATIVE JORDAN: Having reviewed those, do
6 those appear to be thorough, accurate, complete?

7 MS. INZERILLO: Yes, sir.

8 REPRESENTATIVE JORDAN: Anything need to be changed or
9 updated?

10 MS. INZERILLO: No, sir.

11 REPRESENTATIVE JORDAN: Any objection to making those
12 part of the sworn statement record?

13 MS. INZERILLO: No, sir.

14 REPRESENTATIVE JORDAN: No objection?

15 MS. INZERILLO: No, sir.

16 (Exhibit Number 9 was marked for identification
17 purposes - (16 pages) Personal Data Questionnaire for
18 Melissa A. Inzerillo.)

19 (Exhibit Number 10 was marked for identification
20 purposes - (7 pages) Amendment to Personal Data
21 Questionnaire for Melissa A. Inzerillo.

22 (Exhibit Number 11 was marked for identification
23 purposes - (6 pages) Sworn Statement of Melissa A.
24 Inzerillo.)

25 REPRESENTATIVE JORDAN: All right. I'm going to go

1 over with you briefly, this Commission has
2 thoroughly investigated your qualifications for
3 the bench. Our inquiry is focused on our nine
4 evaluative criteria and has included a ballot box
5 survey, thorough study of your application
6 materials, verification of your compliance with
7 state ethics laws, a search of newspaper articles
8 in which your name has appeared, a study of
9 previous screenings, as well as check for
10 economic conflicts of interest. We have received
11 no affidavits filed in opposition of your
12 election. No witnesses are present to testify.
13 You may make a brief opening statement, but feel
14 free to waive that, and you will have the
15 opportunity to give remarks at the end, but it's
16 sure up to you.

17 MS. INZERILLO: I just want to tell this Commission
18 I'm very honored to be considered for this
19 position, and I'm grateful for the Commission's
20 time today.

21 REPRESENTATIVE JORDAN: Very good. With that, please
22 answer questions from Ms. Chappell.

23 MS. INZERILLO - EXAMINATION BY MS. CHAPPELL:

24 **Q. Good afternoon, Ms. Inzerillo.**

25 **A. Good afternoon.**

1 MS. CHAPPELL: I note for the record that based on the
2 testimony contained in the candidate's PDQ, which
3 has been included in the record with the
4 candidate's consent, Melissa Inzerillo meets the
5 constitutional and statutory requirements for
6 this position regarding age, residence, and years
7 of practice.

8 **Q. Ms. Inzerillo, why do you want to be a Circuit**
9 **Court judge?**

10 A. I want to be a judge because I absolutely love
11 the law. I love getting a case that has a deep
12 legal issue or factual issues that really need a
13 second look through the law. Throughout my
14 career, I have taken on additional cases where I
15 got to learn different issues in the law. For
16 example, when the 16th Circuit got Aiken v. Byers
17 cases, I asked to work on those. More recently,
18 I've been working with our senior Family Court
19 attorney on the juvenile waiver cases that are in
20 York County because I wanted to learn those
21 issues as well. I have a desire to learn the
22 law. I love the law. And I think judges should
23 love the law because it's what you walk around in
24 every day. And so that's the primary reason.
25 The seat I have applied for is a resident seat in

1 the 16th Circuit. I grew up in York County. I
2 live in York County. I came back home to York
3 County early in my career to be closer to my
4 family. And I practiced in the courtrooms of
5 York and Union County. And so I think it would
6 be a great honor to represent my circuit as a
7 resident judge.

8 **Q. Ms. Inzerillo, how do you feel your legal and**
9 **professional experience thus far renders you**
10 **qualified and will assist you to be an effective**
11 **Circuit Court judge?**

12 A. I would highlight two aspects of my professional
13 legal experience. The first is I'm a trial
14 attorney by trade. That's what I have done for
15 the majority of my career. I'm very comfortable
16 in courtrooms. I've been in courtrooms not only
17 in York and Union Counties, but also Orangeburg
18 and Charleston Counties. I have handled all
19 manner of cases from serious violent felonies to
20 simple misdemeanors. And I have handled
21 everything from trials to bond hearings and
22 various motions. So I'm very comfortable in a
23 courtroom setting. I understand courtroom
24 procedure and decorum. Throughout my years as a
25 trial attorney, I've had the opportunity to

1 observe judges and learn from judges, not just
2 how they interact with litigants and attorneys,
3 but also how they manage the day-to-day issues
4 that come up in their courtroom. So for example,
5 if a private attorney comes in, they've got a
6 court date somewhere in a different county, how a
7 judge may weigh in and try to get that plea done
8 or that hearing done so that attorney could get
9 on to their next case. Similarly, if the jail
10 docket is backed up, then they try to prioritize
11 jail cases to make sure that docket gets
12 resolved. So I've had the opportunity over many
13 years to learn and observe from these judges. I
14 would say the second aspect of my legal and
15 professional experience are the skills I learned
16 from being the administrative deputy of the 16th
17 Circuit Public Defender's Office. In that role,
18 I managed day-to-day operations of the office.
19 This could include isolating conflicts, handling
20 personnel matters, sometimes handling personality
21 conflicts. And I think I would bring those type
22 of skills to the administrative tasks that a
23 judge might have to handle if I were elected to
24 the bench.

25 **Q. Thank you. The Commission received 164 ballot**

1 box surveys regarding you with 44 additional
2 comments. The ballot box survey, for example,
3 contained the following positive comments: very
4 smart, organized, patient, and knowledgeable
5 person. Highly regarded among the legal
6 community. There is no doubt in my mind that she
7 would make a great judge. Another said, smart
8 and a fine character, would be a credit to the
9 bench. Fourteen of these written comments
10 expressed concerns. The majority of those
11 comments expressed concern about your lack of
12 civil experience. What would you say to these
13 concerns?

- 14 A. Well, as the Commission is aware, I began my
15 legal career as an associate at Haynsworth
16 Baldwin Johnson and Greaves. While there, I did
17 employment law as well as immigration. And in
18 that job, I became familiar with civil procedure,
19 the civil laws that we had to use to build and
20 defend cases and to work in private practice.
21 It's been a while since I've done that. And so
22 throughout this process, I have begun to bridge
23 that gap. I have been reviewing civil procedures
24 to reacquaint myself with that. I have also
25 reviewed various statutes that might have

1 particular procedural issues in it. I have sat
2 in common pleas motions as well as part of a
3 civil trial to learn how a judge handles these
4 motions and how cases are presented differently
5 in a civil context than in a criminal one. I
6 also read the advance sheets, both civil and
7 criminal. And so I have already begun the
8 process to bridge that gap and will continue to
9 do so.

10 **Q. Six comments, some in conjunction with concerns**
11 **about experience, expressed concerns about your**
12 **ethical fitness and impartiality. What response**
13 **would you offer to these concerns?**

14 **A.** I would be a fair and impartial judge. I can
15 understand there may be some concerns about that
16 because I have been a public defender for so
17 long, but my role as a public defender is an
18 advocate. I go into court, I advocate for my
19 clients, and I make the motions and the arguments
20 that are necessary in that role. My role as a
21 judge is completely different. It would be not
22 to advocate, but to listen to both sides, listen
23 to aggravation and mitigation, and resolve the
24 cases as fairly as I could. And I would take
25 that role very, very seriously. I'm unaware of

1 any ethical concerns in particular that someone
2 may have listed, and I have spent my career
3 following the ethics rules. It's very important
4 to me to be an ethical attorney. And so on that
5 particular part of the question, I don't have any
6 further information, but I can assure this
7 Commission that I would take my role as a judge
8 very, very seriously, to be fair and impartial
9 and listen to all parties involved.

10 MS. CHAPPELL: I would note that the Piedmont Citizens
11 Committee reported that Ms. Inzerillo is
12 qualified in the evaluative criteria of
13 constitutional qualification, physical health,
14 mental stability, and experience. Ms. Inzerillo
15 was found well qualified in the evaluative
16 criteria of ethical fitness, professional and
17 academic ability, character, reputation, and
18 judicial power. The Committee commented: Ms.
19 Inzerillo is a talented and experienced criminal
20 defense lawyer who exhibits a strong work ethic
21 and a commitment to public service. The
22 committee considers her qualified rather than
23 well qualified in terms of experience only
24 because she has not practiced as a civil lawyer,
25 though she certainly has the aptitude to learn

1 what she needs to learn to serve as a Circuit
2 Court judge.

3 **Q. Now I have some housekeeping issues to cover with**
4 **you.**

5 A. Yes, ma'am.

6 **Q. Ms. Inzerillo, are you aware that as a judicial**
7 **candidate, you're bound by the Code of Judicial**
8 **Conduct, as found in Rule 501 of the South**
9 **Carolina Appellate Court Rules?**

10 A. Yes, ma'am.

11 **Q. Ms. Inzerillo, since submitting your letter of**
12 **intent, have you contacted any members of the**
13 **Commission about your candidacy?**

14 A. No, ma'am.

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

19 A. No, ma'am.

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

24 A. Yes, ma'am.

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

1 members of the General Assembly on your behalf?

2 A. No, ma'am.

3 Q. Are you aware of anyone attempting to intervene
4 in this process on your behalf?

5 A. No, ma'am.

6 Q. Have you reviewed and do you understand the
7 Commission's guidelines on pledging in South
8 Carolina Code Section 2-19-70(E)?

9 A. Yes, ma'am.

10 MS. CHAPPELL: Mr. Chairman, I would note for the
11 record that any concerns raised during the
12 investigation by staff regarding the candidate
13 were incorporated into the questioning of the
14 candidate today. I have no further questions.

15 REPRESENTATIVE JORDAN: Thank you, Ms. Chappell.

16 Questions from the Commission? Mr. Strom.

17 MR. STROM: Thank you, Mr. Chairman.

18 MS. INZERILLO - EXAMINATION BY MR. STROM:

19 Q. I guess it's good afternoon. You said something
20 that bothered me a little bit. I'm worried about
21 your reputation because you're a public defender.
22 And you're worried about your reputation because
23 you're a public defender, and people may
24 criticize your views on sentencing because of
25 that background, and that worries me a little

1 bit. I can tell you from a statewide
2 perspective, you talk to most criminal defense
3 lawyers, they think that your circuit gets higher
4 sentences than any other circuit in the state.
5 People get probation, Richland, Lexington, 9th
6 Circuit, 14th Circuit. And in York County, you
7 go to jail. And of course, you know, we don't
8 have a unified system sentencing guidelines. I
9 encourage you to think about that in your
10 sentencing practice, and to stand up and do what
11 you think is right, and not worry about the
12 criticism.

13 A. Yes, sir.

14 Q. And I can tell you that everybody in this room is
15 thinking the same way. The second thing I would
16 commend you to do is Judge McCaslin over in
17 Lexington -- you know Debbie?

18 A. Yes, sir.

19 Q. Okay. All she did was criminal defense work.
20 There was a lot of question about whether she'd
21 be competent doing civil. And she went over
22 there, and as a criminal defense lawyer, they
23 didn't know how the solicitor was going to like
24 her, and she put her head down, and she tried
25 about 12 cases in a row. And she did what she

1 thought was right, and it's running like a charm
2 over there. Now, she's working her behind off on
3 the civil side. She's got a great law clerk, and
4 they read and read and read. But, you know,
5 you're plenty bright, and you can do this. So I
6 really commend you to talk to her.

7 A. Yes, sir, I sure will.

8 Q. And the other thing, we talked about sentencing
9 with some other candidates. You'll get assigned
10 to sit with other judges, and if you can
11 influence that, you know, do that, but take the
12 time, watch other judges in other parts of the
13 state, start a spreadsheet, and see what people
14 get for possession with intent or distribution.
15 And see what those ranges are because what's
16 happening up in York County ain't the norm for
17 the state line. And so, I don't want you to
18 apologize about being a public defender. I want
19 you to take that with you. Now, you've got
20 victims to look after, and obviously you're going
21 have a robe, and your job is going to be
22 different. And your friends are going to be mad
23 at you on the defense side because you aren't
24 going to rule with them all the time. That's
25 part of it.

1 A. Yes, sir.

2 **Q. But don't apologize, be strong, and I know you're**
3 **going to do a great job.**

4 A. Thank you, sir. I really appreciate that.

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

6 REPRESENTATIVE JORDAN: Seeing no others. Oh, Senator
7 Sabb.

8 MS. INZERILLO - EXAMINATION BY SENATOR SABB:

9 **Q. I saw where you were born in Kingstree, South**
10 **Carolina, so I need to know just a wee bit about**
11 **that. I'm a Kingstree guy myself, so ...**

12 A. Well, I was born in Kingstree. We lived in
13 Quimby at the time, and I was born there. My dad
14 had a job there, and my mom, of course. They all
15 lived there. We left when I was two years old.
16 A few years ago, I did go back and drive through
17 Quinby because I wanted to see what I was
18 missing. Beautiful area. But I did leave the
19 Kingstree area when I was pretty young.

20 **Q. It's still a wonderful place to live.**

21 A. It sure was. I was very impressed.

22 REPRESENTATIVE JORDAN: So, now we're confused.

23 Quinby, the Quinby we know is Florence County.

24 Is there another Quinby in Williamsburg County?

25 **Q. Kingstree is what we were talking about.**

1 A. Right, right. I think they lived in Quinby, but I
2 was born -- driven to Kingstree to be born.

3 REPRESENTATIVE JORDAN: Okay, all right. I remain
4 confused. Chairman Rankin.

5 CHAIRMAN RANKIN: I think that we have just all
6 traveled verbally down the Quinby cut through.
7 And do you know Doug, by chance, who -- stay
8 away, Doug --

9 MS. INZERILLO: I don't know Doug.

10 CHAIRMAN RANKIN: -- on the Quinby cut through?

11 MS. INZERILLO: No, sir. I don't. I apologize.

12 CHAIRMAN RANKIN: The Quinby cut through, there was a
13 -- we'll send you a picture later. It was
14 forever famous for a spray painted sign on the
15 Quinby cut through for folks traveling from
16 Horry, Florence, to get to 95.

17 REPRESENTATIVE JORDAN: He missed when you said you
18 only went one time.

19 MS. INZERILLO: Right. I'll keep an eye out.

20 CHAIRMAN RANKIN: That's so famous. I want to --
21 locally famous, apparently, but I want to commend
22 you for running and for the comments that have
23 been made about you. And one -- two in
24 particular, perhaps one of the longest
25 endorsement letters I've ever read, but that go

1 to your work ethic, which is again, that's been
2 highlighted, but granularly with one of your
3 attorneys involved in a case that would not have
4 had time to read the advance sheets issued from
5 the day before that was on point with an issue in
6 a trial that was apparently an incredible trial.
7 The tact that you used and the foresight to make,
8 as another person writes, your making the justice
9 system the best it can be speaks volumes to me.
10 And I cannot -- and those little things that
11 don't maybe get noticed, but turn the arc of a
12 case perhaps, or of a career of a young attorney,
13 that you as a judge, if you're so successful,
14 will have a day-in/day-out opportunity to build
15 up the bar, build up the competence of the public
16 who wonders how judges are picked, wonders what's
17 going on in a courtroom, and who I hope and would
18 predict you'll take the time for the little
19 things in your courtroom to lift it up and make
20 it something that we can all be so proud of.

21 MS. INZERILLO: Yes, sir.

22 CHAIRMAN RANKIN: I've never met you, but I'm telling
23 you, that just screams volumes to me on your
24 behalf. So, that's it.

25 MS. INZERILLO: Thank you very much.

1 REPRESENTATIVE JORDAN: All right. Ms. Inzerillo, I
2 can't tell you how much we've enjoyed having you.
3 Any final remarks?

4 MS. INZERILLO: No, sir, thank you all very much.

5 REPRESENTATIVE JORDAN: Very good. Just a few -- this
6 concludes this portion of our screening process.
7 I do need to take this opportunity to remind you
8 that pursuant to the Commission's evaluative
9 criteria that we previously reviewed, we expect
10 the candidates to follow both the spirit and the
11 letter of the law regarding ethics laws. And we
12 will pay close attention to any violations or the
13 appearance of impropriety as serious and
14 potentially deserving of heavy weight in
15 screening deliberations. On that note, and as
16 you know, the record will remain open until the
17 formal release of the Report of Qualifications,
18 and you may be called back at such time should
19 the need -- if the need arises. We thank you
20 again for your appearance today. Wish you well.
21 Say hello to cut-through Doug if you see him
22 again.

23 MS. INZERILLO: Absolutely will. Thank you all, I
24 appreciate it.

25 REPRESENTATIVE JORDAN: And with that, have a good

1 day.

2 MS. INZERILLO: Yes, sir, thank you.

3 REPRESENTATIVE JORDAN: On motion of Chairman Rankin,
4 seconded by Representative Rutherford, we will go
5 into Executive Session for legal briefing. Thank
6 you.

7 MS. INZERILLO: Thank you.

8 EXECUTIVE SESSION

9 CHAIRMAN RANKIN: All right, we are back on the
10 record, and for the record during Executive
11 Session no votes were taken, no actions were made
12 -- decisions made. Judge, welcome.

13 JUDGE JONES: Thank you.

14 CHAIRMAN RANKIN: If you will, please raise your right
15 hand.

16 THE HONORABLE ANNE GUÉ JONES, having been duly
17 sworn, testifies as follows:

18 JUDGE JONES: I do.

19 CHAIRMAN RANKIN: Thank you for being here. Thank you
20 for your patience as well. We're as close by two
21 minutes to 2:15. And I'm sorry, Andy Safran,
22 thank you so much for making that happen. Andy
23 has just been a dutiful steward of the ship.
24 There's a guy --

25 MR. SAFRAN: Representative Safran. Now, I've heard

1 that said several times.

2 CHAIRMAN RANKIN: Excuse me.

3 MR. SAFRAN: Just make sure to put the REP in front of
4 the sign over there.

5 CHAIRMAN RANKIN: Rep Saf has got it going on, let me
6 just tell you. Anyway, so you have ready the PDQ
7 and the sworn statement to hand into the record,
8 I trust, without objection?

9 JUDGE JONES: Yes, sir.

10 CHAIRMAN RANKIN: Very good. You are familiar with
11 this process.

12 (Exhibit Number 12 was marked for identification
13 purposes - (16 pages) Personal Data Questionnaire for
14 The Honorable Anne Gué Jones.)

15 (Exhibit Number 13 was marked for identification
16 purposes - (2 pages) Amendment to Personal Data
17 Questionnaire for The Honorable Anne Gué Jones

18 (Exhibit Number 14 was marked for identification
19 purposes - (8 pages) Sworn Statement of The Honorable
20 Anne Gué Jones.)

21 JUDGE JONES: Yes, sir.

22 CHAIRMAN RANKIN: We're glad you're back, wanting to
23 be -- continuing to serve in this process. But,
24 you know, as we look at your bid for reelection,
25 we have to look at those nine evaluative

1 criteria, which include a ballot box survey,
2 thorough study of your application materials,
3 verification of compliance with state ethics
4 laws, a search of newspaper articles in which
5 your name appears, a study of previous screenings
6 and check for economic -- or conflicts of
7 economic interest or vice versa. No affidavits
8 have been filed in opposition to your reelection.
9 No witnesses are present to testify. I don't
10 believe you brought anyone in with you when you
11 came in.

12 JUDGE JONES: No, sir.

13 CHAIRMAN RANKIN: You, at this point, have the
14 opportunity to make an ever so brief opening
15 statement, or you can waive that and go to Ms.
16 Madison, who will be asking questions. And then
17 you can make a closing statement at the end, if
18 you so choose.

19 JUDGE JONES: I'll just introduce myself. I'm Anne
20 Gué Jones from Orangeburg. I'm a Family Court
21 judge in Orangeburg. I've been a Family Court
22 judge in Orangeburg for 23 years. I appreciate
23 the opportunity to be here today, and I'm happy
24 to answer any questions that you have.

25 CHAIRMAN RANKIN: All right. Ms. Faulk. Thank you.

1 MS. FAULK: Thank you, Mr. Chairman.

2 JUDGE JONES - EXAMINATION BY MS. FAULK:

3 Q. Good afternoon, Judge, it's very nice to see you
4 again. Judge Jones, after serving on the Family
5 Court bench since 2001, why would you like to
6 continue serving as a Family Court judge?

7 A. I feel that I'm called to be a Family Court
8 judge. I haven't always felt that way, but
9 during the time that I've been on the bench, I
10 have gained more knowledge. I believe that I
11 have the ability to craft solutions for the
12 children and families of the state of South
13 Carolina. I'm also excited about the
14 collaborative effort that our bench is working on
15 as far as crafting new solutions for some of the
16 things we're seeing regularly face us in Family
17 Court. The landscape of Family Court has
18 changed, I believe, pretty substantially since we
19 went through Covid, and I'm excited to continue
20 to serve my community, my state, and offer the
21 knowledge I've gained through the years I've been
22 on the bench.

23 Q. What do you believe is the appropriate demeanor
24 for a Family Court judge?

25 A. A Family Court judge is to be patient, to be

1 dignified, and to be courteous, to be civil and
2 respectful to everyone who enters the courtroom
3 and give everyone an opportunity to have their
4 case heard.

5 **Q. Thank you, ma'am. Your SLED report and PDQ**
6 **together indicated that there have been five**
7 **federal lawsuits filed against you since your**
8 **last screening. All were filed by a Mr. Dingle**
9 **and appear to be prisoner civil rights cases.**
10 **Can you tell us a little bit about those, please,**
11 **ma'am?**

12 **A.** I'm not aware that he was a prisoner at any point
13 in time. Mr. Dingle brought a custody action in
14 Dorchester County. He was represented by an
15 attorney when he filed the action against the
16 mother of his daughter. The mother of his
17 daughter was unrepresented. There were multiple
18 hearings in his cases. At a hearing based on a
19 motion by the guardian, I sent the guardian to
20 the child's school to remove the child from
21 school because of my concern about the child in
22 Mr. Dingle's custody. I then later presided over
23 his final hearing where he was not represented by
24 an attorney and he did not appear. He filed a
25 suit against Dorchester County in Federal Court.

1 He filed a suit against Dorchester County Family
2 Court. He filed a suit against me and the
3 guardian ad litem. That suit was dismissed. I
4 know that suit has been dismissed. He filed a
5 suit against the guardian ad litem, the South
6 Carolina Department of Social Services and two
7 other people whose names I did not recognize. I
8 don't know the status of that suit. And then he
9 also has filed a suit against the mother of the
10 child, the guardian ad litem, five Family Court
11 judges, including myself, and I believe two other
12 people.

13 **Q. Very good. Thank you, ma'am. What do you think**
14 **your reputation is among the attorneys that**
15 **practice before you?**

16 **A.** I think my reputation is that I am firm, that I
17 hold their feet to the fire, but I am also fair,
18 and I'm going to give everybody an opportunity to
19 be heard and that I'm going to make a ruling
20 after careful deliberation.

21 **Q. The Commission received 389 ballot box surveys**
22 **regarding you with 64 additional comments. The**
23 **ballot box survey, for example, contained the**
24 **following positive comments. First, Judge Jones**
25 **is an excellent judge, exemplary of patience,**

1 hard work, and understanding of the law. Next,
2 Judge Jones is a well respected member of the
3 bench. She is a diligent and hardworking judge
4 who continues to elevate the practice of family
5 law in our courts. And finally, an excellent
6 judge, hardworking, compassionate, honest, and
7 fair. Works hard to ensure that when people have
8 their day in court, they get the best in
9 professionalism and preparation from everyone
10 involved, including herself. Eight of the
11 written comments expressed concerns. Seven of
12 the eight negative comments expressed concern
13 about the suitability of your temperament for
14 service in the Family Court bench. How would you
15 address these concerns?

- 16 A. The canons require that I require decorum and
17 order in the courtroom while being patient,
18 dignified, and courteous. And that can be a fine
19 line at times. If I let the courtroom get
20 completely out of control, which I have had
21 happen in the last several years, I can't get it
22 back. There are times when I don't have the best
23 security in the courtroom with me. In the last
24 two years in Orangeburg County, we have had
25 people flip the counsel table over and attack the

1 witness on the witness stand. So I am firm as
2 far as what I expect in the courtroom as far as
3 behavior, both of lawyers and litigants and court
4 staff. I'm not asking anything of anybody that I
5 don't expect myself. The other thing is, is that
6 I still, after 23 years, look at every single
7 Family Court file before I go into a hearing, and
8 I make notes about that file. I come into court
9 prepared, and I expect lawyers to come into court
10 prepared.

11 MS. FAULK: I would note that the Lowcountry Citizens
12 Committee reported Judge Jones to be qualified in
13 the evaluative criteria of constitutional
14 qualifications, physical health, and mental
15 stability and well qualified in the evaluative
16 criteria of ethical fitness, professional and
17 academic ability, character, reputation,
18 experience, and judicial temperament. The
19 Committee further noted, excellent candidate,
20 smart, fair, motivated, and caring, willing to
21 make the tough calls.

22 Q. And finally, Judge, I have just a couple of
23 housekeeping questions, and then that will be it
24 for me. Judge Jones, since submitting your
25 letter of intent, have you contacted any members

1 of the Commission about your candidacy?

2 A. No.

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

6 A. Yes.

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

11 A. No.

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

16 A. No.

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

20 A. Yes.

21 MS. FAULK: I would just note for the record that any
22 concerns raised during the investigation
23 regarding the candidate were incorporated into
24 the question of the candidate today. Mr.
25 Chairman, I have no further questions. Thank

1 you, ma'am.

2 CHAIRMAN RANKIN: All right. Questions by members of
3 the Commission? Representative Safran.

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

5 JUDGE JONES - EXAMINATION BY MR. SAFRAN:

6 Q. Judge Jones, you've been on the bench a long time
7 now. And, look, we get situations like this where
8 occasionally there are going to be some negative
9 comments, and, you know, we have to look at the
10 whole picture. And I think given the
11 circumstances where I see people refer to you as
12 a gem and talk about, you know, how outstanding
13 your knowledge is of the law, and I hear the need
14 about keeping some level of decorum in the
15 courtroom. I mean, do you find, you know, in
16 terms of when you talk about wanting people to be
17 prepared, are people -- are you seeing more of
18 that now, where people may not be quite as
19 prepared as you might expect when they're coming
20 in?

21 A. Unfortunately, I see in some younger lawyers that
22 they just are not prepared. I mean, I'll have a
23 lawyer come into court to approve an agreement on
24 a 30 year marriage in a case that's been pending
25 for two years. And there's no financial

1 declaration for the lawyer's client in the file.
2 They're supposed to file the financial
3 declaration within 45 days of the responsive
4 pleading being filed unless they had a hearing
5 before that. And when I ask where the financial
6 declaration is, she didn't bring one to court
7 today. And the response is, well, we've exchanged
8 financial information with the other lawyer.
9 We're good with it, but I'm the one who has to
10 call -- say, this agreement is fair and equitable
11 to both these parties. And if I've got people
12 waving alimony -- maybe I've got a stay at home
13 mom who's waving alimony from a doctor, I need to
14 see that financial declaration. And I'm not
15 comfortable making that call with the
16 understanding that you're going to supplement the
17 record later with the financial declaration.

18 **Q. Well, so it seems like more or less they're**
19 **coming in just kind of giving you the wink and**
20 **saying, just take our word for it.**

21 A. Exactly.

22 **Q. And I think what you've said, you go to the**
23 **extent of actually reviewing the file before they**
24 **ever walk in the door. You know what you need.**
25 **And instead of basically saying, Judge, we're**

1 **sorry, let me get this to you, it's more or less,**
2 **don't worry about it.**

3 A. Well, and in that case, I agreed to let her email
4 me. She had it. She could email it to me, and I
5 could look at it on my computer, so I allowed
6 them to do that that day.

7 **Q. Right. But, I mean, that's not isolated, is it?**

8 A. No, sir, it's not isolated.

9 **Q. Let me ask you this. I mean, I don't go to**
10 **Family Court, haven't in many, many years --**

11 A. And most lawyers don't want to come to Family
12 Court, let's be honest.

13 **Q. Like, we all try it at one point. I mean, I did.**
14 **And, frankly, it just wasn't for me. But I guess**
15 **the question I've got, and I'm not trying to kind**
16 **of lay this all on your shoulders, but the last**
17 **time we had kind of this number of Family Court**
18 **judges coming through, I did ask a lot of**
19 **questions that were along these lines, and I**
20 **don't think things have necessarily changed for**
21 **the better. How do you try to reconcile the**
22 **significance of what you're ruling on,**
23 **particularly at the beginning, let's say a**
24 **temporary hearing, with the limited amount of**
25 **time you're given to do it, to really get into**

1 **the depth of a case?**

2 A. Part of that is I look at the file ahead of time.
3 I've looked at the allegations that the parties
4 make, and I have made notes on what I call my
5 green sheet. It's my memo sheet that's on a
6 green piece of paper so that I can find it
7 easily. And I sometimes at temporary hearings
8 put the clients, the litigants, under oath and
9 ask them questions. Some lawyers are not happy
10 with me about that.

11 **Q. Well, but, I mean, isn't it necessary when you**
12 **see it?**

13 A. It is sometimes necessary when I see it,
14 especially when children are involved. And I'm
15 supposed to make a decision that my paramount and
16 controlling consideration is the best interest of
17 those children. And I need to ask what questions
18 I need to ask to get answers so that I can get a
19 feel for what is best for these children on a
20 temporary basis, especially when they're heavily,
21 hotly contested temporary hearings. There are
22 times I still take those under advisement because
23 maybe I do need more time to read everything that
24 they've given me before the end of the week and
25 make a decision.

1 Q. So, effectively when that comes up, you're trying
2 to do the right thing, to do what you're charged
3 legally to do, correct?

4 A. Absolutely. And I'm not ruling on something on a
5 temporary basis where I have not read everything
6 that's been presented. If I can't do that in the
7 time that's allotted because of the 17 to 22
8 cases I had that day, then I'm going to have to
9 take it under advisement. And my goal is always
10 to make that ruling by the end of that week.

11 Q. And I guess what I think I heard you say is is
12 that sometimes when that happens, you might get a
13 little bit of a pushback where, why are you doing
14 this, I don't like it, which I think might be
15 compatible with somebody saying she's rough and
16 maybe, you know, can be difficult because
17 basically you're trying to kind of tell them to
18 do something they weren't, I guess, prepared
19 enough to do before they got there.

20 A. Well, and I think sometimes lawyers don't prepare
21 their clients quite well enough for temporary
22 hearings, and they are caught off guard when I
23 ask questions, particularly if I ask pointed
24 questions.

25 Q. I mean, generally are most of those lawyers

1 coming in with the idea that whoever's -- they've
2 all written their affidavits. And what has
3 troubled me about this -- and I understand that
4 basically you go to try to get a lawyer who's
5 going to give you the best representation and who
6 is competent.

7 A. Exactly.

8 Q. But what troubles me is the fact that sometimes
9 these things boil down to who writes the best
10 affidavit in a situation, you know.

11 A. Well, and I mean, as a Family Court judge, I look
12 at that and, you know, who's written the
13 affidavits. There are some affidavits that are
14 going to carry more weight for me than others. If
15 it's a school teacher or a daycare provider as
16 opposed to the aunt or the sister of the father
17 or the sister of the mother or the grandparents.
18 I mean, we see a lot of affidavits from
19 grandparents in temporary hearings. You know, I
20 have to look at who, what that person's role is
21 in that child's life, and what are they offering
22 me as far as the overall paramount controlling
23 considerations that I'm looking at for the
24 parents to determine, you know, what they've done
25 for that child educationally, primary caretaker,

1 emotionally, medically. Typically at the
2 temporary -- first temporary, I'm looking to see
3 who really has been the primary caretaker. And
4 absent something horrible, that person usually is
5 going to end up with temporary custody.

6 Q. Let me ask you, just to finalize. You've been
7 working in this system actively for 30 years at
8 least, right?

9 A. Correct.

10 Q. And you've seen how it can work well; is that
11 true?

12 A. It can.

13 Q. And you've seen how it can work less than great?

14 A. Yes.

15 Q. Where are we now in terms of the system, and what
16 would you primarily say, how can we improve it?
17 How can we make this to where you have less of
18 those moments where people are unhappy because of
19 what may be perceived as the Court, when in fact
20 it may be somebody else that's creating the
21 problem?

22 A. You know, I don't know from that perspective from
23 Family Court because of the decisions that we're
24 making. They are life changing decisions for
25 people, and they are not well received at times.

1 I don't know that there's a way that we can
2 change that perspective. There are things that
3 trouble me about Family Court. The things that
4 trouble me today are the significant up-tick we
5 see in significant mental health issues of
6 juveniles with no services and no ability to
7 serve them. And that spills over to a custody
8 case. That spills over to a juvenile case. That
9 spills over to abuse and neglect case. We're
10 seeing it across the board, and I think our bench
11 is most concerned about the up-tick in juvenile,
12 what we see as juvenile crime because of race,
13 the age, as well as just a tremendous increase in
14 gun violence among young people and an overflow
15 of juveniles at DJJ and just significant problems
16 with mental health. Unfortunately, our community
17 mental health services are severely lacking both
18 for adults and young people.

19 **Q. So at least it's a problem, but right now we may**
20 **not necessarily know quite the way to resolve it?**

21 A. I don't know that I know of a way to resolve it.
22 I think that comes from somebody higher up in
23 state government than me.

24 **Q. Let me ask you this, and I'm sorry. I actually**
25 **thought I heard somebody today, a previous**

1 candidate, make the comment that effectively I
2 want to be a judge because I'm tired of working
3 so hard in private practice. I'm essentially
4 wondering about that because I'm thinking you
5 probably work harder now than you ever did when
6 you were a lawyer.

7 A. I do. I mean, I do. In a typical day, if I don't
8 have the trial docket, I may have 17 to 22
9 hearings on one day of five days of the week. It
10 is a huge docket. It's a huge docket to move,
11 try to keep moving and not get backlogged. I
12 will say that I feel like we have caught up from
13 Covid in Family Court. We have gotten our
14 dockets back where they need to be. I do believe
15 that Family Court did a good job of doing virtual
16 court, and we continued working when people
17 weren't working. And I feel like from that
18 perspective, Family Court is in a good position
19 because our cases -- we don't have the backlog in
20 Family Court that we have had.

21 Q. Well, I commend you on the time you've put into
22 this. You've done a great service to the state,
23 and we appreciate the fact you're offering again.

24 A. Thank you.

25 CHAIRMAN RANKIN: Representative Safran-Jordan.

1 REPRESENTATIVE JORDAN: Thank you, Mr. Chairman. Much
2 appreciated.

3 JUDGE JONES - EXAMINATION BY REPRESENTATIVE JORDAN:

4 Q. Judge, I want to get some clarification on a
5 couple of things and kind of merge the two issues
6 that you talked about and Mr. Safran asked about.
7 So on the one hand, and I've shared that
8 frustration at times as a lawyer who doesn't
9 spend a tremendous amount of time in Family Court
10 but does wander in occasionally -- that you have
11 to make very difficult decisions at times with
12 very limited information, from my perspective and
13 very quickly. On the other hand, when you talk
14 about the financial affidavit statement issue,
15 I'm trying to understand, is that more of your
16 practice all the time, or is there situations in
17 which you can waive that? For instance, that I
18 would give you would be if you've got a very
19 short-term marriage with no kids and they're both
20 represented, and one side says we want to waive
21 the financial declaration, it's not necessary,
22 surely that --

23 A. I would be more inclined to waive it in that
24 situation. You know, I think it's Rule 7, maybe
25 it's Rule 20, but -- it's Rule 20. It requires

1 that a financial declaration be filed in every
2 Family Court case that there's any financial
3 issue. So in that case where it's a short
4 marriage, they have no marital property, I
5 wouldn't have a problem waiving it. But there
6 are many times when it is an issue, and if
7 there's a waiver of alimony, that's a financial
8 issue, and there needs to be a financial
9 declaration in the file.

10 **Q. And I get that. I guess I'm trying to balance on**
11 **the one hand it seems like family courts, hurry**
12 **up, hurry up, hurry up, and then on the other**
13 **hand it seems like, no, we're going to stop and**
14 **grind to a halt here when it may not be**
15 **necessary.**

16 **A.** Well, and I will tell you from my perspective,
17 from what I hear about how different judges do
18 things in the state, there are some judges in the
19 state who absolutely will not have a hearing
20 without a financial declaration. I'm not one of
21 those judges. It depends on what kind of hearing
22 I'm having and the circumstances particular to
23 each case. I'm willing to waive it at times,
24 like you indicate, they're both represented, it's
25 not a long term marriage, it's not a 30 year

1 marriage with three children. It's a short-term
2 marriage, no children, no assets, no debts. I
3 don't have a problem with that. And we have
4 people that come in unrepresented that don't fill
5 out financial declarations. What I typically do
6 with those people, I'm not going to stop that
7 hearing and keep that person from not getting
8 divorced because the pro se litigant showed up
9 without a financial declaration, but I'm going to
10 put that person under oath and question them
11 about their income and that type of thing.

12 **Q. So you're extrapolating the information you need.**

13 A. Myself.

14 **Q. That's basically what I wanted to understand is**
15 **your ability, and it sounds like you're hitting**
16 **the nail on the head, the ability to take on the**
17 **circumstances as they come.**

18 A. Exactly.

19 **Q. One situation is different than the next, and you**
20 **have to acclimate accordingly.**

21 A. I agree 100 percent.

22 **Q. Thank you.**

23 CHAIRMAN RANKIN: Senator --

24 SENATOR SABB: He yielded to me the last time.

25 CHAIRMAN RANKIN: Garrett.

1 SENATOR SABB: I'm yielding to my junior senator.

2 CHAIRMAN RANKIN: Senator Garrett.

3 SENATOR GARRETT: Thank you, Mr. Chairman.

4 JUDGE JONES - EXAMINATION BY SENATOR GARRETT:

5 Q. And thank you for your service.

6 A. Thank you.

7 Q. The Family Court is one of the toughest courts
8 there are, but you have more discretion and more
9 power in theory over a human's life than anybody
10 else has.

11 A. I agree.

12 Q. And I'm proud to hear that, as always, your focus
13 is the best interest of the children. I want to
14 focus on that just a little bit. In the last ten
15 years or so, this idea of parental alienation has
16 been developing. I'm sure you're seeing that. A
17 lot of psychologists are coming into our courts
18 and making these statements and even coming in at
19 temporary hearings. And I'm concerned about it
20 because, as was said a while ago, whoever's got
21 the best affidavits. Well, you know, the better
22 lawyers have the better affidavits, and we're
23 smart enough to know that it doesn't need to
24 sound like a lawyer wrote it. It needs to sound
25 like they wrote it.

1 A. Right.

2 Q. I mean, you know what we're doing, I mean, again.
3 But you also recognize, you know, that these
4 parents or folks that are involved are one sided.
5 And so if you're in a custody situation -- and I
6 just want to ask this question about at that
7 moment you've got the affidavits of both parties,
8 both parents, no criminal record, I mean, they're
9 standing before you, the kids seem to be doing
10 okay in school, that kind of thing. And then you
11 look down and, oh, no, there's a parent
12 alienation. Are you taking the tact of going
13 ahead and appoint an immediate guardian ad litem
14 to go ahead and look to see whether or not that
15 is something that's really happening and really
16 true before you make your decision on a temporary
17 basis? Are you using that as a technique, or are
18 you just go ahead and just based on the record
19 making a decision what you want to do as it
20 relates to that?

21 A. What I would do in that situation if I had that
22 concern is I would make some type of temporary
23 order and appoint a guardian, ask that guardian
24 to do an expedited investigation within 45 days,
25 and they come back to court for a de novo

1 temporary hearing. Because it might be in a
2 county where I'm not going to be back, so they
3 can't necessarily come back in front of me. So
4 then they can go back in front of whoever the
5 case might be docketed in front of, and that
6 judge can start from scratch and make a decision
7 on a temporary basis with the input from the
8 guardian.

9 **Q. And you have status quo ante. In other words,**
10 **you try to maintain whoever's had the primary**
11 **custody up to that point. You try to leave it**
12 **alone.**

13 **A. I try to leave it alone unless there's something**
14 **that is very egregious that shocks the conscience**
15 **or is very concerning about the safety and**
16 **welfare of the children.**

17 **Q. I've been in front of judges before who the**
18 **allegations were so bad on each side that the**
19 **judge literally came in and called DSS and took**
20 **the kids right there.**

21 **A. I haven't done that in a temporary. I have had**
22 **to do that in a domestic abuse petition case.**

23 **Q. That's pretty egregious. And earlier we heard a**
24 **situation where because of parental alienation,**
25 **and it may have been with a guardian, may not**

1 have been with a guardian, a decision was made
2 that had long lasting consequences where children
3 were actually placed some, you know, 100,000
4 miles away or just a long, long place away from
5 their parents in a situation, which is -- again,
6 that seems extraordinary and egregious to me.

7 A. I have never heard of that or had any -- felt
8 that that was an alternative or needed to be an
9 alternative. I mean, sometimes I might place
10 parents -- place children with grandchildren --
11 with grandparents on a temporary basis if I'm
12 concerned about both sets of parents.

13 Q. Whether it's mental or sexual or what --

14 A. Or drug and alcohol.

15 Q. Okay. Well, good. Again, I can tell just
16 listening to you, your years of experience,
17 you're wise, you've been around the block, you
18 don't -- you know, you're friendly, fair, but
19 firm as is necessary. You know, if the lawyers
20 don't come in with their financial declarations
21 and you need it and you can't get it out of them,
22 you know, then you don't have any alternative but
23 to start asking questions.

24 A. Right.

25 Q. And for -- I'll be honest with you, for a lawyer

1 who's before you on a temporary basis and you
2 spend all this time, the last thing I want to
3 have happen is you ask a question of my client.
4 There's no way we've got them prepared for that.
5 You know, but you know what I'm saying?

6 A. I do know what you're saying.

7 Q. So -- but again, thank you for your hard work.
8 Thank you for -- anybody who can stay on the
9 Family Court bench more than ten years deserves a
10 plaque of gold. So, thank you.

11 A. Thank you.

12 CHAIRMAN RANKIN: Senator Sabb with a plaque of gold,
13 the floor is yours.

14 SENATOR SABB: Judge, and I want to join my colleagues
15 in saying thank you. I do have a couple of
16 observations though. And I read in your ballot
17 box survey one lawyer who said, I prepare my
18 clients for her because she's going to come
19 across as fussing, but she's really not fussing.
20 That's just her personality and she's going to be
21 fair. And so this one particular lawyer sort of
22 knows how you respond, and frankly, you remind me
23 of a paralegal in my office who's been with me
24 longer than anybody else, and she's efficient,
25 she's prepared, but she does like you. She

1 responds to me quickly and assertively, but nice
2 and direct and professional and all of that. And
3 you remind me of her in a number of ways. The
4 other thing I noted in a lot of the writings and
5 comments and stuff is the fact that you are
6 prepared. You are task oriented. And there are
7 people in the world who are just task oriented,
8 and you really come across in those wonderful
9 ways. And I think it's one thing for folks to be
10 overreaching and overbearing. I think it's
11 another thing -- and one of the things that we,
12 of course, learned in law school is you know the
13 law, but you also know your judge. And I just
14 thought that it was really telling about that
15 lawyer and how he prepares, and I've kind of
16 watched you respond to my colleagues. And that's
17 kind of how I think you probably respond to the
18 lawyers. But it would be interesting for
19 somebody who doesn't know you, didn't have the
20 opportunity to observe you like I did, and just
21 read some of the comments -- they would think one
22 thing. But to read the comments and then to
23 listen to you I think only allows us to
24 appreciate the service that you've rendered all
25 across the years. And I think my colleague is

1 correct when he says you've done it for a while.
2 The knowledge and wisdom that you've developed is
3 obviously a benefit to the folks who prepare
4 before you and to our state. And so I just want
5 to thank you for your service.

6 JUDGE JONES: Thank you. I have to say that, you
7 know, Chief Justice Ness taught me in law school.
8 You didn't show up for court without being
9 prepared, and you certainly showed up on time.

10 SENATOR SABB: I've heard some Bubba Ness stories from
11 a friend of mine that might be Representative
12 Safran.

13 JUDGE JONES: And I have to ask you, Senator Saab, are
14 you related to Lionel Saab?

15 SENATOR SABB: I am, I am, but I claim all the Sabbs.
16 We're just far and few.

17 JUDGE JONES: He's delightful. He is the case worker
18 for Orangeburg County DSS, and he is absolutely
19 delightful.

20 SENATOR SABB: And Reverend Saab, I think, is his
21 uncle that pastors the church that's right on 301
22 as you're going into Orangeburg.

23 JUDGE JONES: He's been around as long as I have.

24 CHAIRMAN RANKIN: All right, Ms. Blackley.

25 MS. BLACKLEY: Welcome.

1 JUDGE JONES: Thank you.

2 MS. BLACKLEY: I'm going to follow up with Senator
3 Saab's comments because I was reading all these,
4 and I had a couple questions and I couldn't wait
5 for you to get in here and listen to you. I was
6 a former clerk, and Family Court always gave me
7 anguish. But when you have good Family Court
8 judges who know what they need to do and
9 understand the time limits that they give you for
10 these small amount of times to get so much
11 material information in, you definitely know your
12 stuff. And I now understand why this person
13 wrote Judge Jones is a force to be reckoned with.
14 She is just and fair and moves her dockets in an
15 orderly and fair manner regardless of who the
16 litigants are and who the attorneys are.

17 JUDGE JONES: And that's what I'm supposed to do. It
18 doesn't matter who the litigants are. It doesn't
19 matter who the attorneys are. It doesn't matter
20 their racial background. It doesn't matter what
21 their socioeconomic background. It doesn't
22 matter their sexual background.

23 MS. BLACKLEY: Well, I love it. I have been accused
24 of having a firm voice or being too direct, and I
25 don't make any apologies for it because if you're

1 going to get the work done and the business done,
2 it needs to be done. Thank you. I just wanted
3 to commend you on that. I had one thought as I
4 read these and then getting to meet you and hear
5 you. I think it sounds like you're doing an
6 excellent job.

7 JUDGE JONES: Thank you.

8 MS. BLACKLEY: And being an administrator for the
9 paperwork for Family Court, what you're doing is
10 very helpful in how you run your court.

11 JUDGE JONES: Thank you.

12 MS. BLACKLEY: Thank you.

13 CHAIRMAN RANKIN: Mr. Strom.

14 MR. STROM: Thank you, Mr. Chairman, members of the
15 Commission.

16 JUDGE JONES - EXAMINATION BY MR. STROM:

17 MR. STROM: Members of the Commission, Judge Jones
18 enjoys just a wonderful reputation with the good
19 lawyers. The one word that hadn't been used
20 about her, she's consistent, and that's important
21 with a Family Court judge. You know what you're
22 getting when you go in there.

23 **Q. I wanted to ask you about two issues that I hear**
24 **from Family Court lawyers more than anything**
25 **else. One is that a temporary hearing, they've**

1 prepared affidavits, they've got a packet, their
2 clients pay them a lot of money to get all this
3 stuff together, and they walk in the courtroom.
4 Some judges will let them do a brief opening,
5 some won't. They all like, you know --

6 A. They're being paid for what they're doing, and
7 I've never said I'm not going to let you make an
8 argument at a temporary hearing. They always
9 have an option to make an argument at a temporary
10 hearing. How long they have to argue depends on
11 whether or not they have a 15 minute hearing or a
12 30 minute hearing.

13 Q. And that was the second thing I was going to ask
14 you about. The other thing I hear is people will
15 schedule enough time, and everything's 30
16 minutes, 15 minutes, whatever it is, and the
17 lawyer on the other side will run out the clock
18 because they'll just keep talking and talking,
19 and then the judge ends up continuing the case
20 because they've got another one behind it, and
21 they don't get the relief they're asking for. Is
22 that something you experience?

23 A. I would not let that happen. I would limit them
24 as far as their argument to the time that we
25 have, and I'm going to let them finish their

1 hearing. If it's something more than a temporary
2 hearing and they're running over and I've got
3 other hearings scheduled, I will say I'm going to
4 send y'all out into the hall because y'all are
5 running over your time, and I'm not going to keep
6 these other lawyers waiting for their time. I'll
7 bring the next case in and dispose of that case,
8 and then I'll go back to the case and bring it
9 back in so that I don't cause a trickle down
10 effect and cause them not to get finished or the
11 people behind them not to get their day. I try
12 to weave them back in throughout my docket
13 depending on what my docket looks like.

14 **Q. I think that's a great practice.**

15 MR. STROM: Thank you, Mr. Chairman.

16 CHAIRMAN RANKIN: Anybody else?

17 JUDGE JONES - EXAMINATION BY CHAIRMAN RANKIN:

18 **Q. Very quickly, I think perhaps all that are here**
19 **have had some comment about your service, your**
20 **continued willingness to serve, and you obviously**
21 **are embracing the heavy mantle of responsibility.**
22 **Your comment's adhering to the law as well, but**
23 **what's in the best interest of children, which is**
24 **somewhat, I think, our more focused interest.**
25 **Adults can have consequences for the decisions**

1 that they've made. Children invariably are
2 dragged into something that their conduct had
3 nothing to do with why they're there. I want an
4 observation from your years on the bench as to
5 why there's a sense, and perhaps we're hearing
6 more, of complaints about Family Court decisions
7 that affect children on a temporary basis. How
8 do you tell, as one of your commenters did, how
9 much you've done to help young attorneys and
10 judges and how you've been recognized for your
11 mentoring of the Family Court practice, bench,
12 whatever, as well as practitioners? What do you
13 tell the South Carolina Family Court world,
14 and/or the lawyers or the litigants who don't
15 know they're going to be litigants, what to
16 expect and how to be less grieved by the decision
17 that you're entrusted to carry out?

18 A. I think, particularly at a temporary hearing, we
19 really are to maintain the status quo to the
20 extent that we can determine what that is. I
21 know a lot of people want to see joint custody,
22 shared week to week custody, but our statutory
23 scheme still says we're not to award joint
24 custody unless there are exceptional
25 circumstances for joint custody. That statute

1 has not changed. I was not aware that so many
2 people were complaining about not feeling like
3 they're getting what they should get at a
4 temporary hearing. There are some counties that
5 schedule temporary hearings, and I firmly believe
6 they're scheduling too many in one day for one
7 judge to hear. It's just too many.

8 **Q. And who's doing that? Is that, again,**
9 **administrative?**

10 A. It's administrative in the counties that I'm
11 aware of. The clerk really controls it such that
12 the judges feel like they don't have too much of
13 a say. In my circuit in the counties where I
14 typically hold court, we have a mix of
15 temporaries in the morning and the afternoon we
16 have different types of cases, but I don't
17 typically have 22 temporary hearings in one day.
18 That's a lot.

19 **Q. Horry, I think we have, at any given time, at**
20 **least three Family Court judges there, perhaps**
21 **more.**

22 A. No, I don't think Horry ever has more than three.
23 One of those judges, I'm sure, is probably
24 running a trial docket, which is the ABC trial
25 docket. And then the other two are probably

1 doing a hodgepodge of maybe half-day trials or
2 one-day trials, and then the other one is doing
3 what I've referred to as the standard docket,
4 which is temporary hearings, a couple days,
5 finals, child support rules on Wednesday, and
6 juveniles and DSS abuse and neglect on Thursday.

7 **Q. Firm but efficient, fair, not biased. Every**
8 **attribute you would want to have said about you.**
9 **Your personal touch, how do you, with a difficult**
10 **case, children involved or whatever the**
11 **difficult, hard, Solomon-like decision you've got**
12 **to make -- I want to know, again, not specific,**
13 **but how do you make the litigants feel like**
14 **they've been heard? And again, in the theme of**
15 **rush, rush, rush, which we've talked about years**
16 **ago, presently, if that's their last day in**
17 **court, you think, how do you --**

18 A. Are you talking about at a ruling on a contested
19 custody trial or just at a temporary hearing?

20 **Q. Temporary or the final.**

21 A. At a temporary hearing, I try to tell them that
22 I'm required -- basically, I'm going to maintain
23 the status quo. If I have serious concerns about
24 allegations of the safety of the children, then
25 I'm going to order an expedited investigation,

1 that they need to cooperate with the guardian to
2 fully investigate their case, then they will come
3 back to court in 45 days and have a de novo
4 hearing to look at these issues again and get
5 some input from the guardian because sometimes,
6 quite frankly, it is too hard to tell from the
7 conflicting affidavits what really is going on.
8 In ruling on a final, I try to talk with them
9 about the fact that what they've done well as far
10 as parenting their children and co-parenting
11 their children, and I try to explain to them that
12 they're only hurting themselves if they cannot
13 effectively co-parent their children. And if
14 they're young children, they have a long way to
15 go until those children reach the age of 18, that
16 they're going to have to work with each other.
17 That's not just going to go away.

18 **Q. Two last questions, perhaps just one. Parental**
19 **alienation, Senator Garrett mentioned it earlier.**
20 **Is that a growing allegation that is coming?**

21 A. It's been a strong allegation for a while. And
22 it's interesting to me because I tried a five-day
23 custody case in Dorchester County in the last
24 couple months, and Dr. Davis, who is the child
25 psychologist that everybody likes to send people

1 to, he doesn't call it parental alienation. He
2 says they're not calling it parental alienation
3 anymore. I cannot remember specifically what he
4 called it, but he talks about the family and how
5 the child views the family, and they're more
6 aligned with one parent than the other parent.
7 We see a lot of parental alienation. Sometimes
8 it's just throwing it out there because they want
9 to get some rung up on the next parent. There
10 are some true cases where there are just horrible
11 parental alienation cases. Having said that,
12 I've never sent a child out of state somewhere
13 because of parental alienation. I've seen
14 children, as I've said, placed with grandparents
15 or other biological family members until we can
16 maybe resolve if there is a true case of parental
17 alienation. It's been around since before I was
18 here last for reelection, so I'm not hearing it
19 as such a new thing. It's been out there.

20 **Q. Last question. Quality of guardians and their**
21 **report that you get back. There was a term in**
22 **here, you don't rubber stamp anything.**

23 **A.** No, and we see such a vast array of guardians.
24 We see a really good guardian who's done a really
25 good report and has a good final report. I tried

1 a two day custody case in Dorchester County two
2 weeks ago, and I did not have a good guardian. I
3 didn't have a good report. I had to send the
4 parents for some drug testing before I issued a
5 ruling. You know, most of our guardians are good
6 guardians. I know there have been a lot of
7 questions asked of us lately about what we think
8 about lay guardians and how they're paid, and I
9 have some really good lay guardians, exceptional
10 lay guardians, and some people just can't afford
11 a good guardian. Unfortunately, I say if you
12 can't afford the Cadillac guardian, you can't
13 have the Cadillac guardian. That costs a lot of
14 money, and, I mean, an attorney guardian are
15 getting paid \$225 an hour. That's a lot of money
16 for working class people to pay. They're paying
17 an attorney already to then pay a guardian. It
18 is problematic.

19 CHAIRMAN RANKIN: That's all I have. Any further
20 questions or comments? Judge, I appreciate your
21 being here. I appreciate your passion and your
22 struggle that you're exhibiting here today to get
23 it right every day, and you're not perfect, and
24 if you're not and you've made an error of law,
25 thank God there's a court of redress to check

1 your paper.

2 JUDGE JONES: And one of my questions of juveniles is
3 you understand if I make a mistake in your case
4 today, you have ten days to file an appeal, and a
5 higher court is going to look at your case and
6 fix any mistakes that I make.

7 CHAIRMAN RANKIN: With that, Judge, thank you very
8 much.

9 JUDGE JONES: Thank you.

10 CHAIRMAN RANKIN: That will conclude this portion of
11 the screening process. You remember our process
12 and that the record remains open until the final
13 release of the Report of Qualifications, and that
14 if there was a violation of either the letter or
15 the spirit of ethics law, you know we could bring
16 you back for further questions, correct?

17 JUDGE JONES: Yes.

18 CHAIRMAN RANKIN: We will not see you. We have all
19 ideas, but thank you for acknowledging that, and
20 thank you for your time today and your service to
21 the state and the people of our state.

22 JUDGE JONES: Thank you for your time.

23 OFF THE RECORD

24 CHAIRMAN RANKIN: Thank you. Welcome.

25 JUDGE ABSTANCE: Thank you.

1 CHAIRMAN RANKIN: If you will, raise your right hand.

2 HONORABLE ANGELA W. ABSTANCE, being duly sworn,
3 testifies as follows:

4 JUDGE ABSTANCE: Yes, sir.

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

7 JUDGE ABSTANCE: Yes, sir.

8 CHAIRMAN RANKIN: All right. If you'll hand those
9 over, we'll put them in. Judge, you are familiar
10 with our process. You've been here, done this
11 and been serving. And so, just for the record,
12 you understand that we look at the nine
13 evaluative criteria, which includes a ballot box
14 survey, a thorough study of your application
15 materials, verification of your compliance with
16 the state ethics laws, a search of newspaper
17 articles in which your name appears, a study of
18 previous screenings, and check for economic
19 conflicts of interest. No affidavits or
20 complaints have been filed in opposition to your
21 campaign for reelection. No witnesses are
22 present to testify. The floor is yours if you'd
23 like to make a brief opening statement.
24 Otherwise, Ms. Starnes can get it started. And
25 when you come back and you miss something, you're

1 welcome to make a closing statement.

2 (Exhibit Number 15 was marked for identification
3 purposes - (16 pages) Sworn Statement of The Honorable
4 Angela W. Abstance.)

5 (Exhibit Number 16 was marked for identification
6 purposes - (6 pages) Sworn Statement of The Honorable
7 Angela W. Abstance.)

8 JUDGE ABSTANCE: Okay. Thank you so much for the
9 opportunity, but I'll be happy to waive an
10 opening statement at this time.

11 JUDGE ABSTANCE - EXAMINATION BY MS. STARNES:

12 **Q. Hello, Judge Abstance. After serving for six**
13 **years on the Family Court bench, could you please**
14 **tell us why you want to continue being a Family**
15 **Court judge?**

16 A. Well, I have loved this job. I really do. I
17 like going to work every day. You know, I feel
18 like I have the opportunity to help people solve
19 problems. That's what I like to do. I hope I
20 can help people go from a bad time in their lives
21 to get through the process as easily as they can,
22 so I do enjoy the opportunity to do that.

23 **Q. Judge Abstance, what do you think your reputation**
24 **is among attorneys that practice before you?**

25 A. I would hope that my reputation is that I'm fair,

1 that I listen to, you know, whatever they bring
2 me, that I consider everything deliberately, and
3 that I rule according to the laws.

4 Q. The Commission received 269 ballot box surveys
5 regarding you with 31 additional comments. The
6 majority of those comments are extremely
7 positive. For example, Judge Abstance is
8 extremely fair and respectful. She is an
9 excellent judge. Judge Abstance has proven
10 herself to be a highly competent and hardworking
11 Family Court judge. She is thoughtful, patient,
12 courteous, and fair. Four of the written
13 comments did express concerns. A common theme
14 among them were concerns of perceived bias
15 against lawyers that do not often appear in your
16 courtroom and the demands of your personal life
17 impacting your service on the bench. Would you
18 please tell us how would you respond to the
19 concern regarding bias?

20 A. I will say that I have not traveled a lot outside
21 of my circuit, so I would say, you know, if an
22 attorney comes down to Barnwell or Aiken and
23 that's the only time they ever appear in front of
24 me, and if I've ruled against them, maybe they
25 didn't have an opportunity to see me in another

1 setting to see, you know, how that would go. I
2 don't think that I'm biased. I always try to be
3 very fair and rule just on the evidence presented
4 to me in every case.

5 **Q. Thank you. And what response would you offer to**
6 **the concern about your work life balance?**

7 A. Okay. I would say probably, as is the case with
8 a lot of criticism, if somebody made that
9 comment, and I assume it was just one of those,
10 that they probably did not have all the
11 information. So I think that if you talk to the
12 clerks and the lawyers who appear in front of me,
13 that would not be a concern. You know, we always
14 finish my docket. I think when I was putting
15 this packet together, I had some things going on
16 then, too. My husband had three surgeries in 30
17 days, and I'm proud to say during that 30 to 45
18 day period, I think we had to reschedule two 15-
19 minute hearings, but we got everything done, and,
20 you know, I work hard. I get all my docket done,
21 and we take care of business in the Second
22 Circuit.

23 **Q. Thank you. Judge Abstance, I would note that the**
24 **Midlands Citizens Committee found you to be well**
25 **qualified in the evaluative criteria of ethical**

1 fitness, professional and academic ability,
2 character, reputation, experience, and judicial
3 temperament and qualified in the evaluative
4 criteria of constitutional qualifications,
5 physical health, and mental stability. The
6 committee commented that Judge Abstance is an
7 asset to the Family Court bench. Her concern for
8 the children impressed the committee.

9 Q. Now, I would like to cover a few housekeeping
10 issues. Judge Abstance, since submitting your
11 letter of intent, have you contacted any members
12 of the Commission about your candidacy?

13 A. I have not.

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

17 A. Yes.

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

22 A. No, I have not.

23 Q. Have you asked any third parties to contact
24 members of the General Assembly on your behalf,
25 or are you aware of anyone attempting to

1 **intervene in this process on your behalf?**

2 A. No.

3 **Q. Have you reviewed and do you understand the**
4 **Commission's guidelines on pledging and South**
5 **Carolina Code Section 2-19-70(E)?**

6 A. Yes.

7 MS. STARNES: I would note for the record that any
8 concerns raised during the investigation
9 regarding Judge Abstance were incorporated into
10 the questioning of her today. Mr. Chairman, I
11 have no further questions.

12 CHAIRMAN RANKIN: All right. Questions by members of
13 the Commission? Judge Abstance, I want to take a
14 quick opportunity -- I think Senator Garrett will
15 ask questions -- but just the comment made on
16 your citizens Committee report, which is replete
17 with a constant refrain of comments that we read
18 about you, an asset to the Family Court bench,
19 her concern for the children impressed the
20 committee. That is noteworthy. That is your
21 job, of course. Much of what you do is either
22 parents, a divorce, asset, division of assets,
23 child support, about children in custody. So,
24 thank you for that.

25 JUDGE ABSTANCE: Thank you.

1 SENATOR GARRETT: Thank you, Mr. Chairman.

2 JUDGE ABSTANCE - EXAMINATION BY SENATOR GARRETT:

3 Q. Thank you for agreeing to continue to serve.

4 This is a tremendous responsibility that you
5 have, taking care of our children. I just wanted
6 to say that, and I'm talking to all of the judges
7 about this -- is some of these juvenile cases
8 have exploded, and they're becoming more
9 dangerous, mental health issues. Could you kind
10 of enlighten the group here about that, if you're
11 seeing that in Aiken County?

12 A. We do have problems getting services for
13 children, especially in the more rural areas.
14 You know, we just don't have enough providers and
15 enough of the facilities that we need to offer to
16 these children who have significant mental health
17 issues. So I'm pleased to see that there is work
18 being done on getting a state-run psychiatric
19 residential treatment facility. You know, it
20 breaks my heart when we have to send children to
21 other states to get services that we should be
22 able to offer. I'm glad to see there's progress
23 being made and agencies. Routinely, I'll have
24 all the agencies, mental health, DSS, the
25 governor's child advocate come into court so that

1 we can all talk together about these cases and
2 try to see what we can do to help these children.

3 **Q. How would you say your work is divided between**
4 **DJJ work and say DSS work before you can even get**
5 **down to the private bar?**

6 A. The agency docket is significant. It does take
7 up a great deal of time.

8 **Q. More than 50 percent?**

9 A. I don't say it's more than 50 percent. We have
10 at least a whole day every week devoted to agency
11 work in Aiken. In the smaller counties, such as
12 Bamberg and Barnwell, you know, they only get one
13 week a month or three days a month, so that
14 agency docket takes up a larger proportional
15 share of their time.

16 **Q. Does the chief judge take care of the DJJ lockups**
17 **and that kind of thing? That way they don't have**
18 **to sit in jail a long time.**

19 A. We always get those in in the statutory time
20 period, so we have no problem working them in as
21 quickly as we can.

22 **Q. And then are most of your dockets -- for**
23 **instance, in Greenwood, we always take care of**
24 **our emergencies and those kinds of things, our**
25 **domestic violence, those kind of issues, before**

1 we even get into our regular docket. Are y'all
2 having to do that as well?

3 A. We do. We set aside time for emergencies,
4 usually on Monday mornings in Aiken and Wednesday
5 afternoons.

6 Q. So we have to wait to get to our regular cases
7 until you folks get through with that?

8 A. Absolutely.

9 Q. And I applaud you for taking time off when your
10 husband had three heart attacks. You have a
11 life, too, I would hope.

12 A. Yes, sir.

13 Q. And are you finding that our judiciary has given
14 you sufficient time, time off, to take care of
15 your family and the kinds of things that you need
16 to do as well?

17 A. Yes, sir, absolutely, and all of our Family Court
18 judges are extremely close and volunteer to step
19 in and help out when we can.

20 Q. Well, that's wonderful. And I just -- you know,
21 my hat's off to you for taking time to get in
22 there. I tell people, these old judges that have
23 been telling me over the years I've been doing it
24 for 40 years, and they would tell me ten years is
25 the max life of a Family Court judge, and we just

1 had one a while ago, 23 years. So I'm excited to
2 see that. I hope you are of that same vein. I
3 hope you can stay a little longer than ten years
4 because based on everything I've seen and read,
5 you're excellent at what you do. Thank you.

6 A. Thank you so much.

7 CHAIRMAN RANKIN: Other questions by members of the
8 Commission? If not, Judge Abstance, that's a
9 resounding endorsement, I believe, that you have
10 been given for your continued service. And since
11 2018, you have done it in an exemplary way, so we
12 appreciate your continuing to make these hard
13 calls that you're called upon to do on the bench.
14 So thank you very much.

15 JUDGE ABSTANCE: Thank you so much for the
16 opportunity.

17 CHAIRMAN RANKIN: This will conclude this portion of
18 your screening process, and you do know that we
19 can call you back in the event of a question
20 about any violation of the letter and the spirit
21 of the ethics laws. The record does remain open
22 until the formal release of the record of
23 qualifications. You know that. We don't expect
24 to see you, but for the record, you do
25 acknowledge that you know that, correct?

1 JUDGE ABSTANCE: Yes, sir.

2 CHAIRMAN RANKIN: Judge, thank you so much. Happy
3 trails back home. And Godspeed to your husband
4 as well.

5 JUDGE ABSTANCE: Thank you so much. Have a good day.

6 OFF THE RECORD

7 CHAIRMAN RANKIN: Good morning.

8 MS. WHITTLE: Good morning.

9 CHAIRMAN RANKIN: Thank you for agreeing with me.

10 MS. WHITTLE: Good afternoon.

11 CHAIRMAN RANKIN: What, afternoon? My goodness. We
12 are so early, so ahead of time. It is 3:16 and
13 yours is set for 3:30, imagine. We won't tell
14 you how that happened. Let me first get you to
15 raise your right hand.

16 AMANDA FRANCES WHITTLE, being duly sworn,
17 testifies as follows:

18 CHAIRMAN RANKIN: State your full name for the record,
19 please.

20 MS. WHITTLE: My name is Amanda Frances Whittle.

21 CHAIRMAN RANKIN: Very good. You were looking over
22 documents, your PDQ and your sworn statement.
23 Are those ready to come into the record without
24 objection?

25 MS. WHITTLE: They are.

1 CHAIRMAN RANKIN: Very well. This is your first time
2 running for judgeship; is that correct?

3 (Exhibit Number 17 was marked for identification
4 purposes - (26 pages) Personal Data Questionnaire for
5 Amanda Frances Whittle.)

6 (Exhibit Number 18 was marked for identification
7 purposes - (1 page) Amendment to Personal Data
8 Questionnaire for Amanda Frances Whittle.)

9 (Exhibit Number 19 was marked for identification
10 purposes - (7 pages) Sworn Statement of Amanda Frances
11 Whittle.)

12 MS. WHITTLE: Yes, sir.

13 CHAIRMAN RANKIN: And you have seen multiple touches
14 at this point, up until this point. Today, as we
15 continue this vetting process, you know we're
16 looking at the nine evaluative criteria, which
17 includes the ballot box survey, a thorough study
18 of your application materials, verification of
19 your compliance with state ethics laws, a search
20 of newspaper articles in which your name appears,
21 a study of -- and check for economic conflicts of
22 interest. No affidavits have been filed in
23 opposition. No witnesses are here to testify
24 unless the dapper, good looking young fellow that
25 you brought with you would like to say some

1 words. But we will offer you the opportunity to
2 introduce that dapper, good looking young fellow
3 for us now, if you'd like.

4 MS. WHITTLE: I would love to. That dapper, good
5 looking young fellow got down on his knee 31
6 years ago today and asked me after a surprising
7 loss, a football loss, and asked me to marry him.
8 And before he could finish the question, I said
9 yes. This is my husband, James Whittle.

10 MS. WHITTLE: Wow, wow. James Whittle, it's been a
11 mighty fine 31 years, it sounds like to me, from
12 her standpoint at least.

13 MR. WHITTLE: Absolutely.

14 CHAIRMAN RANKIN: Welcome, welcome. You have the
15 opportunity to make a very brief opening
16 statement. It's not required or necessarily
17 recommended, but you can do that. Ms. Hall will
18 ask questions. Then we will ask questions. And
19 if at the end of this you believe you'd like to
20 say some things that you didn't get to offer, you
21 can do it then.

22 MS. WHITTLE: I will take the note and I will defer
23 any comment.

24 CHAIRMAN RANKIN: Very good. The floor is yours, Ms.
25 Emma Hall.

1 MS. HALL: Thank you, Mr. Chairman.

2 MS. WHITTLE - EXAMINATION BY MS. HALL:

3 Q. Ms. Whittle, it's really good to see you again.
4 Please state for the record the city and circuit
5 in which you reside.

6 A. I reside in Aiken in the Second Judicial Circuit.

7 Q. Thank you.

8 MS. HALL: Mr. Chairman, I note for the record that
9 based on the testimony contained in the
10 candidate's PDQ, which has been included in the
11 record with the candidate's consent, Amanda
12 Whittle meets the statutory requirements for this
13 position regarding age, residence and years of
14 practice.

15 Q. Ms. Whittle, why do you want to serve as a Family
16 Court judge, and why do you feel that your legal
17 and professional experience qualify and will
18 assist you to be an effective judge?

19 A. I became aware at a young age how impactful
20 Family Court judges and attorneys are in the
21 lives of children and families, and that's what
22 led me to want to become a lawyer. I have not
23 lost my interest and love for being a lawyer and
24 for the law. If anything, I think I've become
25 more and more interested in the law, and I

1 believe that at this point in my career I have
2 the education and experience, the temperament and
3 the demeanor to really contribute to the bench
4 and am delighted to be here. I believe that my
5 experience would qualify me and help me to be an
6 effective Family Court judge because it's been
7 vast. My experiences included being in the
8 private law practice. I was in that practice for
9 about ten years and did all kinds of Family Court
10 work at that time, motions for protection from
11 domestic abuse, adoptions, name changes,
12 amendments to birth certificates, divorce,
13 equitable distribution, custody, child support,
14 visitation, rules to show cause. Sometimes it
15 was my client that had that contempt action and
16 attorney's fees. And then, for about ten years
17 after that, I was a DSS attorney at the county
18 level. I worked in different counties. I was
19 primarily appointed to Aiken, Bamberg, and
20 Barnwell but also went outside the circuit. And
21 then for four years thereafter, I was an
22 assistant general counsel. And as an assistant
23 general counsel, I probably finalized over 100
24 adoptions and then had the distinct honor of
25 serving as the interim internal monitor for the

1 Michelle H. class action federal lawsuit. For
2 the past five years, I've served as the leader of
3 an independent state agency, which is the
4 Department of Children's Advocacy, and that
5 agency is tasked with ensuring that children
6 receive adequate services from child serving
7 agencies in addition to work administering some
8 divisions. So that experience has been broad,
9 and I've been able to have that private practice
10 experience, the public agency experience, and the
11 system level experience. But in addition to
12 that, and I know this may sound strange, I like
13 coming to work. I like people. I like
14 interacting with folks. I am passionate about my
15 work. I had a professor recently -- I was a
16 student at the University of South Carolina
17 School of Medicine, and I actually spoke with him
18 yesterday. And he said, you know, Amanda, you
19 really dug in, and I think that this really helps
20 you know me better, maybe, that that is my
21 personality. And I believe that at this point in
22 my career, I'm able to take all of that and put
23 it together to be a benefit to the bench and to
24 really connect with folks who appear in the
25 courtroom to try to strengthen and protect the

1 integrity and the confidence that the public
2 would have to have a judge presiding in a court
3 hearing that listens to them, that's interested,
4 that isn't tired, that continues to want to learn
5 and that will dig in to learn more about their
6 case and to listen to them and to make an
7 unbiased and impartial decision.

8 **Q. Thank you. Are there any areas of the law for**
9 **which you would need additional preparation in**
10 **order to serve as a Family Court judge, and how**
11 **would you handle that additional preparation?**

12 A. I've worked hard to maintain and obtain
13 professional capacity regarding all areas of
14 family law. I've handled most types of cases --
15 I say most -- all types of cases that appear in
16 Family Court. I actually looked at the annual
17 report that's put out by court administration to
18 make certain, like, are there any areas of the
19 Family Court law that I haven't done, and I have.
20 But in addition to that, I know it's been a while
21 since I've been away from private practice, so in
22 addition to doing my regular job that I do, I've
23 also taken up doing other things to help make
24 certain that I'm still abreast of the work that's
25 going on in private court cases. That's included

1 becoming certified as a Family Court mediator and
2 attending CLEs on a diverse array of topics. I
3 am a child welfare law specialist, so as part of
4 that certification, we have to start all over
5 again every year with our CLEs, and so you'll see
6 from my CLE report that each year I earn more
7 CLEs than is required with no carryovers. So
8 I've made an effort, an intentional effort, to
9 really attend the domestic abuse CLEs and
10 education law CLEs to make certain that I remain
11 professionally competent regarding those things.
12 In addition, I love to read about the law, so I
13 continue to read the advance sheets. I continue
14 to read publications that are put out by lawyers.
15 All that being said, I think I'm ready to serve
16 as a Family Court judge, but I know I would
17 benefit from the new judge's training that would
18 be held in May, from sitting with a judge. I've
19 actually done some of that recently. I've asked
20 judges if they wouldn't mind me coming to court
21 and observing how they handle court hearings. I
22 think we can all benefit from how other folks do
23 things. So the final thing is I don't know what
24 I don't know. So I've learned as much as I can.
25 I've prepared as much as I can. I know there

1 will be new things that show up in the courtroom,
2 and I'm prepared to deal with those, but I would
3 be honored and happy to be elected and would be
4 ready to serve.

5 **Q. Can you briefly describe your experience in**
6 **handling complex, contested Family Court matters,**
7 **and specifically discuss your experience with the**
8 **financial aspects to Family Court work?**

9 A. Yes. Three cases come to mind. One that doesn't
10 have so much to do with the financial aspect, and
11 that was a three day long contested termination
12 of parental rights case that involved the Indian
13 Child Welfare Act. That was a complex case
14 because the burden of proof is different for an
15 ICWA case. It's beyond a reasonable doubt. And
16 then there are expert witnesses that are required
17 to testify about the cultural impact of the
18 Indian child, the child who's a member of a
19 federally recognized Indian tribe. That also was
20 a difficult and complex case because on the night
21 before trial, I was served with a tribal
22 preference notice that the tribe had decided to
23 change the preference list and that that change
24 was going to affect my position for court the
25 next day. I was displaying excellent judicial

1 temperament that afternoon when my family was
2 inside of a restaurant eating and I was on the
3 phone with opposing counsel saying, how can you
4 do that? And she said, we can do that. And I
5 learned they can do that, and they did. So that
6 was a complex case that ended up -- I learned a
7 great deal from it. Another complex case that I
8 had was where I represented the father in a
9 contested case. The party's divorced. Custody
10 was awarded to the mother. My client was awarded
11 visitation. The mother did not want him to
12 visit, so she fled with the child. So for four
13 years, we were in a contested, protracted case
14 where we tried to find her and the child. She
15 went from state to state and ultimately left the
16 country. I successfully argued that custody be
17 temporarily transferred to him so that we can
18 invoke the Parental Kidnapping Protection Act,
19 get the National Center for Missing and Exploited
20 Children involved, get the State Department
21 involved, tag that little fella's visa, and get
22 the country of New Zealand involved. They were
23 amazing. And so the country of New Zealand
24 talked to our Family Court judge. The
25 interesting financial piece of that was that my

1 client had been paying child support the whole
2 time. So I thought if we could figure out how
3 she was picking up that child support, we might
4 could help find her. And so this ended up being
5 helpful, along with filing the lis pendens, to
6 kind of put the paws on some property so that she
7 could quit borrowing money, which was funding her
8 continued run from the jurisdiction of the Family
9 Court. A third case was a situation where,
10 again, represented the husband in this case. It
11 was a divorce, equitable distribution, attorney's
12 fees. The equitable distribution included
13 valuation of a business, included military
14 retirement, attorney's fees. That was a
15 situation, too, where I'm sad to say I had a
16 position that I thought was a really great
17 winner, and the lawyer on the other side filed a
18 motion the night before court, and she alleged
19 unclean hands and laches. And I came face to
20 face with just exactly what that meant, and that
21 was attorney's fees for her client, not mine. So
22 I learned a great deal about that, but certainly
23 had a great deal of involvement with financial
24 aspects. I've helped clients file and fill out
25 financial declarations. I've reviewed those with

1 them to make certain that when they were asked by
2 a judge that they would be able to say that they
3 knew what that meant, not just that their lawyer
4 prepared that for them, but also just equitable
5 distribution, retirement, alimony, attorney's
6 fees.

7 **Q.** Thank you. Ms. Whittle, the Commission received
8 239 ballot box surveys regarding you with 62
9 additional comments. The ballot box survey, for
10 example, contained the following positive
11 comments: Amanda would have a wonderful
12 temperament from the bench. Her long career in
13 public service and varied experiences in Family
14 Court would serve our circuit well. She is the
15 type of practical problem solver who is needed on
16 the bench. She has the character, mettle, and
17 perspective that will ensure litigants are fairly
18 and completely heard. And lastly, Ms. Whittle is
19 overqualified for the position of Family Court
20 judge. I have never observed her unprepared in
21 anything that she did. She would make an
22 excellent addition to the bench. Two of your
23 written comments expressed some concern with your
24 ability to serve impartially as a judge in DSS
25 cases. What response would you offer to this

1 **concern regarding your ability to be impartial?**

2 A. I think this is the part of the public hearing
3 where all judicial candidates wait with bated
4 breath to hear about those positive and not so
5 positive comments. So I would like to just take
6 a moment to say I am grateful for all the
7 comments. I'm grateful that lawyers took the
8 time to fill out the survey and to say nice
9 things. I take those nice things as a challenge,
10 and it's humbling to hear what people think they
11 would see if I was elected. And I would take it
12 as a challenge to make certain that that was the
13 case. Regarding those two concerns, I've been
14 practicing law for 29 years. I think that
15 inevitably people know you by how they've met you
16 the first time. So I would imagine that if
17 someone met me as a DSS lawyer, they would think,
18 well, she's a DSS lawyer. I know I've certainly
19 thought that about folks as well, but over the
20 past 29 years regarding DSS cases, I've
21 represented parents, guardians ad litem, and DSS
22 in abuse or neglect cases, and I think it's
23 important that I sat at a table with a DSS case
24 manager and helped them prepare for trial and
25 experienced what happened when they weren't

1 prepared. I think it's important that I worked
2 in an office where they could come down the hall
3 and ask me to do an ex parte petition, and we
4 could go through that training and those types of
5 things. I have found the representation of
6 parents in DSS cases to be invaluable. I am a
7 mom, and I cannot imagine what it would be like
8 to have my children removed from my home or even
9 to have my children remain in my home and receive
10 paperwork, DSS versus me, telling me I had abused
11 or neglected my children. So the empathy that I
12 gained and the understanding from representing
13 parents in those cases was very important. I
14 also represented guardians ad litem in those
15 cases. We expect a lot from volunteer and staff
16 guardians ad litem in this state to conduct
17 independent investigations and make
18 recommendations to the court. So I've
19 represented all three of those parties that
20 appear in those DSS cases, but I do think
21 sometimes people only know of the one. And in
22 the past five years, I've led an independent
23 state agency which is responsible for ensuring
24 that DSS does the right thing by children. So I
25 think it's important that I'm aware of these

1 concerns. I do take them to heart. I would be
2 mindful of those if I was elected to the bench.
3 And my concern and focus would be that child and
4 how everyone in the courtroom is working toward
5 the best interest of that child.

6 MS. HALL: Thank you. Next is the Citizens Committee.

7 I would note that the Midland Citizens Committee
8 found Amanda Whittle qualified in the criteria of
9 constitutional qualifications, physical health,
10 and mental stability and well qualified in the
11 criteria of ethical fitness, professional and
12 academic ability, character, reputation,
13 experience, and judicial temperament. The
14 committee stated in summary, Ms. Whittle is an
15 excellent candidate, particularly with all the
16 issues in Family Court now. She's very
17 compassionate with the juveniles.

18 **Q. Now it's just some housekeeping issues. Ms.**
19 **Whittle, are you aware that as a judicial**
20 **candidate, you are bound by the Code of Judicial**
21 **Conduct as found in Rule 501 of the South**
22 **Carolina Appellate Court Rules?**

23 A. Yes.

24 **Q. Since submitting your letter of intent, have you**
25 **contacted any members of the Commission about**

1 **your candidacy?**

2 A. I have contacted Senator Garrett prior to his
3 appointment to the Commission, but since he's
4 been appointed to the Commission, this is the
5 first time I have looked at him or spoken in his
6 presence.

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

10 A. Yes.

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

15 A. No.

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

20 A. I have not, and I am not.

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

24 A. Yes, ma'am.

25 **Q. Okay.**

1 MS. HALL: I would just note for the record that any
2 concerns raised during the investigation
3 regarding the candidate were incorporated into
4 the questioning today. Mr. Chairman, I have no
5 further questions.

6 CHAIRMAN RANKIN: Thank you. Members of the
7 Commission, any questions? Senator Garrett.

8 SENATOR GARRETT: Well, I've missed you. Let me just
9 say this. Thank you for agreeing to help me,
10 along with Sharon and others, trying to come up
11 with some changes to our adoption code, as you
12 know. She's a subject matter jurisdiction type
13 of person who understands these issues, so you've
14 been called upon by me and others to try to talk
15 with you about that. She probably is
16 overqualified to be the Family Court judge, but
17 her expertise is exactly where it needs to be,
18 and that's children. And so when you started
19 talking about it -- I didn't know this -- about
20 the extra judicial where you're going outside of
21 our jurisdiction and that you know about all of
22 the uniform, reciprocal, and our state acts, but
23 now you're also going into treaties to be able to
24 follow people. If you're going to follow money
25 in today's world, you've got to be able to do

1 that. So you're following, and then you used the
2 word *lis pendens*, which means that tells me you
3 know about real estate law, and if you're going
4 to tag somebody or tie somebody down, you follow
5 what, a *lis pendens*.

6 MS. WHITTLE: Yes, sir.

7 SENATOR GARRETT: So that just tells me the breadth of
8 the knowledge that you have, and I sincerely
9 appreciate your thinking about why would you do
10 that after 29 years of practice to go on the
11 bench, but we need people like you with that kind
12 of knowledge, and I thank you for -- and all of
13 your statements are just fantastic. I think
14 we're all blessed by having you consider.

15 MS. WHITTLE: Thank you so much.

16 SENATOR GARRETT: Thank you.

17 CHAIRMAN RANKIN: Mr. Strom.

18 MR. STROM: Thank you, Mr. Chairman. Senator Garrett,
19 I'm one of the people that met her in her
20 capacity as a DSS lawyer for the first time, and
21 it will take two minutes to tell you a story.
22 Irish travelers in Aiken. DSS went in and
23 grabbed three or four girls, took them into
24 protective custody. The rest of the travelers
25 took off with their kids. So, you know, we're

1 going down there. They wouldn't tell us where
2 the kids were. It was a mess. I mean, just an
3 absolute mess. If you ever dealt with DSS,
4 there's some Oz behind the curtain that makes
5 decisions about what you can do and what you
6 can't do, and then they have a lawyer. And, you
7 know, having trouble getting court time, very,
8 very frustrating. And Amanda got involved, and
9 we sat down and we worked this thing out. It
10 took a lot of trust because we had to get DSS in
11 to all these houses for all these kids that had
12 been gone. We had to get the kids to come back
13 and the travelers to trust that, and that was
14 Amanda's word to me that they were not going to
15 mess with them. And we fixed what was a very
16 complicated problem that could have gone on a
17 long time, and it was her wisdom they got that
18 done.

19 MS. WHITTLE: Thank you.

20 MR. STROM: I don't have any question about her wisdom
21 or caring about the community. I mean, you're
22 going to be excellent. I'm thrilled that you're
23 running.

24 MS. WHITTLE: Thank you. I'm grateful.

25 CHAIRMAN RANKIN: Other questions or comments about

1 Ms. -- Representative.

2 REPRESENTATIVE SAFRAN: Thank you, Mr. Chairman.

3 MS. WHITTLE - EXAMINATION BY REPRESENTATIVE SAFRAN:

4 Q. Truly, when you look at your CV, it's extremely
5 impressive. And I guess the thing is is what I'm
6 hearing from you, this is just a service calling.
7 I mean, not like you have to do it.

8 A. No, sir. I've gotten other offers, but I want to
9 do this very much.

10 Q. Well, you know, we see people that more or less
11 want to come and get on the Family Court, but
12 then we see so many who have been on it for a
13 while say, you know, it's an extremely
14 challenging endeavor. I mean, I'm assuming as
15 one who's been there, you know that at least in
16 my estimation it's a little broken. I mean, what
17 do you propose or what are you thinking about
18 what you're going to be able to do to come and
19 maybe make it a better overall system? I mean,
20 what are your thoughts?

21 A. Well, I've seen as an emerging issue this idea of
22 mental health and behavioral health challenges.
23 That's why I asked to be a student at the
24 University of South Carolina School of Medicine
25 and pursue a graduate studies program in

1 psychiatric rehabilitation. I just saw more and
2 more young people struggling with mental health
3 and behavioral health and co-occurring
4 disabilities. And then recently I've had Family
5 Court judges contact me and say, this is in the
6 private cases as well with their children and
7 with the litigants. I recently had a private
8 guardian ad litem tell me that she was thinking
9 about no longer doing that work because of just
10 the behavioral challenges from the parents that
11 she, as a lawyer who's a private guardian ad
12 litem, is experiencing. So I think part of the
13 role of a judge is to try to create expectations
14 and reduce the chaos, to be aware of the
15 challenges that exist just by the mere fact that
16 people's families and property are tied up in
17 Family Court. And when you add a layer of
18 behavioral health and mental health challenges, I
19 think that you have an even larger chaotic
20 situation. So starting court on time is
21 important. Trying to make certain that the
22 hearings, if they're scheduled for 15 minutes or
23 30 minutes, that we stay within that to the
24 extent possible. If a hearing has to be
25 continued, explaining to folks why it's been

1 continued, not continuing cases frivolously,
2 making certain that those court orders are issued
3 timely and that if a case has to be continued
4 that it's rescheduled as soon as practically
5 possible. To some extent I really want to reason
6 with people, but what I've learned is you can't
7 always do that. So sometimes you have to be --
8 it's important to be empathetic and compassionate
9 and kind, but at some point it's important to be
10 clear and concise and say, I've ruled, this
11 hearing is adjourned, please exit the courtroom,
12 that kind of thing. So I think that just the
13 temperament and the demeanor, the culture of that
14 courtroom I believe starts with the judge. And
15 so I hope I can bring not only my experience and
16 my education, but also my temperament and my
17 understanding that the dynamics are just more
18 than what's in those initial pleadings.

19 **Q. And certainly experience as a practitioner makes**
20 **a difference. It's kind of a prerequisite to**
21 **even being here for something like this. But**
22 **what I see in you is a varied background that**
23 **allows you to kind of have a lot more arrows in**
24 **the quiver, so to speak, that you check a lot**
25 **more boxes than most people do, not because of**

1 any lacking on their part, but because you seem
2 to have kind of gone beyond to try to kind of
3 enhance your skill set. And so, again, it's
4 unusual to find somebody that comes that has all
5 the tools you have that wants to necessarily lend
6 them for this kind of a process. And so I
7 congratulate you for coming and hope that
8 everything works successfully for you because you
9 certainly have made a great impression on us.

10 MS. WHITTLE: Thank you.

11 CHAIRMAN RANKIN: Other questions? Very well.

12 Thirty-one years ago today, it was a Saturday.

13 MS. WHITTLE: It was. The score was 16-13.

14 CHAIRMAN RANKIN: And that was a game lost by the
15 South Carolina Gamecocks.

16 MS. WHITTLE: The good guys lost. The South Carolina
17 Gamecocks lost. The Clemson Tigers did not lose.

18 CHAIRMAN RANKIN: So I think a lot more of your
19 husband now. You were in law school.

20 MS. WHITTLE: Yes.

21 CHAIRMAN RANKIN: By my math and as I look at your
22 PDQ. And he is a lawyer as well. Was he in law
23 school or was he much --

24 MS. WHITTLE: He is probably turning red right now at
25 the idea that you think he and I are the same

1 age. He was not in law school. He was
2 practicing law. And we are Gamecocks. So, yes,
3 we were supposed to win. And that's what he
4 said. He said we were supposed to win. It wasn't
5 supposed to rain. It wasn't supposed to be
6 freezing cold. But all those things were
7 happening, and yet he still got down on one knee
8 and proposed to me in November, I was in law
9 school, and we got married during spring break of
10 my final year of law school.

11 CHAIRMAN RANKIN: He shouldn't be turning red because
12 I properly identified him in my description of
13 that young, dapper good-looking guy. I have no
14 questions for you except a compliment for the
15 sincere passion that you have. It just oozes
16 from both of you. And particularly the hands in
17 the air, clapping of hands, he did off the record
18 in celebration of you.

19 MS. WHITTLE: Oh, my.

20 CHAIRMAN RANKIN: A great decision he made as a judge
21 of a future wife. And so I can't help but
22 believe that that same motion is on behalf of you
23 as a judge. You're getting that from us. We're
24 getting it from the record, and we're getting it
25 from you. And so I'm tickled that you're

1 offering for this. And it is a challenged seat,
2 but I cannot imagine a better CV for someone
3 coming to the bench and ready for prime time.
4 And so unless there are any other questions, now
5 I will offer to you what I offered at the outset.
6 You can say other nice things about your husband
7 if you'd like. It will be forever recorded, or
8 we can close directly.

9 MS. WHITTLE: All I wanted to do, Chairman Rankin and
10 members of the Commission, is to thank the folks
11 who have helped me up to this point, Erin, Lindi,
12 Libby and Emma have been so gracious and patient.
13 This is my first time. They've answered
14 questions that I know that they thought were very
15 basic, and I appreciate the way that they
16 answered them. Just very kind, very
17 professional, and have just been encouraging, and
18 I appreciate that. This has been an incredible
19 process. I've said to myself the whole time that
20 no matter how this ends, the people that I've
21 met, the comments that I've heard have been just
22 overwhelming, and I appreciate it.

23 CHAIRMAN RANKIN: That will conclude this portion of
24 the screening process, and you get the last word
25 on that. Unfortunately, I haven't had the last

1 word, but no, I'll give it to you in that
2 instance as well. We guard strictly both the
3 letter and the spirit of the ethics law. You
4 know, any violation of that appearance of
5 impropriety, that would be deemed very serious by
6 us. We don't expect to have to call you back,
7 but the record is not closed until the formal
8 release of the record qualifications. So to you,
9 ma'am, I will wish you goodbye and thank you, and
10 you get the final word of understanding and
11 acknowledging that the record does remain open.

12 MS. WHITTLE: I understand and acknowledge that.

13 CHAIRMAN RANKIN: We are off the record, and that is
14 the last word.

15 OFF THE RECORD

16 CHAIRMAN RANKIN: All right, we are back on the
17 record, and, Judge Jefferson, it is 3:58. Your
18 hearing was supposed to start at 4:15, Andy
19 Safran insisted that we make -- get the schedule
20 running efficiently and early. So thank you for
21 being here early.

22 JUDGE JEFFERSON: Thank you.

23 THE HONORABLE DEADRA L. JEFFERSON, being duly
24 sworn, testifies as follows:

25 CHAIRMAN RANKIN: You have a PDQ and a sworn

1 statement. Are those ready to be introduced into
2 the record?

3 JUDGE JEFFERSON: Yes sir.

4 (Exhibit Number 20 was marked for identification
5 purposes - (19 pages) Personal Data Questionnaire for
6 The Honorable Deadra L. Jefferson.)

7 (Exhibit Number 21 was marked for identification
8 purposes - (13 pages) Sworn Statement of The Honorable
9 Deadra L. Jefferson.)

10 CHAIRMAN RANKIN: Very well, you are very familiar
11 with this process. You have screened numerous
12 times for Family Court, Circuit Court, other
13 courts, the Supreme Court, and so for the record
14 you understand our vetting of your candidacy
15 focuses on the nine evaluative criteria, which
16 include a ballot box survey, a thorough study of
17 your application materials for this candidacy,
18 verification of your compliance for state ethics
19 law, a search of newspaper articles in which your
20 name appears, a study of prior screenings and
21 check for economic conflicts of interest. There
22 are two affidavits that have been filed in
23 opposition to your election, two witnesses, who
24 are present to testify, and so we are going to
25 have you, with the oath that you've taken, have a

1 seat, and Ms. Thomas -- I mean Ms. Benson will
2 take it away. We're going to hear from Reverend
3 Monsignor Edward Lofton.

4 CHAIRMAN RANKIN: Very good.

5 MS. BENSON: Please come forward, Reverend. Thank
6 you.

7 REVEREND MONSIGNOR EDWARD LOFTON, being duly
8 sworn, testifies as follows:

9 CHAIRMAN RANKIN: And, please give us your full name
10 for the record.

11 REVEREND MONSIGNOR LOFTON: Reverend Monsignor Edward
12 Dennis Lofton, L-O-F-T-O-N.

13 CHAIRMAN RANKIN: Very well. All right, Ms. Benson.

14 MS. BENSON: Reverend Monsignor Lofton, the Commission
15 has before it your affidavit of complaint, which
16 I respectfully request be made part of the record
17 at this time. For the record, your home address
18 and any other home addresses have been removed
19 and redacted. The purpose of today's hearing is
20 for the Commission to review the qualifications
21 of candidates to determine whether Judge
22 Jefferson is qualified to continue serving as
23 resident Circuit Court judge of the Ninth
24 Judicial Circuit Seat 1. As you've been told,
25 the Commission is not here to re-litigate a case,

1 and they do not have the ability to change the
2 result in a case. Reverend Monsignor Lofton,
3 you've submitted your affidavit, which the
4 Commission members have before them, and they've
5 reviewed prior to this hearing. Is there
6 anything else that you wish to testify to
7 specifically regarding Judge Jefferson's ethics,
8 competency, or character that has not already
9 been covered in the documents before the
10 Commission?

11 (Exhibit Number 22 was marked for identification
12 purposes - (3 pages) Affidavit of Reverend Monsignor
13 Lofton.)

14 REVEREND MONSIGNOR LOFTON: The only thing -- I don't
15 know if I can do this or not, but there was an
16 article in the Post and Courier about a month ago
17 about the Ninth Circuit, and I'm sure you're
18 familiar with the complaint that over 1,300 cases
19 are backlogged there. There are approximately
20 100 murder cases as well. I understand that the
21 circuit is considered so inefficient that the
22 State Supreme Court -- and I'm sure you have the
23 information because it was not put in the
24 newspaper, that the State Supreme Court has
25 intervened to do something to change the way that

1 particular circuit is handled.

2 MS. BENSON: Thank you, Monsignor. I have some
3 questions for the judge about that a little later
4 on. Mr. Chairman, I have no further questions
5 for the Monsignor.

6 CHAIRMAN RANKIN: Any questions by members of the
7 Commission? Sir, is there anything else that
8 you'd like to add beyond what we have in your
9 complaint?

10 REVEREND MONSIGNOR LOFTON: No. Other than I have no
11 animosity toward anyone here. My only concern is
12 -- since I've been in South Carolina 56 years now
13 is that our judicial system be just and fair.

14 CHAIRMAN RANKIN: Very well. Thank you very much.
15 Appreciate your coming.

16 MS. BENSON: Judge Jefferson, if you could return to
17 the podium, please. Thank you.

18 JUDGE JEFFERSON: Thank you.

19 MS. BENSON: Judge Jefferson, you've provided the
20 Commission with a written response to Reverend
21 Monsignor Lofton's complaint, which the
22 Commission members have before them and they've
23 reviewed prior to the hearing. Is it your intent
24 to have this response published for the record?

25 JUDGE JEFFERSON: Yes, ma'am.

1 (Exhibit Number 23 was marked for identification
2 purposes - (76 pages) Jefferson Response to Lofton
3 Complaint.)

4 MS. BENSON: Thank you.

5 JUDGE JEFFERSON: You're welcome.

6 MS. BENSON: Mr. Chairman, does a Commission member
7 need to make that motion?

8 CHAIRMAN RANKIN: No. It's a matter of record now.
9 Thank you.

10 MS. BENSON: Thank you. Judge Jefferson, is there
11 anything else that you would like to add or
12 address at this time beyond what you have in your
13 written response?

14 JUDGE JEFFERSON: No, ma'am. I think that the response
15 is comprehensive along with the exhibits, and I
16 would rely on that response.

17 MS. BENSON: Thank you, Judge.

18 JUDGE JEFFERSON: You're welcome.

19 MS. BENSON: Mr. Chairman, I have no further
20 questions.

21 CHAIRMAN RANKIN: I do. Just a quick follow-up. I
22 wonder if you recall meeting, or have you ever
23 met, the Reverend before?

24 JUDGE JEFFERSON: No, sir, I have not. And as just
25 making a reference to my response, there were 30

1 approximately members. Mr. -- I don't want to
2 mention the gentleman's name who had the bond
3 hearing, but his lawyer notified me on, I think
4 it was Thursday before the hearing, that he
5 expected about 35 people to appear, 30 or 35.
6 That email is attached to the response. The
7 state had an additional 12 individuals. The
8 courtroom that we're in is fairly vast, and I
9 recall there being probably maybe five to six
10 rows of individuals accompanying the gentleman
11 who had the bond hearing. But for me to say that
12 I individually recall the Monsignor would not be
13 complete or accurate. But I do remember reading
14 the submission that the gentleman's lawyer
15 provided to me from him and several other members
16 that were close to the individual.

17 CHAIRMAN RANKIN: Well, and in terms just to, without
18 reading it, but just, again -- everyone has
19 traveled here, you as well, your -- in terms of
20 running a bond hearing with that number of folks
21 appearing on either side, what -- how could you
22 have done it better, other than starting it
23 perhaps earlier in the day?

24 JUDGE JEFFERSON: Well, as you -- as attached to my
25 response, we don't, unfortunately -- we don't

1 have the resources to set bonds for time and date
2 certain. So at 1:30, we have 14 matters set.
3 What delayed us was that I was assigned to a very
4 small courtroom that -- and I have no control
5 over assignments. We only had room for about 15
6 people in that courtroom. So it was fairly
7 compacted, and the judge that was utilizing the
8 courtroom that I was to be switched to was not
9 done with their proceeding, and they were not
10 done until about shortly before 4:00 o'clock. So
11 I was precluded from moving. So I was between
12 the proverbial rock and hard place. I was either
13 going to wait until that courtroom was available,
14 but I didn't think that was prudent to have the
15 other 13 people wait. So I made use of my time,
16 and I started my docket. Now, that was
17 communicated to all involved. Why it was not
18 communicated to Monsignor Lofton is unfortunate,
19 and I feel very badly about it, that it wasn't
20 communicated to him, but we couldn't move. And
21 so as soon as we moved, when I came into the
22 courtroom, I apologized, and I said, I'm so very
23 sorry. We're in a small courtroom. I don't
24 assign courtrooms the clerk of court does. It
25 probably would have been more prudent for me to

1 have been assigned to that large courtroom just
2 from the very beginning, but that did not happen.
3 And so it's unfortunate that he had to wait, and
4 I'm sorry for that -- but it could not have been
5 avoided. I could not have moved that judge that
6 was in the middle of a proceeding out of that
7 courtroom. And as you know, there's security
8 protocol we have to follow when something is so
9 highly and emotionally charged. And so there's a
10 way that security has to move individuals in and
11 out of the courtroom. And it's a lot of moving
12 parts, and you can't bring everybody in at the
13 same time. You can't have them all exit at the
14 same time. There has to be enough room for them
15 to be separated. Not that these individuals
16 necessarily presented as volatile, but when you
17 have something involving a death, you know, I
18 defer to security when it comes to standard
19 operating procedure.

20 CHAIRMAN RANKIN: All right. Any other questions of
21 Judge Jefferson on that one? All right.

22 MS. BENSON: Thank you, Judge.

23 JUDGE JEFFERSON: Thank you.

24 MS. BENSON: William Sean McGuire. If you could step
25 forward, please.

1 CHAIRMAN RANKIN: All right, sir. Welcome. You've
2 seen how this works.

3 WILLIAM S. MCGUIRE, being duly sworn, testifies
4 as follows:

5 CHAIRMAN RANKIN: And please state your name for the
6 record.

7 MR. MCGUIRE: William Sean McGuire.

8 CHAIRMAN RANKIN: Very well. Ms. Benson.

9 MS. BENSON: Thank you, Mr. Chairman. Mr. McGuire,
10 the Commission has before it your affidavit of
11 complaint, which I respectfully request be made
12 part of the record at this time. And for the
13 record, home addresses will be removed. The
14 purpose of today's hearing is for the Commission
15 to review the qualifications of the candidates to
16 determine whether Judge Jefferson is qualified to
17 continue serving as a resident Circuit Court
18 judge, the 9th Judicial Circuit, Seat 1. As
19 you've been told, the Commission is not here to
20 re-litigate a case, and they do not have the
21 ability to change the result of the case. Mr.
22 McGuire, you submitted your affidavit, which the
23 Commission members have before them and have
24 reviewed prior to this hearing. Is there
25 anything else that you wish to testify to

1 specifically regarding Judge Jefferson's ethics,
2 competency or character that has not already been
3 covered in the documents before the Commission?

4 (Exhibit Number 24 was marked for identification
5 purposes - (5 pages) Affidavit of William S. McGuire.)

6 MR. MCGUIRE: Perhaps. Could I get a copy of Judge
7 Jefferson's response to my complaint? If there's
8 a discrepancy, I might be able to address it.

9 CHAIRMAN RANKIN: That is not published to the
10 complainant. That would be included, though, in
11 the final transcript I understand.

12 MR. MCGUIRE: Well, I'm here to answer any questions,
13 of course. I will say in the first paragraph of
14 my complaint, I do reference being pressured to
15 drop a motion in a capital case that was
16 occurring in Berkeley County. To be a little bit
17 more specific, my boss, Patton Adams, who is the
18 Executive Director of the South Carolina
19 Commission on Indigent Defense, came into my
20 office and told me that he wanted to talk to me
21 about the shit storm that my case had become, and
22 that took me by surprise. I didn't have any idea
23 what he was talking about. Then it was made very
24 clear to me that Chief Justice Toal, then the
25 Chief Justice of the South Carolina Supreme

1 Court, had communicated to him that she wanted me
2 to drop a motion that was pending in that capital
3 case, that it was irking the trial judge, Judge
4 Jefferson, and that it was a request made to me.
5 And I was told if I didn't withdraw that I would
6 be alienating Chief Justice Toal and the entire
7 South Carolina Supreme Court. It was very clear
8 to me that it was a demand that I drop that
9 motion. That was on Wednesday. One of my
10 coworkers, Boyd Young, was outside my office, and
11 he heard most of that conversation. And we left
12 work, and we went to go talk about it.
13 Obviously, we weren't going to give in to
14 backdoor pressure to drop a motion in a death
15 penalty case. We had court on Friday in Berkeley
16 County, Moncks Corner. We went through a number
17 of the motions and disposed of a number of them.
18 And then Judge Jefferson indicated, while on the
19 record, well, my understanding is that concludes
20 all of the pending motions. I said, well, no,
21 there's one more, and I told her which one it
22 was. And she kind of angrily said, I was under
23 the impression that one was going to be
24 withdrawn, which of course confirmed what had
25 happened previously. In a recent case, a murder

1 case, a murder trial in Charleston County, I was
2 lead counsel. It was State v. Courtney Richards.
3 Judge McMaster from the Greenville area was the
4 trial judge. I had communicated with Judge
5 Jefferson multiple times, with her office
6 multiple times, in email regarding the fact that
7 I had a case on her bond docket, and that I would
8 be unable to be there because I was in the middle
9 of a murder trial. The prosecutor had no
10 objection to it being continued, in fact, agreed
11 to it. The prosecutor had an alleged victim in
12 the case who wanted to address the Court in
13 person and because the bond hearings were being
14 held at the detention center, the alleged victim
15 was not allowed in to address Judge Jefferson.
16 So the prosecutor actually wanted that bond
17 hearing to be continued. I wanted it to be
18 continued because I was in the middle of a murder
19 case down the hallway, and I had made that clear
20 to Judge Jefferson's office in emails. To my
21 surprise, I received a communication from my
22 office stating that Judge Jefferson's secretary
23 had indicated that my motion would not be
24 continued, and I was expected to appear in court
25 despite the fact that I was in the middle of a

1 murder trial. So, I went down the hallway, and I
2 requested that it be continued and assigned to
3 another judge. I found her pulling me out of a
4 murder case was retaliatory based on some history
5 that we have where she's acted unethical. That
6 would be the death penalty case in Berkeley
7 County where I accused her truthfully of being
8 unethical in trying to get that motion dropped.
9 And going back to that, the reason that that
10 motion was irking the judge, in my view, is
11 because it was going to end up being a little
12 embarrassing for her. She had indicated that we
13 could only have two lawyers representing a
14 capital defendant have speaking roles in court.
15 We asked that we have three, three lawyers be
16 allowed to speak. Well, I pulled transcripts of
17 her other cases, including a capital case where
18 she had protected three lawyers representing a
19 capital defendant. Now, before the request was
20 made for me to drop that motion, she put on the
21 record at length about how the statute was so
22 very clear that a capital defendant in South
23 Carolina, a capital defendant who is indigent,
24 could only have two lawyers. She went on at
25 length to explain that and how the statute was

1 crystal clear. Well, obviously, when we were
2 going to make the record to have the third
3 lawyer, we were going to put on evidence of the
4 three lawyers she protected in another case. It
5 didn't make any sense. This was in 2009,
6 approximately. So going back to the bond hearing
7 when I was in the middle of a murder case.

8 CHAIRMAN RANKIN: And that date again is when?

9 MR. MCGUIRE: July of this year. So, I went down real
10 quick to get --

11 CHAIRMAN RANKIN: The murder trial is being conducted
12 by what judge?

13 MR. MCGUIRE: McMaster, William McMaster, from the
14 upstate. So, I went down to the bond hearing.
15 Judge Jefferson was at the jail. She was on
16 video. My client was in the jail also on video.
17 I tried to -- I did not know the bond hearings
18 were conducted at the jail that day. I actually
19 went down to the holding cell trying to
20 communicate with my client to tell him what was
21 going on, but I was not able to talk with him.
22 So, I did ask that the bond matter be continued
23 and assigned to a different judge. But I found
24 her behavior to be retaliatory based on me
25 stating that she was unethical in the capital

1 case in Berkeley County around 2009, and to the
2 fact that I filed a Freedom of Information Act
3 request to try to find out why was it taking so
4 long to have a bond hearing set in Charleston
5 County. It was about eight months. From the
6 moment somebody filed for a bond setting, it
7 would take eight months to get to court. And I
8 know there are some non-lawyers here, but some
9 lawyers, and the lawyers in the room know there
10 are certain offenses where the magistrate judge -
11 - where the defendant -- in front of whom the
12 defendant appears within about 24 hours does not
13 have the authority to set bond in certain cases.
14 And then that defendant has to wait eight months
15 to come to court to have a Circuit Court judge
16 set bond under the way the docket is being
17 managed in Charleston.

18 CHAIRMAN RANKIN: And I will not cut you off, but I do
19 want you to know we are aware of that earlier
20 today. And there is something going on in
21 various parts of the state that is with either a
22 judge's control or the solicitor's control again.
23 So I want to kind of get you to rein it in
24 because we've got all this. I am curious -- and
25 I don't want to cut you off -- but to the point

1 that Judge McMaster accommodated your -- in what
2 process in this murder trial were you before
3 Judge McMaster? Was it trial? Were they
4 motions?

5 MR. MCGUIRE: No, no, we were in trial in front of the
6 jury. We were right in the middle of a jury
7 trial.

8 CHAIRMAN RANKIN: Kevin Chase, State v. Kevin Chase?

9 MR. MCGUIRE: That's a different case.

10 CHAIRMAN RANKIN: All right. Forgive me.

11 MR. MCGUIRE: It was State v. Courtney Richards.

12 CHAIRMAN RANKIN: I see that in here. But Judge
13 McMaster accommodated you, again, but your point
14 is that you should not have been required being
15 in one court to stop midstream and go to another
16 court.

17 MR. MCGUIRE: I mean, it's not a violation of the
18 rule. If the rule regarding conflicts is that I
19 would have to remain and conduct the murder trial
20 unless the judge presiding over that proceeding
21 allows the lawyer to go appear in front of
22 another judge, and he did. So I'm not saying
23 there's a violation of the rule.

24 CHAIRMAN RANKIN: Okay. All right. Anything else?
25 And again, because we do have it, and I'm not

1 trying to cut you off, but to the point of the
2 2009 event, the July 24 event --

3 MR. MCGUIRE: So the point that I do think is
4 necessary to be made is that if a defendant,
5 let's say a 17 year old boy, goes to Charleston,
6 stays at a beach house with his parents, maybe
7 has a few beers on the beach, uses some bad
8 judgment, reaches in a screen porch and takes a
9 fishing pole, is arrested, that is burglary first
10 degree. Bond is not going to be set within 24
11 hours, and that kid, 17 year old kid, is going to
12 have to wait eight months to have a judge address
13 that. We are living in a third-world system in
14 Charleston when it comes to docket management.

15 CHAIRMAN RANKIN: All right. Mr. Safran.

16 MR. SAFRAN: Thank you, Mr. Chairman. I hear what
17 you're saying. I don't practice criminal law.
18 The only thing I would tell you is this.
19 Unfortunately, the forum that you're in right now
20 is really not the one that's going to address
21 that. I mean, we're really here talking about
22 qualifications of a judge.

23 MR. MCGUIRE: Sure.

24 REPRESENTATIVE SAFRAN: But let me ask you a few
25 things because, you know, I hear also what you're

1 saying in terms of the retaliation. Just a few
2 things. Let's assume '09 is when the first
3 situation happened with you and Boyd Young. All
4 right. Motion was heard, I'm assuming, the one
5 that you actually went forward with in the trial
6 in Berkeley?

7 MR. MCGUIRE: It was denied summarily.

8 REPRESENTATIVE SAFRAN: But it was heard though,
9 correct?

10 MR. MCGUIRE: The motion was filed. The pleading was
11 part of the record --

12 REPRESENTATIVE SAFRAN: Right.

13 MR. MCGUIRE: -- but there was no argument on it. It
14 was just --

15 REPRESENTATIVE SAFRAN: She denied it.

16 MR. MCGUIRE: She said, according to my notes, that's
17 it. We have no more pending motions. I said, we
18 have the one. I named the motion. She said, I
19 thought that was going to be withdrawn. She
20 said, my understanding was that was going to be
21 withdrawn. And I said, no, it's not withdrawn,
22 and she said, denied.

23 REPRESENTATIVE SAFRAN: All right. So basically, at
24 least, it was denied on the record at that point.

25 MR. MCGUIRE: Sure.

1 REPRESENTATIVE SAFRAN: All right. What was the
2 outcome of the trial? I mean, did it go to
3 verdict?

4 MR. MCGUIRE: In the guilt phase, it went to verdict,
5 guilty of murder, and other offenses attached to
6 it.

7 REPRESENTATIVE SAFRAN: All right. And then --

8 MR. MCGUIRE: It didn't go to sentencing. It didn't
9 go all the way to the end of sentencing.

10 REPRESENTATIVE SAFRAN: Okay. So what, y'all worked
11 something out at that point?

12 MR. MCGUIRE: Mistrial. Our investigation uncovered
13 law enforcement misconduct, and we had hearings
14 with regard to that, and I had moved to have
15 Judge Jefferson recused.

16 REPRESENTATIVE SAFRAN: Right.

17 MR. MCGUIRE: She was recused. Judge Buddy Nicholson
18 was assigned to the case. And halfway through,
19 maybe not quite halfway, we uncovered the law
20 enforcement misconduct. We had hearings on that.
21 Judge Nicholson's ruling was that it was
22 intimidation of mitigation witnesses by law
23 enforcement.

24 REPRESENTATIVE SAFRAN: So he declared a mistrial, and
25 effectively whatever was there before was moot at

1 that point because you got a new trial.

2 MR. MCGUIRE: Well, the trial continued. Judge
3 Nicholson put on the record he was not going to
4 revisit any of Judge Jefferson's rulings.

5 REPRESENTATIVE SAFRAN: Right. When you say mistrial,
6 was it just -- what, was it on the penalty phase
7 only?

8 MR. MCGUIRE: He declared a mistrial with the penalty
9 phase.

10 REPRESENTATIVE SAFRAN: Okay. So was there ever any
11 appeal that went up from the guilt phase?

12 MR. MCGUIRE: Of course not.

13 REPRESENTATIVE SAFRAN: Okay. So again, you went
14 nowhere else with it at that point?

15 MR. MCGUIRE: I mean, if you're asking if my client
16 was prejudiced, the answer's no.

17 REPRESENTATIVE SAFRAN: Okay. Did you, after that,
18 during the ensuing 15 years, have any occasion to
19 appear in front of Judge Jefferson?

20 MR. MCGUIRE: I don't think so.

21 REPRESENTATIVE SAFRAN: All right. If you felt
22 strongly about it at the time that it occurred in
23 '09, and you said it was a violation of ethics,
24 did you file something with ODC?

25 MR. MCGUIRE: Yeah.

1 REPRESENTATIVE SAFRAN: All right. So they did at
2 least take it up at that point?

3 MR. MCGUIRE: I assume so. I filed a complaint.

4 REPRESENTATIVE SAFRAN: All right. So you did
5 everything you were supposed to do?

6 MR. MCGUIRE: I think so.

7 REPRESENTATIVE SAFRAN: All right. And then obviously
8 it's their jurisdiction at that point to do what
9 they think.

10 MR. MCGUIRE: Sure.

11 REPRESENTATIVE SAFRAN: Were you ever notified about
12 any outcome?

13 MR. MCGUIRE: I don't remember. I don't think so.

14 REPRESENTATIVE SAFRAN: All right. Do you remember
15 whether or not, in 15 years, you appeared in
16 front of her again?

17 MR. MCGUIRE: So, because I was only doing capital
18 cases --

19 REPRESENTATIVE SAFRAN: Right. May not have happened?

20 MR. MCGUIRE: I mean, I was in front of a finite
21 number of judges, and so, no. I don't believe I
22 ever appeared in front of her again.

23 REPRESENTATIVE SAFRAN: All right. So when you got
24 back into the most recent situation in '24, okay,
25 given the fact there'd been a recusal before,

1 given what you'd done in terms of filing the
2 grievance, did you ask her to recuse herself at
3 the beginning of the trial?

4 MR. MCGUIRE: Which trial?

5 REPRESENTATIVE SAFRAN: The one that you were -- or
6 excuse me, the bond hearing.

7 MR. MCGUIRE: No.

8 REPRESENTATIVE SAFRAN: You were in trial actually
9 with McMaster. I get that.

10 MR. MCGUIRE: Yes, I did.

11 REPRESENTATIVE SAFRAN: All right. Had you had any
12 prior -- any notice that, you know, you were
13 going to be appearing in front of her for the
14 bond hearing? A few days at least, didn't you?

15 MR. MCGUIRE: Yeah.

16 REPRESENTATIVE SAFRAN: All right. Did you send
17 anything to her office prior to that asking her
18 to recuse herself, or was that something that
19 came later?

20 MR. MCGUIRE: Well, I didn't address the issue of her
21 recusing herself because I assumed wrongly that
22 when you alert a judge, I'm in the middle of a
23 murder trial, they're not going to call you in
24 for a bond hearing. And then I sent multiple
25 emails saying I was going to be in front of Judge

1 McMaster in the middle of a murder trial. I
2 didn't expect, I can't be at the bond hearing.

3 REPRESENTATIVE SAFRAN: And this -- and you've
4 obviously kind of, I'm assuming, run into similar
5 situations in the past where you may be in trial
6 on something else.

7 MR. MCGUIRE: All the time.

8 REPRESENTATIVE SAFRAN: All right. And basically has
9 it generally worked out the way you expected?

10 MR. MCGUIRE: Yes.

11 REPRESENTATIVE SAFRAN: All right. Thank you.

12 CHAIRMAN RANKIN: Senator Sabb.

13 SENATOR SABB: I'm curious. What is the rule with
14 regard to --

15 MR. MCGUIRE: Conflicts?

16 SENATOR SABB: No, sir. I'll get there in a minute.

17 But with regard to the number of lawyers that are
18 allowed in capital cases?

19 MR. MCGUIRE: So the rule is -- it's in the murder
20 statute, and it says that the state has to
21 appoint two attorneys to a capital defendant who
22 is indigent.

23 SENATOR SABB: All right. And so in your instance, you
24 wanted three.

25 MR. MCGUIRE: We had three, one couldn't speak.

1 SENATOR SABB: So that is the statute. So, your issue
2 was that it had been allowed in another case. It
3 was not being allowed in your case, but in
4 reality, the law was clear on the point.

5 MR. MCGUIRE: That at least two lawyers had to be
6 appointed. The statute does not say no more than
7 two. It says must appoint --

8 SENATOR SABB: So your position is that it's
9 unlimited?

10 MR. MCGUIRE: No, I wouldn't agree with that. I don't
11 think it's unlimited at all.

12 SENATOR SABB: So where is the cutoff?

13 MR. MCGUIRE: Well, I think it has to be sort of a
14 sliding scale. I don't think 17 lawyers, a
15 battery of lawyers, could come in and represent
16 one person and cause disruption in a courtroom --

17 SENATOR SABB: So you think it's discretionary with
18 the court?

19 MR. MCGUIRE: I think if there's good cause to limit.
20 For instance -- and we've all seen trials on TV,
21 three, four, five lawyers is completely
22 reasonable. I think if you got to ten, a dozen,
23 sure, it would be in the discretion of the judge
24 to run the courtroom and to not have a disruption
25 with chaos, given the number of attorneys.

1 SENATOR SABB: But you don't maintain that if a judge
2 in one instance allowed three lawyers to speak,
3 and in another instance only allowed two lawyers
4 to speak, that that judge is unethical because he
5 or she used their discretion in one case to limit
6 it to two, and in the other case to allow three.

7 MR. MCGUIRE: No, I don't think that's an ethical
8 violation at all. I think the unethical part is
9 contacting the Chief Justice of the South
10 Carolina Supreme Court, who contacts my boss and
11 puts pressure on me in the back alley and not in
12 open court.

13 SENATOR SABB: I got you.

14 MR. MCGUIRE: I think that's absolutely unethical.

15 SENATOR SABB: I'm with you on that. I follow you.

16 MR. MCGUIRE: But no, if a judge thought, you know, I
17 want to hear from two lawyers and that's it, and
18 they have a good faith belief to manage what's
19 going on in the courtroom, I wouldn't have any
20 issue with that.

21 SENATOR SABB: Okay.

22 CHAIRMAN RANKIN: Anyone else? Representative
23 Rutherford.

24 REPRESENTATIVE RUTHERFORD: The example you gave about
25 the individual in Charleston County charged with

1 burglary first, magistrates in Charleston don't
2 set burg-first bonds?

3 MR. MCGUIRE: Because the potential penalty could go
4 up as high as life.

5 REPRESENTATIVE RUTHERFORD: I changed that years ago.
6 And it is 17-5-2210, something like that, that
7 allows unless the solicitor objects for the bond
8 to be set in magistrate's court. So is the
9 solicitor in Charleston objecting to those bonds
10 being set?

11 MR. MCGUIRE: Actually, no. I guess a better example
12 would have been where --

13 REPRESENTATIVE RUTHERFORD: CSC with a minor under the
14 age of 11 --

15 MR. MCGUIRE: Something along those lines, sure, or if
16 the offense is considered to be violent, if it's
17 on the 16-160 statutory list of violent offenses.

18 REPRESENTATIVE RUTHERFORD: Right.

19 MR. MCGUIRE: It's very common in Charleston to have
20 the bond denied because it's on the violent list.

21 REPRESENTATIVE RUTHERFORD: Right.

22 MR. MCGUIRE: And then the same 17 year old kid would
23 be waiting for eight months to see a Circuit
24 Court judge.

25 REPRESENTATIVE RUTHERFORD: For his initial bond

1 setting?

2 MR. MCGUIRE: Yes. No, no, no, not initial, not
3 initial bond setting.

4 REPRESENTATIVE RUTHERFORD: But on the initial, on a
5 murder -- on a burg-first that the magistrate
6 denies --

7 MR. MCGUIRE: Sure.

8 REPRESENTATIVE RUTHERFORD: -- on a CSC under the age
9 of 11. They're not holding initial bond hearings
10 for eight months for a murder, are they? That's
11 not going on, is it?

12 MR. MCGUIRE: Yeah, that is going on.

13 REPRESENTATIVE RUTHERFORD: So someone is charged with
14 murder, and they don't have their initial bond
15 hearing for eight months?

16 MR. MCGUIRE: They go in front of the magistrate to be
17 --

18 REPRESENTATIVE RUTHERFORD: I mean, that's
19 perfunctory. The magistrate can't set their
20 bond.

21 MR. MCGUIRE: Exactly. They're without authority to
22 set the bond.

23 REPRESENTATIVE RUTHERFORD: Right.

24 MR. MCGUIRE: They give them notice of the preliminary
25 hearing, that sort of thing, but if a 17 year old

1 kid is in a shootout in a mall parking lot and
2 they're only shooting but it's unclear what's
3 happening, but he's charged with murder, the
4 magistrate, as you said, perfunctorily will just
5 say, these are your rights regarding prelim, et
6 cetera. And the bond setting, the initial bond
7 setting, will not be for approximately eight
8 months later.

9 REPRESENTATIVE RUTHERFORD: How is that legal? I'm
10 missing something.

11 MR. MCGUIRE: I don't think it is legal. I mean, I
12 think it's a violation of --

13 REPRESENTATIVE RUTHERFORD: The law says it has to be
14 set within 24 hours. That's the law. So I'm
15 missing how we get here.

16 MR. MCGUIRE: So the magistrate, as you said, just
17 advises the rights.

18 REPRESENTATIVE RUTHERFORD: Yeah. No, I'm clear on
19 that. The law also says that someone who has
20 their bond denied can come back up for a second
21 hearing after six months has expired, but if
22 you're telling me it takes eight months to get
23 your bond, that is out of compliance as well.

24 MR. MCGUIRE: I agree with that.

25 REPRESENTATIVE RUTHERFORD: Okay. All right.

1 MR. MCGUIRE: And I think it's a math problem. I
2 think the chief administrative judge, the moment
3 they take office and they take that position as
4 chief administrative judge, they are in control
5 over all the dockets in general sessions court,
6 including the bond docket. And in Charleston, we
7 had approximately 360 people that were waiting
8 for bonds, and it's a math problem. You just
9 figure out how much court you're going to
10 dedicate to bonds. And when it's limited to,
11 say, 15 per term of court, you're not going to
12 chip away at that 360. So yeah, a 17 year old
13 kid charged with murder, his very first
14 opportunity to have his bond set would be eight
15 months after arrest.

16 REPRESENTATIVE RUTHERFORD: And I realize that the
17 newspapers don't care about innocent people, and
18 you're innocent until you're proven guilty in
19 this country, in this state, and in Charleston
20 County. I know that their focus has solely been
21 on people that are getting out on bond and
22 recommitting, rather than the fact that people
23 are not even getting a chance to tell a judge
24 that they didn't do it or that they're not a
25 flight risk. Has the solicitor sent word down to

1 Magistrate's court to stop denying bonds or to do
2 it better so that they don't have this backlog?

3 I don't expect you to know the answer to that.

4 MR. MCGUIRE: I don't know the answer to that.

5 REPRESENTATIVE RUTHERFORD: Okay.

6 MR. MCGUIRE: I mean, I can tell you that what I've
7 been told by prosecutors is that they were told
8 by Judge Jefferson to limit the number of cases
9 placed on the docket for bond hearings. And
10 revocations, bond revocations, which there is
11 some focus on in the media, the statute requires
12 bond revocations to be set within 30 days. So it
13 pushes all the other ones that are waiting back
14 because there are only a limited number of spots,
15 and some of those spots will be taken by bond
16 revocations.

17 REPRESENTATIVE RUTHERFORD: So one side, the
18 prosecutors are getting their bonds heard, but
19 defense attorneys are not, or getting their bond
20 revocation motions heard, but defense attorneys
21 are not.

22 MR. MCGUIRE: That is true, but I don't take fault
23 with the prosecutors because the statute does say
24 they have to be set within 30, although I know --
25 I think I understand your point that you're about

1 to make, which is the statute also says within
2 six months for the others, but they don't get in
3 there within six months.

4 REPRESENTATIVE RUTHERFORD: Well, it also says that
5 bond must be set within 24 hours of an arrest.

6 MR. MCGUIRE: That's also true.

7 REPRESENTATIVE RUTHERFORD: And murder is slightly
8 different, but so we give them that first session
9 of court, and that is on the prosecutors. That
10 is their job to say, we've got to do this, and
11 that happens to me all the time. They say, this
12 is an initial bond setting, we got to go in and
13 go ahead and do this.

14 MR. MCGUIRE: That doesn't happen. There's only one
15 case in Charleston where somebody kind of cut the
16 line, and it was a high profile case, and the
17 elected solicitor was involved in that case
18 personally. That one did cut the line and was
19 heard sooner, but all the others are just on a
20 list that -- and they just languish waiting for
21 bond settings for eight months. And personally,
22 I've also had a case where when you go to court,
23 sometimes the judge will say, these are the
24 conditions of bond that I will set. However, if
25 you comply with these conditions, I'll let you

1 come back in 90 days and ask for some
2 restrictions to be lifted, like house arrest. In
3 Charleston, even though a judge says you can come
4 back in 90 days, you can't. You have to wait
5 eight months.

6 CHAIRMAN RANKIN: Senator Garrett.

7 SENATOR GARRETT: Have you tried habeas corpus relief
8 either in the state level with a state Supreme
9 Court justice or alternatively, I mean, this
10 sounds right for a federal habeas corpus.

11 MR. MCGUIRE: I have not personally, no.

12 SENATOR GARRETT: But that is a remedy, potential
13 remedy?

14 MR. MCGUIRE: That would be a remedy, that a body was
15 being held unlawfully.

16 CHAIRMAN RANKIN: Senator Sabb.

17 SENATOR SABB: Thank you, Mr. Chairman. You indicated
18 that prosecutors are telling you that on Judge
19 Jefferson's docket, you only list 15 cases. What
20 about on the other judges' dockets? Certainly,
21 Judge Jefferson's not the only one that's holding
22 court. How many -- is there a disproportionate
23 number of people that are coming before other
24 judges to have bonds set as compared to Judge
25 Jefferson?

1 MR. MCGUIRE: No. The prosecutors have told me that
2 Judge Jefferson requested that they put the same
3 number of limited spots on the other judges'
4 dockets as well.

5 SENATOR SABB: And this policy that you're aware of
6 has been in effect how long?

7 MR. MCGUIRE: I don't know. I can tell you that
8 approximately a year and a half, two years ago,
9 probably about a year and a half ago, I filed for
10 a bond setting on a murder charge, and Billy
11 Price was the judge at the time, chief
12 administrative judge. And it took 90 days to
13 have it heard. And I actually thought that was
14 too long, but I understood. I didn't make a
15 complaint regarding that. It was longer than I
16 wanted, obviously, but 90 days. And then since
17 then, since he left from the chief admin judge
18 role, it's just ballooned and now gotten to eight
19 months. So it was 90 before, and now it's 18
20 months.

21 SENATOR SABB: Eight.

22 MR. MCGUIRE: Oh, eight. I'm sorry, eight. That was
23 about 18 months ago when I was in front of Judge
24 Price on a murder bond setting.

25 CHAIRMAN RANKIN: And at the time, July -- no, it's

1 not the July event you're talking about-- who was
2 the chief administrative general sessions judge
3 in Charleston?

4 MR. MCGUIRE: When?

5 CHAIRMAN RANKIN: In the last -- since Judge Price?

6 MR. MCGUIRE: Judge Jefferson.

7 CHAIRMAN RANKIN: All right. And how long has she
8 been the chief admin of the general sessions?

9 MR. MCGUIRE: I think about last year.

10 CHAIRMAN RANKIN: How many judges are assigned down to
11 Charleston for any given time in a courthouse
12 there?

13 MR. MCGUIRE: I know that court has been cut by court
14 administration, and we have fewer terms of court
15 than we once did. In fact, the clerk of court,
16 Julie Armstrong -- the elected clerk of court,
17 Julie Armstrong, sent out a memo to the South
18 Carolina -- to the Charleston bar, rather, just
19 stating, please be aware that it's not the
20 clerk's fault that it takes so long to get things
21 scheduled and not the judge's fault, that it's
22 due primarily to court terms being reduced.

23 CHAIRMAN RANKIN: Chasing a rabbit here, but some
24 courts, aside from the dictates of the Supreme
25 Court justice order, were very slow to open up

1 for business. I don't know how one county, one
2 circuit could do it differently on a civil or a
3 general sessions roster, or was -- are you aware
4 of any different treatment in Charleston by your
5 clerk, versus Horry, versus York, versus
6 wherever, in terms of making court available?

7 MR. MCGUIRE: I mean, I can tell you that every county
8 does a little bit different. In some counties,
9 the prosecutor schedules motions, and you can get
10 them heard pretty quick. You call them up on the
11 phone and say, look, this is what I've got, and
12 they say, okay, we're going to get you on the
13 docket in a couple weeks. That does happen.
14 Some counties will say the prosecutor will take
15 the position that we don't have control of the
16 docket anymore. The clerk of court is doing
17 that, and it's just purely chronological from
18 when the motion's filed. There's a hybrid of
19 that system some places where you can kind of --
20 you can get some access to court and get your
21 client to court, talking to both the prosecutor
22 and the clerk. Everybody work together and try
23 to get a case in. Judge Jefferson took the
24 position that she was not responsible. In my
25 conversations with her when she called me out of

1 the murder trial to do the bond hearing, she
2 stated on the record that this was not of her
3 doing, the backlog, that it was the prosecutor
4 who controlled the docket up until, I think it
5 was mid-June. So she was saying that she only
6 had weeks of notice that the system was backed
7 up.

8 CHAIRMAN RANKIN: All right.

9 MR. MCGUIRE: Obviously, the chief administrative
10 judge is in control of the docket the day they
11 take the job.

12 CHAIRMAN RANKIN: All right. And we're going to get
13 more. We've heard of this otherwise in other
14 counties. So, Mr. McGuire, anything further that
15 you'd like to say that is not in your complaint?
16 We have given you ample time answering questions,
17 so we're not trying to cut you off, but is there
18 anything further that you have not --

19 MR. MCGUIRE: Yeah, there's one comment that I would
20 make. It's in response to Mr. Safran's comment
21 about timing and why did I appear in front of
22 Judge Jefferson? Why did I, I guess, not do
23 anything for a number of years? And that's
24 because a lawyer came to me and said, Judge
25 Jefferson --

1 CHAIRMAN RANKIN: Yeah, yeah. We're going to object
2 to your giving testimony from someone else.
3 Obviously, you understand the hearsay rule.

4 MR. MCGUIRE: Well, I will say this. That it did
5 pique my interest enough to put my hands on the
6 transcripts of what that lawyer was referring to.

7 CHAIRMAN RANKIN: Have you submitted them here for us
8 today?

9 MR. MCGUIRE: Came too late.

10 CHAIRMAN RANKIN: All right, sir. And I'm
11 respectfully going to shut that down. If there's
12 anything else you'd like to say, I think we have
13 heard amply, unless there are any other
14 questions.

15 MR. MCGUIRE: No.

16 CHAIRMAN RANKIN: Thank you so much.

17 MR. MCGUIRE: Thank y'all.

18 CHAIRMAN RANKIN: Judge Jefferson, come on back up.
19 And as you know, you're still under oath. So,
20 Ms. Benson.

21 MS. BENSON: Judge Jefferson.

22 JUDGE JEFFERSON: Yes, ma'am.

23 MS. BENSON: You've provided the Commission with a
24 written response to the complaint, which the
25 Commission members have before them and have

1 reviewed prior to this hearing. Is it your
2 intent that it be published in the record?

3 JUDGE JEFFERSON: Yes, ma'am.

4 MS. BENSON: And I would ask that that be done at this
5 point. Judge Jefferson, is there anything else
6 that you would like to add or address at this
7 time?

8 (Exhibit Number 25 was marked for identification
9 purposes - (38 pages) Jefferson Response to McGuire
10 Complaint.)

11 JUDGE JEFFERSON: I would, and I'll try to be brief.
12 I know that there's a perception that we have all
13 these judges in Charleston, and there should be
14 no reason that things should be backed up, but
15 what people are not aware of is that court
16 administration embarked on what I could best term
17 an experiment last year with block scheduling,
18 where we went from three judges every week to one
19 judge every week, and sometimes only two judges
20 once a month, which as you can imagine with the
21 volume that we have in Charleston, that simply
22 did not -- like I said, I think it was an
23 experiment. They've determined it didn't work.
24 And I was really the only show in town as the one
25 judge doing trials almost every week. We had one

1 judge then that would be delegated to non jury.
2 And so, as you can well imagine, that term would
3 have been preoccupied with pleas. It was just
4 guilty pleas I'm referring to or other types of
5 motions, and it was just no way to keep up with
6 our volume. I have noticed with this -- with the
7 publication of our new schedule, that they have
8 gone back to our old scheduling, at least that is
9 my hope, and that's based on my cursory review of
10 it as I allocate terms, that is what it looks
11 like to me, where we will have, again, three
12 judges every week. So, that gives us more
13 flexibility to then allocate that between trials,
14 pleas, and different types of non jury, and not
15 just being confined to doing guilty pleas. The
16 other thing that I would like to point out is
17 that -- I would just point the new administrative
18 order from the Supreme Court to Mr. McGuire's
19 attention because the judges are not in complete
20 control of the docket anymore. Our function is
21 really quite limited to mainly doing second
22 appearances. We no longer do status conferences.
23 We no longer set trials. It has put us at a
24 great deficit in terms of assessing exactly what
25 the docket is comprised of. The other thing that

1 I would bring to your attention is that the bond
2 dockets are published well in advance. So Mr.
3 McGuire knew that he was on a bond docket, but
4 I'm going to circle back around on that as well.
5 I want to deal first with some of the things that
6 he's mentioned regarding the statute for the
7 appointment of capital defendants. The statute
8 is not permissive. It is mandatory, and there
9 are many legislative reasons for the way it is
10 written, one of which is that -- and if you look
11 at the notes in the statute or the rule it
12 basically says, we cannot allow to have the
13 manpower of already limited public defenders'
14 offices preoccupied and basically shut down
15 because more than one or two people from their
16 office has been appointed to attend to a capital
17 case. Now, having said that, it is not accurate
18 that the motions were not heard. Every motion in
19 that case was heard. A ruling was issued on
20 every single motion after more than adequate
21 argument. I allowed three people to participate
22 in that case. I did not limit it to two. What I
23 said to them was, the third person can
24 participate. You can assign a portion to the
25 case to him. I will allow him to argue anything

1 he would like. You all can do whatever you'd
2 like in terms of strategy, how you want to, you
3 know, assign responsibilities, but the statute
4 precludes me from appointing him, and I don't
5 have any authority in that regard. So to give
6 the impression that somehow he was restricted
7 from speaking, it just is not accurate. To say
8 that I somehow said that only 15 bonds could be
9 set up a session, that is not accurate. As we
10 say in the courthouse, that's how rumors get
11 started, when people say what the judge said,
12 when the judge didn't say it. I'm very direct.
13 If I have something to say, I reduce it to
14 writing, and I make sure that everyone knows what
15 a rule is because I have meetings quarterly with
16 everyone involved in the system, and I get their
17 input. I don't make decisions in a silo. So we
18 all sit down, and everybody knows what the rules
19 are. Dockets are set based on individual judges'
20 preferences. There are some judges that can hear
21 a ton of motions in a morning. They can whip
22 through them. There are other judges that can't,
23 and so what happens is when the docketing manager
24 is involved in that process, he inquires of each
25 judge and says, how many are you comfortable with

1 hearing? Some people, some of my colleagues, and
2 I agree with them, they don't want people to feel
3 like they're on a mill, you know, that they're
4 not being -- that the judge is not present in the
5 moment and hearing their matter. And so some
6 people hear less, some people hear more. It is
7 left to the individual prerogative of -- or the
8 preference, is a better word -- of each judge.
9 The other thing that I would bring to the
10 Commission's attention is that we had a system in
11 Charleston that really functioned very well until
12 recently. Our Chief Magistrate heard
13 reconsideration of bonds at preliminary hearings.
14 It went askew, and what happened was the Chief
15 Justice at the time, Justice Beatty, revoked that
16 order. It created an unanticipated scheduling
17 pickup for us because we were so used to them
18 moving so efficiently through that system. But
19 then what happened -- and I'm just going to skip
20 ahead just for time's sake -- and again, I don't
21 want to jump all over, but I'll come back to
22 that. I was Chief Administrative Judge from July
23 3rd of 2021 through December 31st of 2022, and
24 then I took over again in 2024. My predecessor
25 was Judge Price. In consultation with the

1 solicitor, the solicitor's office told him they
2 wanted control of the bond docket. He gave it to
3 them. They engaged in scheduling. They removed
4 the general sessions non jury docketing manager
5 in the clerk's office, and they removed the court
6 from that equation. In June of -- and I've
7 attached this to the materials for you -- I got
8 an email on June 14th of 2024 from the solicitor,
9 and I'm just going to paraphrase it. It
10 basically said, our goals are no longer
11 consistent with this. We don't want to do it
12 anymore. I need you to take it back over, which
13 was not a problem. I then started to study the
14 issue, and much to my dismay, I think is the best
15 word that I can articulate, my initial
16 investigation into the matter led me to believe
17 that we had about a backlog of about 230 motions.
18 After I did a deeper dive, there were over 800
19 motions. In other words, during the time that
20 the solicitor had the tenure over the docket,
21 they had set none. And I guess -- and a lot of
22 you know me well, some don't, but I'm the kind of
23 person, once I have a challenge, I don't dwell on
24 how it happened. I dwell on a solution, and I
25 felt like this is our challenge, we need a

1 solution. And what I did was after I studied the
2 matter, I got my docketing clerk involved, who is
3 incredibly efficient. I sat down with him and
4 the Clerk of Court, and I said, y'all, I hate to
5 sound like in common parlance, but I had a hair
6 on fire moment. I was like, we have got to deal
7 with this. This cannot linger. It has to be
8 addressed immediately. And so they got some
9 numbers together for me, and I then immediately
10 instituted a program, well, a strategy, to deal
11 with this backlog. And so immediately, I put in
12 place a system where bonds would be heard every
13 Tuesday of non-jury, all day. I then also
14 designated certain weeks where the entire week
15 was devoted to bond dockets, where the judge
16 would only hear bonds from Monday through Friday.
17 I also -- the jail deputy -- not deputy, the
18 sheriff, I apologize. I'm so used to her being
19 my deputy for so long. Sheriff Graziano, who is
20 incredibly accommodating, said, judge, we got
21 this big jail. We got an empty section over
22 here. I'm going to create you a courtroom
23 because it's easier for us for you to come to
24 this court -- come over here because we can just
25 bring them down. We can segregate them over

1 here. We can do double the amount of people
2 instead of having to travel because, you know,
3 you have all these federal guidelines about how
4 many people you can have in a van, and then
5 you've got juveniles going on at the same time,
6 and they have to transport all these people. So
7 it significantly limits -- even down in the
8 basement where people are segregated, there are
9 rules you have to follow. So you can't have so
10 many people of, you know, gender, age, so it
11 significantly limits when you have to bring
12 people 15 miles to the courthouse in Charleston
13 traffic, which if any of you have experienced it,
14 you understand what I mean. So I got excited. I
15 said, this is a wonderful solution. Let me know
16 when it is set up. We went over there, we did a
17 visit, we did a strategy. I literally had a
18 courtroom over there with state of the art
19 technology, a 90 inch monitor, wonderful audio,
20 everything that we needed, basically a simulation
21 of a courtroom where the lawyers could be with
22 their clients. You did not have to come to the
23 courthouse -- I mean to the jail if you did not
24 want to. I set up a system with the chief of the
25 jail where everybody was cleared. We had snacks,

1 free internet, and a workspace for them so that
2 they could be present with their clients if they
3 wanted to, and for the solicitors. If they did
4 not want to be there, we had the technology for
5 them to appear in our courtroom there. I think
6 it's 4B -- I always get the letters confused --
7 at the courthouse where you could see in HD
8 everything. It's not like it was a bad internet
9 connection, or you could not see clearly, or you
10 could not be heard, or you could not speak. And
11 so I did everything that I could to make it
12 amenable to those who wanted to move their cases.
13 It was a significant stressor to me because I
14 felt like, how could this have happened? Now
15 hindsight is always 20/20. I probably would have
16 seen this coming because their goals are not the
17 same as the court's goals. And when you're
18 competing for a non-jury docket and you've got
19 one judge, well, they're going to want to move
20 pleas. Their focus is not going to be on bonds.
21 So, again, and to cut to the chase -- I apologize
22 -- I immediately put a system in place. So to
23 say that we were waiting eight months for a bond
24 is not accurate. It's just that no bonds were
25 set. But as soon as I became aware of the

1 challenge, I put a strategy in place to
2 ameliorate the challenge. And we are now at a 30
3 to 60 day window in setting bonds. And what I
4 did and what I instructed the docketing clerk is
5 the only fair way to do this is based on age.
6 We've got to go from the oldest cases forward.
7 And that is what we did. And so as we come upon
8 our new semester in 2025, I have designated again
9 blocks of weeks where bonds will be heard. And
10 before the year is out, I am trying to schedule
11 at least four to five days where I can go to the
12 jail and hear bonds, and I think that will even
13 shorten the waiting period for those who have
14 filed bonds and are waiting to have their bonds
15 heard. So at first, I thought there were 235
16 cases. Again, like I said, when I did a deep
17 dive, it was 849. But it also can be misleading
18 because there are some that are revocations by
19 the state, there's another portion that are
20 people who have already had their bonds set by
21 the magistrate. They simply want them
22 reconsidered. We're very fortunate in
23 Charleston. We have a group of magistrates that
24 do a fantastic job setting bonds. We have a very
25 --

1 REPRESENTATIVE RUTHERFORD: Can I interrupt real
2 quick?

3 JUDGE JEFFERSON: Sure.

4 REPRESENTATIVE RUTHERFORD: I'll lose my train of
5 thought.

6 JUDGE JEFFERSON: No, no, go right ahead.

7 REPRESENTATIVE RUTHERFORD: But 17-15-55 says that if
8 a defendant or defense attorney requests that
9 their bond be reconsidered, it says, hearings on
10 these motions must be scheduled. At what point
11 does that get to be 60 days out?

12 JUDGE JEFFERSON: No, what I'm saying is that with the
13 strategy, I'm hoping that it's 15 actually.

14 REPRESENTATIVE RUTHERFORD: But my point is that you
15 can't have press conferences asking for more
16 help.

17 JUDGE JEFFERSON: I agree.

18 REPRESENTATIVE RUTHERFORD: The solicitor, who was
19 bashing us, has allowed people in Charleston to
20 be devoid of their constitutional rights and
21 their statutory rights. And if what you're
22 saying is that they'd rather do pleas, there's no
23 statute that I've been able to find that says
24 pleas must be scheduled. What is in the law,
25 17-15-55, in the law of South Carolina, these

1 hearings must be scheduled. And if they were not
2 being scheduled for at least the last year, maybe
3 longer than that, then somebody's violating the
4 law.

5 JUDGE JEFFERSON: And I agree with you completely.
6 You will not get an argument.

7 REPRESENTATIVE RUTHERFORD: It also says that when
8 someone is arrested on aailable offense, that
9 their bond must be set -- must -- this General
10 Assembly says must, which means the law says it
11 has to be set within 24 hours. The solicitor in
12 Richland, Kershaw, Fairfield, Lexington,
13 interrupts trials to make sure that they meet
14 with what the law says. And what I'm hearing is
15 that that is not being done in Charleston.

16 JUDGE JEFFERSON: Well, actually, if they're --
17 especially where you have situations where
18 people's bonds have been automatically revoked --
19 I will hear there's -- if I'm in trial, I will
20 hear those before the trial. You know, before we
21 get started, I'll come in a little earlier and do
22 that, or I will find another judge in the
23 building and say, can you accommodate this?

24 REPRESENTATIVE RUTHERFORD: Automatically revoked by
25 way of the new bond law?

1 JUDGE JEFFERSON: By the statute, by the new bond
2 statute, or people who are entitled to have bonds
3 automatically with the, within that statutory
4 framework, we're working those in. I don't want
5 there to be a misunderstanding that we're not.
6 But what I'm saying is that once I -- because,
7 see, no one was complaining to me. They were
8 complaining to the solicitor and I did not get--
9 nobody mentioned it in any of our meetings. So
10 when I got wind of it is when it had reached a
11 fever pitch, and I got this email saying, I want
12 you to take it back over. Then I get all these
13 email threads where people have been complaining
14 to that office. So then I reach out to the
15 lawyers and I'm like, listen, we're going to get
16 you in this week. We're going to take care of
17 this. I'm so sorry that this has taken place.
18 You should have made me aware of it. It would
19 have been remedied immediately.

20 REPRESENTATIVE RUTHERFORD: I'm just concerned because
21 there's the constitution.

22 JUDGE JEFFERSON: Absolutely. You and I are on the
23 same page.

24 REPRESENTATIVE RUTHERFORD: There is the law, and at
25 some point, these are not things that we get to

1 choose which one we're going to follow.

2 JUDGE JEFFERSON: Absolutely.

3 REPRESENTATIVE RUTHERFORD: And doing pleas because we
4 want to keep our numbers up does not trump the
5 constitution.

6 JUDGE JEFFERSON: I agree.

7 REPRESENTATIVE RUTHERFORD: And these are innocent
8 people.

9 JUDGE JEFFERSON: I agree.

10 REPRESENTATIVE RUTHERFORD: Not because I say so.

11 JUDGE JEFFERSON: No, they're presumed innocent.

12 REPRESENTATIVE RUTHERFORD: Because the constitution
13 says they are.

14 JUDGE JEFFERSON: I agree with you completely. You
15 will not get an argument from me.

16 REPRESENTATIVE RUTHERFORD: And I just don't know how
17 the house is on fire, and we're trying to figure
18 out who to blame.

19 JUDGE JEFFERSON: Well, actually, I think the house
20 was on fire. The house is no longer on fire
21 because to say it's an eight month wait is not
22 accurate. We are now up to a 30 to 60 day
23 window. In December, I have a week designated
24 for bonds. I'm going to go to the jail and do
25 bonds. In January, I have a term set. But I

1 think that we will be up to a 15 to 30 day window
2 by February based on the numbers that I got from
3 my docketing clerk on today. So there was a
4 challenge. I addressed it. You and I are on the
5 same page. I do not disagree with you. Like I
6 said, I didn't mean to be so common in parlance,
7 but I literally had a hair on fire moment. I
8 could not believe that this had been transpiring
9 and no one had brought it to my attention because
10 they know that I would have addressed it. And as
11 soon as I was aware of it, I addressed it. I
12 agree with you. People are presumed innocent.
13 They are entitled to a reasonable bond. In some
14 instances, they're entitled to a PR bond. But
15 again, I would reinforce that a lot of those
16 numbers are misleading because a great, I would
17 say, the majority of people have already had
18 their bonds set. A very small percentage are
19 those like murder cases, and a lot of those
20 people have waived their bonds and they've
21 waited, you know, some period of time where they
22 want it to be considered. In other words, they
23 want to build up some time. They also want the
24 emotions to sort of cool down.

25 REPRESENTATIVE RUTHERFORD: But one person sitting in

1 jail for eight months and not having an initial
2 bond setting --

3 JUDGE JEFFERSON: Well, I think it's unacceptable.

4 REPRESENTATIVE RUTHERFORD: -- the entire system should
5 shut down.

6 JUDGE JEFFERSON: Oh, no, no. He had his initial
7 bond. He had his initial bond setting.

8 REPRESENTATIVE RUTHERFORD: Not if he's charged with
9 murder, he didn't have an initial bond setting.

10 JUDGE JEFFERSON: Oh, I agree with that. Yeah, but
11 that's not --

12 REPRESENTATIVE RUTHERFORD: The entire system should
13 shut down to make sure that the constitution --

14 JUDGE JEFFERSON: I agree.

15 REPRESENTATIVE RUTHERFORD: -- and the statute is not
16 being violated.

17 JUDGE JEFFERSON: I agree, but, you know, it has to be
18 -- a lot of people have waived their right to
19 that bond, and they're not concerned about it
20 until months later. And when they bring it to
21 our attention, I make sure that it gets set. The
22 other -- and I apologize, but I just wanted to --

23 CHAIRMAN RANKIN: Well, let me just redirect and then
24 we're going to move on.

25 JUDGE JEFFERSON: Sure, sure.

1 CHAIRMAN RANKIN: And not to cut you off.

2 JUDGE JEFFERSON: No, not at all. Not at all.

3 CHAIRMAN RANKIN: We have your written response.

4 JUDGE JEFFERSON: Yes, sir.

5 CHAIRMAN RANKIN: We do want to hear from you what you
6 want to highlight from that, but again, not
7 practicing in the general sessions court --
8 again, we heard this complaint last year.

9 JUDGE JEFFERSON: Okay.

10 CHAIRMAN RANKIN: Not about you, but perhaps about you
11 in your screening, I believe, before. And we're
12 hearing it again today, not a complaint before,
13 but the blame game effectively, which we are kind
14 of back and forth as to who is responsible. And
15 I only want to call attention to your fourth
16 written response. In terms of Judge Price in
17 '23, as you write, at the solicitor's request,
18 they took over the scheduling of the bond docket.
19 And fast forward, that's August of '23, on June
20 the 14th of '24, you were advised by the
21 solicitor that they would no longer be scheduling
22 bonds and expected the court to resume scheduling
23 bonds.

24 JUDGE JEFFERSON: Yes, sir.

25 CHAIRMAN RANKIN: Speak to that ever so briefly, ever

1 so briefly. Who's responsible? And is it the
2 choice of you?

3 JUDGE JEFFERSON: My preference is that the court
4 be in charge, and I'll tell you why, because
5 she is correct. Our goal is different. Our
6 goal is to move cases. Our goal is to make
7 sure the statute is complied with.
8 Sometimes their goal is not the same. But
9 once another judge, a chief judge, allowed
10 that -- conceded to that demand, and they
11 had taken over it, and my clerk's office
12 took the position, they have taken it away
13 from us. My docketing clerk will no longer
14 be involved. And it was memorialized in
15 writing. And so once that happened, their
16 position was, we've been setting bonds, it's
17 been working, they no longer want us to do
18 it, we're out of the bond business. But
19 again, I reinforce, had I been made aware of
20 what was going on, I would have immediately
21 taken it back. But we have meetings, and it
22 was just amazing and astounding to me that
23 it had never been mentioned as an issue or a
24 challenge in any of those meetings because I
25 open up the meeting, I said, listen, what

1 can we do better, guys? Are there issues we
2 need to address or otherwise?

3 CHAIRMAN RANKIN: Meetings with who, the solicitor?

4 JUDGE JEFFERSON: I meet with the solicitor,
5 probation, the sheriff's office, the public
6 defender, the private Bar -- trying to think I'm
7 leaving somebody out -- the clerk staff.

8 CHAIRMAN RANKIN: Those meetings you have --

9 JUDGE JEFFERSON: I have them at the courthouse with
10 everybody, bring snacks.

11 CHAIRMAN RANKIN: Frequently, quarterly?

12 JUDGE JEFFERSON: At least every four months, three
13 months.

14 CHAIRMAN RANKIN: Well, and just, let's -- I don't
15 want to -- we've spent a lot of time on this, but
16 to the degree that -- almost the cool hand Luke
17 line, what we have here is a failure to
18 communicate.

19 JUDGE JEFFERSON: I agree.

20 CHAIRMAN RANKIN: I read exchanges back and forth from
21 the solicitor to you, your response to the
22 solicitor. It's almost like everybody's covering
23 themselves to create a record because apparently
24 there's some sense of not communicating.

25 JUDGE JEFFERSON: Well, I think her email acknowledges

1 she took control of the bond docket, and she
2 acknowledges that it -- I think that when people
3 look at dockets like that, they think it's
4 something easy to manage. It is a skill to
5 manage a docket like that, and our docketing
6 manager has that skill, and he was divested of
7 that responsibility. And it just -- I think it
8 just -- I don't think it was any ill motives. I
9 just think they took over something they thought
10 they could handle, and it became overwhelming to
11 them.

12 CHAIRMAN RANKIN: To the point, Judge -- and again,
13 we're going to move on.

14 JUDGE JEFFERSON: No, certainly.

15 CHAIRMAN RANKIN: And not to cut you off --

16 JUDGE JEFFERSON: No, not at all. I didn't interpret
17 it that way.

18 CHAIRMAN RANKIN: But my final point, you're having
19 these meetings. The general public or the
20 complainant in this instance is not complaining
21 necessarily about the backlog. That is just an
22 aside, but his complaint is as to your demanding
23 that he appear.

24 JUDGE JEFFERSON: We do need to address that. I
25 apologize.

1 CHAIRMAN RANKIN: And I'm not cutting it off, but to
2 the degree that we had gone into the -- as Ms.
3 Benson told Mr. McGuire, we're going to talk
4 about that later. We don't need to talk about
5 that later. If you are telling us today that the
6 meetings that you're having, the plan that you're
7 having, is winnowing down the backlog --

8 JUDGE JEFFERSON: Yes, sir.

9 CHAIRMAN RANKIN: -- that was caused not by you
10 necessarily, but by the old system under Judge
11 Price, that for the public's consumption is
12 getting worked out.

13 JUDGE JEFFERSON: It's addressed, and it's working,
14 and it's being reduced.

15 CHAIRMAN RANKIN: Okay. All right. Mr. Strom.

16 MR. STROM: Yes, Mr. Chairman. I want to focus on one
17 very specific area.

18 JUDGE JEFFERSON: Yes, sir.

19 MR. STROM: Someone is arrested on a charge that a
20 magistrate cannot set bond on.

21 JUDGE JEFFERSON: Yes, sir.

22 MR. STROM: Okay. Procedurally, how does he get on
23 the docket in general sessions?

24 JUDGE JEFFERSON: He calls the docketing manager.

25 MR. STROM: Okay.

1 JUDGE JEFFERSON: Well, let me -- let me -- I don't
2 mean to interrupt you, but we have a docket every
3 Tuesday. So, he will be placed on that Tuesday,
4 every Tuesday.

5 MR. STROM: Isn't he entitled to a bond within 24
6 hours?

7 JUDGE JEFFERSON: He can, but most lawyers cede to
8 doing it on the bond docket, but if they call me,
9 I'll set it.

10 MR. STROM: But shouldn't that be ministerial?

11 JUDGE JEFFERSON: Well, I think that what I'm going to
12 do, based on what you're saying and really my
13 study of this, and I neglected to mention that,
14 is that I'm going to do almost like a duty
15 docket, where we have time every morning, where
16 those types of matters are addressed, and they
17 automatically go on that docket, the same way you
18 would do in civil. And I apologize that I
19 neglected to mention that, but I do have a
20 strategy for that as well.

21 MR. STROM: But if you don't know whether a lawyer's
22 been assigned to this guy yet, and whether
23 they've seen him, and whether somebody might have
24 said they waived their bond, but until they come
25 to the courthouse with a lawyer, and either

1 waived their bond, you know, on the record or in
2 writing, they're entitled to a bond within 24
3 hours, and not to go on the back of the list.

4 JUDGE JEFFERSON: Well, no, they don't go to the back
5 of the list. And what I wanted to explain to you
6 as well is, Charleston has a lawyer that handles
7 bond hearings. And most of the instances you're
8 referring to, they're waiving that hearing, and
9 she then tells us when they need a hearing
10 because she represents them, and then she files -
11 - she represents all of them, pretty much, until
12 they hire someone.

13 MR. STROM: There's an opportunity for people to fall
14 through the cracks.

15 JUDGE JEFFERSON: I agree. But we -- like I said,
16 we're going to set up a duty judge -- well, we
17 have a duty judge system, but I'm going to
18 designate time on the docket every morning, or,
19 you know, every three -- like Monday, Wednesday,
20 Friday, where there's a 30 minute time slot where
21 those can automatically be scheduled, so that
22 they don't fall through the cracks because I
23 share your same concern. I'm really being very
24 calm about my reaction.

25 MR. STROM: Yeah, I'll just tell you, I'm not

1 satisfied. This is bad.

2 JUDGE JEFFERSON: I agree.

3 MR. STROM: Thank you.

4 JUDGE JEFFERSON: But they're not -- like I said,
5 we're up to now a 30 day, 60 day window, and I'm
6 thinking by the end -- well, based on the numbers
7 that my docketing clerk has given me, by the end
8 of December we'll be up to a 30 day window, and
9 I'm hoping by January, we'll be at a 15 day
10 window, and that it will continue -- I don't want
11 to say in perpetuity, it sounds like an estate
12 term -- so that it never gets behind again. And
13 in Berkeley, I instituted a system they are not
14 behind because they have adhered to that system.
15 We hear bonds every Monday. And so, their docket
16 has never fallen behind. Thank you, I appreciate
17 your input.

18 MS. BENSON: Mr. Chairman.

19 JUDGE JEFFERSON: I'm sorry.

20 CHAIRMAN RANKIN: Senator Garrett.

21 JUDGE JEFFERSON: Yes, sir.

22 SENATOR GARRETT: Thank you.

23 JUDGE JEFFERSON: You're welcome.

24 SENATOR GARRETT: You recognize that you're the
25 captain of the ship?

1 JUDGE JEFFERSON: Yes, sir, absolutely. At the end of
2 the day, I'm responsible.

3 SENATOR GARRETT: So, it stops on your desk, right?

4 JUDGE JEFFERSON: The buck stops with me.

5 SENATOR GARRETT: Okay. So, let's make that clear,
6 that it's not the docketing clerk's
7 responsibility or Aunt Bessie Earl's
8 responsibility or somebody else's responsibility.
9 It's your responsibility.

10 JUDGE JEFFERSON: I agree, completely.

11 SENATOR GARRETT: And these are constitutional
12 violations.

13 JUDGE JEFFERSON: Yes, sir.

14 SENATOR GARRETT: These are the ones that get us in
15 trouble in Federal Courts.

16 JUDGE JEFFERSON: Absolutely.

17 SENATOR GARRETT: And frankly, if I had a client that
18 was in that position, I would have filed a
19 federal habeas corpus, is what I would have done.
20 I mean, that's where I'm at because we do have
21 innocent clients.

22 JUDGE JEFFERSON: Absolutely.

23 SENATOR GARRETT: And they're presumed innocent.

24 JUDGE JEFFERSON: Yes, sir.

25 SENATOR GARRETT: I want to go to the question of the

1 allegations that were made against you.

2 JUDGE JEFFERSON: Yes, sir.

3 SENATOR GARRETT: And look, I'm not suggesting for a
4 second that you have it easy. And if you had
5 800, I would panic.

6 JUDGE JEFFERSON: I was. I'm telling you, I was.

7 SENATOR GARRETT: I would have a heart attack.

8 JUDGE JEFFERSON: I almost did.

9 SENATOR GARRETT: I would have called the chief
10 justice and told him to get me 15 judges down
11 here, and we need to get this settled right now,
12 and start lining them up, and let's start getting
13 these hearings done. That's what I would have
14 done.

15 JUDGE JEFFERSON: I did address it the very next week.
16 Yes, sir.

17 SENATOR GARRETT: I understand, but the very next week
18 is not the statute. The statute says
19 immediately.

20 JUDGE JEFFERSON: Yes, sir.

21 SENATOR GARRETT: So, but anyway -- but -- and you
22 know, death penalty cases are different.

23 JUDGE JEFFERSON: Yes, sir.

24 SENATOR GARRETT: And murder cases are different.

25 JUDGE JEFFERSON: Yes, sir.

1 SENATOR GARRETT: And if you've got a lawyer who is in
2 a murder case, and you need to have a bond
3 hearing with that lawyer, I would assume that
4 that lawyer could waive the bond hearing because
5 he can't be there. But to try to force him --
6 he's going to make us have a heart attack.

7 JUDGE JEFFERSON: Well, I think it's misleading the
8 way it's been presented.

9 SENATOR GARRETT: Okay, help me understand because --

10 JUDGE JEFFERSON: We had -- we -- like I said, I had
11 a hair on fire moment, and I told my docketing
12 manager -- I said, set as many bonds as you can,
13 set everything from the oldest date forward,
14 let's get these bonds moving. And there were
15 several people -- Mr. McGuire was not the only
16 person that had a bond on this docket. He may
17 have emailed with the solicitor, but I was never
18 privy to any emails requesting a continuance, but
19 here's what I told him. He was not summoned out
20 of his murder trial. They were on a lengthy
21 break, and what I did for several attorneys, I
22 gave them the option if they wanted to, and they
23 wanted me to intervene with the judge they were
24 dealing with, to give them time, a break, so to
25 speak, to argue their motion if they wanted to or

1 to file a motion for -- I mean, to make a motion
2 for continuance. I would never have denied his
3 motion for continuance, and I didn't.

4 SENATOR GARRETT: These -- these --

5 JUDGE JEFFERSON: But he wasn't summoned out of his
6 trial. Judge McMaster was on an extended break,
7 and he said, sure, he can go next door if he
8 wants to make his motion. And I had a lawyer in
9 a trial with Judge Newman who thanked me. He
10 said, I appreciate the flexibility, the
11 creativity, and he argued his motion, yeah.

12 SENATOR GARRETT: I understand, again. But death
13 penalty or murder cases are a little different
14 than, say, another case, and to be able to take
15 one's mind --

16 JUDGE JEFFERSON: Yes, sir, I agree.

17 SENATOR GARRETT: -- and literally in a murder of
18 defense --

19 JUDGE JEFFERSON: Yes, sir.

20 SENATOR GARRETT: -- and then all of a sudden have to
21 stop and switch gears and go over here and talk
22 to somebody you may not have even spent a whole
23 lot of time with to make a bond issue, you know,
24 that's --

25 JUDGE JEFFERSON: Well, I'll tell you my reasoning.

1 His client had been sitting. The bond was old.
2 And if he wanted to make -- I felt like it was
3 his protection, his client's protection, to have
4 a two minute record that -- really more so for
5 his protection -- a two minute record that he --
6 you know, could not have his motion heard. It
7 had been scheduled. It didn't just fall through
8 the cracks. And he asked for a continuance, and
9 I granted it. And I would never have denied him
10 his continuance. At the same time, I could not
11 have a solicitor delaying someone's hearing
12 because of the demand. You know, the statute
13 requires notice and the ability to be heard.

14 SENATOR GARRETT: That's right.

15 JUDGE JEFFERSON: And I had provided that opportunity.
16 So on the same side of that equation when
17 weighing it, I was not going to allow a victim to
18 basically demand that his client's case not go
19 forward if that's what he wanted to do.

20 SENATOR GARRETT: Right. And listen, your
21 responsibilities there are tremendous because
22 you're taking care of the state, you've got to be
23 fair to the defense and the victim. So in our
24 statutes, in our constitution, we protect the
25 victim. So I understand that, but pulling

1 somebody -- or even if they're on an extended
2 break -- again, I hope you -- and I'm assuming
3 you practiced law before you become a judge.

4 JUDGE JEFFERSON: Absolutely, absolutely, yes, sir.

5 SENATOR GARRETT: You know, our lives -- you know,
6 there's more alcoholism among lawyers --

7 JUDGE JEFFERSON: I understand, quality of life, yes,
8 sir.

9 SENATOR GARRETT: -- just because of those kinds of
10 things.

11 JUDGE JEFFERSON: Yes, sir.

12 SENATOR GARRETT: So I just caution you on that to
13 make sure that you think about the lawyers down
14 below. And ultimately -- and here's the other
15 thing I want to ask you about. If I'm in a death
16 penalty case and I've got a motion to make, and
17 I'm being told by my senior partner that I can't
18 make that motion because there's been some kind
19 of communication between the judge, and whether
20 court administration, a senior judge, an
21 appellate judge, that would frighten me to death.
22 Is that true? Did that happen?

23 JUDGE JEFFERSON: No, sir. And what happened -- and I
24 would point your attention to disciplinary
25 counsel fully explored this --

1 SENATOR GARRETT: Okay.

2 JUDGE JEFFERSON: -- investigated it, talked to many
3 witnesses, did not take my word for it, and they
4 dismissed the complaint summarily as having no
5 merit. And it was addressed to Mr. McGuire. So
6 for him to say that he did not receive it --

7 SENATOR GARRETT: I'm with you. But I'm asking the
8 question, though.

9 JUDGE JEFFERSON: Yes, sir.

10 SENATOR GARRETT: Is it true that on that day you said
11 to him, I thought that motion had been resolved?

12 JUDGE JEFFERSON: I did because he told my
13 secretary when they were exchanging some
14 papers --

15 SENATOR GARRETT: Yes, ma'am.

16 JUDGE JEFFERSON: She said, are these all the motions?
17 And it did not include that motion, and he told
18 her he was withdrawing it. So there's an
19 affidavit that was submitted to disciplinary
20 counsel on that point. So it wasn't that I --

21 SENATOR GARRETT: So it didn't happen that way?

22 JUDGE JEFFERSON: No, sir, it did not. It's really
23 misleading for it to have been. And on December
24 23rd of 2009, which is exhibit one, the
25 investigative panel found that there was no merit

1 to his allegations after a full investigation.

2 SENATOR GARRETT: Again --

3 JUDGE JEFFERSON: Yes, sir.

4 SENATOR GARRETT: -- my concern is is you got this
5 person who's talking death penalty now --

6 JUDGE JEFFERSON: Yes, sir.

7 SENATOR GARRETT: I've asked several judges about, you
8 know, or lawyers --

9 JUDGE JEFFERSON: Death is different.

10 SENATOR GARRETT: It's different, okay. And whether
11 they need two or three or whatever they need, you
12 know, we need to -- with these PCRs that we see
13 these days --

14 JUDGE JEFFERSON: I gave them as many as they wanted.

15 SENATOR GARRETT: And that's fine, you've covered
16 that. But these ex parte communications where
17 there is a discussion with -- and that's it. He
18 didn't even say the solicitor was involved, which
19 is more of an internal alleged discussion between
20 you and higher ups about whatever the motion was,
21 whether it was embarrassing or not. Again, we're
22 talking the death penalty element. Out of an
23 abundance of caution, we should always bend over
24 backwards to make a record of any claim that's
25 made. And at that hearing, instead of having a

1 disciplinary hearing -- I mean, if a lawyer asks
2 for a recusal, and he gives his reasons and
3 explains whatever it is -- and it sounds like you
4 recused yourself at some point from that case --

5 JUDGE JEFFERSON: Well, we had all the motions heard,
6 including the motion he's referring to, and so to
7 represent that we didn't, that some things were
8 not heard is not accurate. Everything was heard.
9 A record was made and written orders were issued
10 on every motion.

11 SENATOR GARRETT: And it sounds like you've done
12 everything. The disciplinary counsel has looked
13 at it, everything's done, and that case is
14 resolved in whatever way or fashion, it is over.
15 But from our perspective it's to make sure that
16 the temperament, the demeanor --

17 JUDGE JEFFERSON: Absolutely.

18 SENATOR GARRETT: -- and that the constitution is
19 followed --

20 JUDGE JEFFERSON: Yes, sir.

21 SENATOR GARRETT: -- in all of these cases.

22 JUDGE JEFFERSON: Yes, sir.

23 SENATOR GARRETT: But I'm glad to hear your defense of
24 these things because it actually -- those
25 statements frighten me.

1 JUDGE JEFFERSON: They would frighten me, too. And
2 again, you and we're not acquainted with one
3 another. I believe you're from Greenwood, one of
4 my favorite places in the state.

5 SENATOR GARRETT: Come and see us.

6 JUDGE JEFFERSON: Listen, I used to -- Tavern on the
7 Green. But I -- for those who have had lots of
8 experience with me, I'm a stickler for the rules.
9 When I was on Family Court, I had an ex-parte
10 notice on my door because I feel very strongly
11 about ex-parte communication. I have been on the
12 end of ex-parte communication when I was
13 practicing. I will not tell you the story that
14 highlighted that for me in the interest of time.
15 My secretary when I was in the Family Court was
16 my law clerk. I had a lawyer say one time what's
17 Shandra to know about those rules. I said she
18 knows those rules as good as you. That's why
19 that rule book is on her desk because she's my
20 law clerk. And we are just very peculiar about
21 that. I would never want anyone -- and the
22 reason I recused myself -- well, I removed myself
23 from the case with Mr. McGuire is I never wanted
24 his client to perceive that he was not receiving
25 a fair trial. And whether I believed it was

1 true, whether I believed I could be fair and
2 impartial really was not dispositive for me. I
3 would never want anyone to leave a proceeding
4 believing in something. I have been to death
5 penalty -- I have participated in death penalty.
6 Have had them assigned to me. Have gone to
7 national judicial college, and, you know, the
8 mantra is accurate. Death is different. And I
9 would never want anyone to perceive, true or
10 imagined, that they were not being treated
11 fairly. So I removed myself from the equation
12 even though there really was no basis for me to,
13 but I felt like it was no harm, no foul. I
14 wanted his client to perceive he was receiving a
15 fair trial, so I removed myself from that.

16 SENATOR GARRETT: Thank you.

17 CHAIRMAN RANKIN: All right. Senator Saab.

18 SENATOR SABB: Thank you, Mr. Chairman. And real
19 quick, and I am familiar with you and have been
20 very proud of how you've conducted yourself as a
21 jurist. And as I listen to some of our exchange,
22 you know, the thought just occurred to me. And
23 so I just want to ask you the question. When the
24 motion was scheduled to come before you, did it
25 occur to you at all that the lawyer appearing

1 before you wanted you recused from hearing any
2 matter that he brought before you because of
3 something that had occurred 15 years earlier?
4 Did that thought occur to you at all?

5 JUDGE JEFFERSON: No, sir. And I will tell you, it
6 didn't even -- I apologize. I don't mean to
7 belittle it because I'm not -- but I was stunned.
8 He came -- he blurt -- you'd have to really see
9 the video. He just sort of came barreling in and
10 started, you know. I had to really, like, listen
11 to discern what he was saying, and then he
12 started talking about -- and I said, listen, Mr.
13 McGuire, if -- y'all could have sent me a consent
14 order, it would -- but what happened, you know,
15 like Senator Rankin said, a failure to
16 communicate. He was communicating with the
17 solicitor instead of really communicating with
18 me.

19 SENATOR SABB: And it's almost as if his thought
20 process was one place and yours was another.

21 JUDGE JEFFERSON: And I'm going to tell you, mine was
22 like your client has been sitting. If you want
23 to argue this motion, I'm going to accommodate
24 you. If you don't want to hear it, I'm going to
25 accommodate you, whatever your preference is.

1 You need some cover, you need a record, you need
2 a continuance on the record so that your client
3 knows his matter is not being neglected. And I
4 will share with you, sometimes people think that
5 judges hold grudges and they harbor resentment
6 because we don't. I had a gentleman testify
7 against me before. Well, testify about my
8 qualifications, and he had a significant loss in
9 his family. And I sent him a note because I knew
10 that person was the glue to his life, and he
11 wrote me a letter, and he said of all the people,
12 I never would have thought -- it almost brought
13 me to tears when I read his note. He said of all
14 the people that I thought would stand by me, that
15 you and your secretary would think about me and
16 my loss. And even like maybe a month after -- I
17 don't hold things like that. It just would take
18 up too much brain matter. I don't -- I feel like
19 people have perceptions. They go with them. I
20 just don't hold it against them. You know, if
21 that's a closely held feeling they have, it is
22 what it is. But I -- he's quoted in the
23 newspaper -- after he testified against me he had
24 a trial with me, like maybe a month later, and he
25 told the paper, he said, that was one of the most

1 fair trials I've ever had. I would have thought,
2 you know, that she would have been mad and -- but
3 it was really -- I can -- I have no complaints
4 about how the trial was conducted. And so that's
5 really how I try to live my life. You know, I
6 feel like I treat people the way I would want
7 them to treat me, and I just don't hold grudges.
8 As a matter of fact, I say, thank you. I say,
9 I'm sorry all the time because it releases me,
10 you know, if -- you know, and because I just
11 can't -- I can't like carry it around with me,
12 and I'm so very sorry that Mr. McGuire has that
13 perception. I would bend over backwards to make
14 sure that he or his clients are treated fairly,
15 and I'm sorry for any miscommunication. It was
16 not my intention. Sometimes I get like in a -- I
17 get like tunnel vision when it comes to working
18 on an issue or a challenge, and I just get like
19 full steam ahead. And if that was how I thought
20 about it, I apologize to him. It was never my
21 intention to -- I've been in trial. I have not
22 forgotten what it's like to practice. And I had
23 spoken to Judge McMaster and he was like, gosh, I
24 would think he wants to put that on the record.
25 We got a protracted, you know, break. I'll send

1 JUDGE JEFFERSON - EXAMINATION BY MS. BENSON:

2 Q. Judge Jefferson.

3 A. Yes, ma'am.

4 Q. After having served as a Family Court judge for
5 five years and a Circuit Court judge for 23
6 years, why do you want to continue serving as a
7 Circuit Court judge?

8 A. I am very fortunate in my life to have found what
9 I believe to be my vocation, and being a judge is
10 the intersection of many things I enjoy. One,
11 the intellectual challenge, and I think probably
12 the thing that I enjoy most is dealing with the
13 public. Our system is only as strong as the
14 public's confidence in it, and so I have the
15 ability to interact with jurors every week and
16 re-instill their faith in the system because they
17 are participating in it, and so that part of it.
18 And I also enjoy the intellectual challenge of
19 dealing with lawyers. As I told Senator Garrett,
20 I'm a lawyer's lawyer. I have never forgotten
21 what it's like to practice law, and so I see it
22 as a daily challenge to learn and to grow. And
23 then at this point now, at 28 years, I believe I
24 have -- I would like humbly to believe I have
25 some wisdom to lend back to the system based on

1 what I've experienced through my service.

2 **Q. Thank you, Judge. What do you think your**
3 **reputation is among attorneys and among court**
4 **personnel that practice before you?**

5 **A. Fair, congenial. I laugh a lot. My bailiffs**
6 **will tell you they call me hummingbird because I**
7 **hum all the time.**

8 **Q. Very good, Judge. You've received 720 ballot box**
9 **surveys regarding you. Eighty-six had additional**
10 **comments. Many of those comments were very**
11 **complimentary. Brilliant jurist, a pleasure to**
12 **work with, highly qualified, kind, and**
13 **respectful. Judge, 37 of the comments expressed**
14 **concerns. The first of the concerns was that you**
15 **have poor judicial temperament in your dealings**
16 **with attorneys and litigants. What response**
17 **would you make?**

18 **A. I would simply say that I live by a simple rule,**
19 **the golden rule. I treat others as I would want**
20 **to be treated, and I treat those before me with**
21 **courtesy, impartiality, and respect. When I**
22 **preside, I'm firm but never offensive, which I**
23 **acknowledge is capable of being misinterpreted by**
24 **some who are not accustomed to abiding by the**
25 **rules of court. The public expects and deserves**

1 that the decorum of the proceedings be preserved.
2 Simply put, there are behaviors that I often
3 ignore that Judge Jefferson cannot. To confirm
4 my positive demeanor in court, I'm often
5 complimented by the appellate courts that they
6 enjoy reading my transcripts because they can
7 easily discern that I'm pleasant and courteous in
8 the way that I conduct myself and the collegial
9 atmosphere that is established is evident.

10 However, I do recognize that perception is often
11 reality for many, and I will take those comments
12 as information for improvement. I would never
13 want anyone to leave a proceeding over which I've
14 presided feeling they have been treated with
15 anything other than courtesy and respect. I just
16 treat every day as a teachable moment, and those
17 comments, I will take them to heart and make any
18 modifications that are necessary.

19 **Q. Thank you.**

20 A. You're welcome.

21 **Q. Thank you, Judge. The second concern indicated**
22 **that you exhibited poor time management, often**
23 **starting court late. What response would you**
24 **have to that?**

25 A. I would say that I often over-schedule myself,

1 and I recognize that, and I fall on my sword for
2 it. I have taken measures to correct that. I
3 often have more matters scheduled than are
4 possible, but I do start court on time, and I
5 will say this. We live in Charleston where
6 traffic is insurmountable. I'm struggling right
7 now with dealing with some chronically late
8 lawyers and trying to figure out how I'm going to
9 deal with that, but I document everything for the
10 record. So if we don't start on time, I go on
11 the record and document why. Sometimes lawyers
12 are frustrated because they feel I should deal
13 more harshly, but I'll just give you an example.
14 One time I had a juror that was 30 minutes late.
15 I was sitting out, you know, on the steps
16 waiting, and she came in puffing hard, and I
17 said, Ma'am, take a deep breath, it's okay. She
18 said, my child's been in the emergency room all
19 night, and I came here. I just think life
20 happens, and you have to take it, you know,
21 circumstance by circumstance, and I don't think,
22 you know, it always needs to be such an
23 overreaction. So I hope I answered your
24 questions.

25 **Q. Yes. The third concern, question your knowledge**

1 **of the law. What response would you give to**
2 **that?**

3 A. I would say that I am a student of the law. I
4 think it is a daily process. They call it -- my
5 mentor would always say they call it the practice
6 of law, dear, because it's never quite perfected.
7 And so I approach it in that way. I study and I
8 stay abreast of the developments and trends. I
9 don't delegate my work to others. I write all of
10 my own orders as well as my jury charges. I find
11 that process helpful in assessing a case. And
12 just in the interest of time, I would just
13 highlight some evidence in support of my pursuit
14 of my development in the law. I was appointed to
15 the Circuit Judges Advisory Committee in 2014. I
16 became an instructor of new judges at that time.
17 I was then appointed as the chair of that
18 committee in 2019, which in that role I serve as
19 the moderator for new judges orientation. And
20 the Chief Justice has entrusted me with
21 shepherding the education and mentoring of all
22 new judges for the state. And in that role, I
23 curate the curriculum as well as the speakers.
24 And just again to -- also I've been assigned
25 exclusive jurisdiction over 18 cases by the

1 Supreme Court, both civil and criminal. And I've
2 taught in excess of 68 CLEs and JCLEs throughout
3 my career. I routinely exceed the number of
4 hours required for JCLEs, and I've acted as a
5 class leader at the National Judicial College,
6 and I've been invited back for other roles, but I
7 have deferred to my court schedule instead of
8 taking advantage of those opportunities.

9 **Q. Thank you, Judge. Thank you. The fourth concern**
10 **alleged that you will not hold hearings on**
11 **motions. What is your response?**

12 A. That complaint I heard when I came before you in
13 May, and I remedied it. I fixed it. I totally
14 changed the way I do it. There are some that are
15 not happy about it, but I heard you and I made a
16 change, so I have hearings on everything. And I
17 just had non-jury -- Lord, all my days are
18 running together. No, two weeks ago, and I had
19 hearings on everything.

20 **Q. Thank you.**

21 A. I had Common Pleas non-jury.

22 **Q. Judge, as the Chairman mentioned, a lot has**
23 **already gone into this, but a newspaper search**
24 **did uncover an article from October of 2024 that**
25 **your administrative assistant made a comment**

1 before a jury panel that at least 60 potential
2 jurors overheard, disqualifying them and
3 derailing the docket. Could you briefly respond
4 to that particular instance?

5 A. I will. It's misleading. The article was
6 inaccurate. What happened was my deputy -- if
7 you can imagine, my secretary is standing where I
8 am. The deputy was standing right here. He
9 turned to her and said, transport is late this
10 morning. She spoke -- and you all would have to
11 know my secretary -- she speaks very low. I
12 mean, you have to really strain to hear her. She
13 said to one of the deputy solicitors, are the
14 first two cases transport or walk in? That's all
15 she said. No one else in that room heard that
16 comment. The assistant solicitor repeated it to
17 others. I went back and watched the video. The
18 person that's quoted in the article -- and our
19 assembly room is probably twice this depth and
20 probably a little bit wider than this room. The
21 individual who said he heard the comment would
22 probably be beyond where that security officer
23 is. I viewed the tape. His head was buried in a
24 computer. He did not even look up when my
25 secretary spoke. The other individuals that said

1 they heard the comment were engrossed in
2 conversations, and it was also misleading. We
3 had approximately -- I'm trying to remember -- we
4 had about 90 jurors. And if anybody has ever
5 been in jury qualification, when you say it's
6 time for a break, there's a mass exodus, and
7 that's exactly what happened. There was a mass
8 exodus. There were 18 people left in the jury
9 room, only three were in proximity of my
10 secretary that could have remotely heard what she
11 said, but even more importantly, that's like a
12 term of art for us. The average person would not
13 know what we meant by walk in or transport. And
14 so I could have remedied it by asking those three
15 people, but I felt like it would be reinforcing
16 something in their mind that they knew nothing
17 of. But what I did, again, just in the interest
18 of justice -- it was clear to me -- and the
19 person who made the motion was in the bathroom.
20 At least she was honest with me. She said, I
21 didn't hear it. I was in the bathroom. Somebody
22 repeated it to me. I think there were some other
23 motives at work that I won't go into, but I
24 placed those on the record. And for the record,
25 I documented because we can't release the video

1 because of the rules, but I documented where
2 every juror was sitting and what they were doing.
3 And of the 18, like I said, there were only
4 three. One of them had a book this big. We
5 really wanted to ask him, what is it you were
6 reading that you were engrossed in? But
7 nonetheless, it is improbable, really, that
8 anyone heard what was said, but in the interest
9 of justice, I continued the first case because it
10 was clear to me that the young man had been --
11 his mind had been filled with the impression he
12 was not going to have a fair trial, and I felt it
13 fell into the category of no harm, no foul
14 because I would never want to run the risk of
15 something as significant as a murder trial,
16 someone thinking they were not treated fairly.
17 So I continued his case, and with our dockets,
18 they roll over. So he would have rolled over to
19 the next week for his trial. I then proceeded to
20 try other cases, which really belied the whole
21 assertion that somehow the jury panel was sullied
22 because the gentleman was found not guilty and
23 was acquitted. So -- and then I heard some other
24 -- some very protracted pleas that we needed to
25 hear that came from other dockets. It took me

1 like a day to hear those, but we made full use of
2 the court week, and no time was lost. So the
3 article is fairly -- I don't want to say -- he
4 only reports what he's told, so let's just say
5 fairly misleading.

6 **Q. Thank you, Judge.**

7 A. You're welcome.

8 MS. BENSON: I would note that the Low Country
9 Citizens Committee found Judge Jefferson
10 qualified in the evaluative criteria of
11 constitutional qualifications, physical health,
12 and mental stability and well qualified in the
13 remaining evaluative criteria of ethical fitness,
14 professional and academic ability, character,
15 reputation, experience, and judicial temperament.
16 The Committee stated in summary: she is highly
17 qualified, very experienced and a great judge.

18 **Q. Judge, just a few housekeeping issues.**

19 A. Yes, ma'am.

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

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

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

1 **General Assembly regarding your screening?**

2 A. No, ma'am, I have not. I mean, I am familiar and
3 I have not violated that provision.

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

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

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

13 A. No, ma'am, I have not. And I'm not aware of
14 anyone doing that, yes.

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

19 A. Yes, ma'am.

20 MS. BENSON: Mr. Chairman, I would note for the record
21 that any concerns raised during the investigation
22 regarding the candidate were incorporated into
23 the questioning of the candidate today, and I
24 have no further questions.

25 CHAIRMAN RANKIN: Any questions?

1 JUDGE JEFFERSON - EXAMINATION BY CHAIRMAN RANKIN:

2 Q. Judge, I want -- we've spent a -- a little bit of
3 time -- started at what time?

4 A. We were early. You noted it.

5 Q. I feel like -- we were at 3:58. I believe it was
6 3:58 we went on the record.

7 A. Yes, sir.

8 Q. So it is now 5:33.

9 A. Yes, sir.

10 Q. So you've been standing for quite a while. I
11 don't know that we're going to be much longer.

12 A. Take your time.

13 Q. And I'll ask you if you need a quick break.

14 A. I'm fine. I sit all day. I could stand a little
15 bit. I'll be okay.

16 Q. You have a wide array of endorsers, wonderful
17 people that we know that I've served with, Glenn
18 McConnell. We've done this a few times where
19 we've talked about Judge Fields, again, an icon
20 of a judge, brightest smile, brightest
21 disposition, and I think you have held him up as
22 your North Star --

23 A. Yes.

24 Q. -- is how you would want to be regarded. I say
25 that in the vein of a metric that we have to look

1 at --

2 A. Yes, sir.

3 Q. -- that is uncomfortable for me to ask.

4 A. Yes, sir.

5 Q. And I've looked back at the prior, the last
6 screening, at least the transcript, when you were
7 running for a different position, the Supreme
8 Court, I believe.

9 A. Yes, sir. I think it was in May or June.

10 Q. So I don't know that I focused because that was
11 kind of an abbreviated second screening, but with
12 the lens of Judge Fields as your North Star, how
13 do we process your well-qualified ballot box
14 surveys at below 50 percent, 49.7 percent, which,
15 again, the percentages don't matter necessarily.
16 But those who've taken the time to weigh in, that
17 is perhaps excusable. Perhaps with 700 and --
18 what did we say, 763 participants? What was the
19 number, Paula? Anyway, a lot of people have
20 weighed in with great --

21 MS. BENSON: 720.

22 Q. 720. So a lot of people know you and a lot of
23 people have written great things about you, but
24 how should we process that perhaps less than
25 Judge Fields like regard of you, of these people

1 who have participated at just below 50 percent?
2 And I'm saying well-qualified. If you add
3 qualified and well-qualified, you are 60 -- you
4 know, near high 60s percent. So I don't want to
5 make that the only theme. And so help me, help
6 perhaps only me, with that. How do I process
7 that?

8 A. I've thought about that question since we talked
9 the last time. And I think that -- and I look at
10 when I first started on the bench in 1996 when it
11 was like five. And then, you know, the longer
12 you're on the bench, and I've talked about this
13 with my other colleagues, I think the numbers
14 tend to grow. And I've reflected on it, and in
15 my experience I've heard some of the most
16 difficult, some of the most intellectually
17 challenging, and some of the most emotionally
18 charged cases probably in this state over my
19 experience. And I think that sometimes -- not
20 sometimes -- people are disappointed with
21 results, and I think sometimes that the ballot
22 box is their way of evincing that, of expressing
23 that when they don't feel they have any other
24 recourse, so to speak, especially if, you know,
25 they've appealed it and it's come back affirmed

1 or it's just been a disappointing result. And I
2 think that's the way that dissatisfaction
3 sometimes manifests itself, and that's how I've
4 weighed it. But at the same time, as I've said
5 and I will reinforce, I think every day is a
6 teachable moment, and I'm taking all of it as
7 instructive. And I'm going -- you know, the
8 first person I examine is myself, and I will make
9 any corrections, course corrections that I need
10 to, because perception is reality, but it is a
11 strong thing and it is important, and to the
12 extent that I can correct that perception, I
13 will. That's within my control because some
14 people you're just never going to please. It
15 doesn't matter how kind you are, no matter how
16 nicely you say a thing, you know, they're going
17 to perceive it differently.

18 **Q. There are other judges making the same hard**
19 **decisions affecting the same folks with winners**
20 **and losers that leave their courtroom. Maybe**
21 **they're different. I don't know. And I know you**
22 **from the long ago days from you as a Family Court**
23 **judge, and so I know your I believe I know your**
24 **heart. I believe I know your morals, I believe**
25 **your adherence to doing the right thing. Course**

1 correction for me is every four years in an
2 election. If I've been rude to people, if I've
3 been a poor public servant, they hold me
4 accountable, and I'm out.

5 A. Absolutely.

6 Q. And again, you're not challenged in this race,
7 which is to your credit and to your bar's credit
8 in terms of those who have touched your candidacy
9 this time. But I've had this very exchange with
10 folks who have been on the bench, and I just want
11 you to help me show and tell and feel comfortable
12 that this course is not set, and it's not a trend
13 line. Just for the record, tell us or tell me to
14 my satisfaction, again, one vote here, but that,
15 again, practical things, perhaps, that you see
16 and you take away from this because I know you
17 and Ms. Benson have talked. You know, generally,
18 how folks regard you.

19 A. Yes, sir.

20 Q. We know from May attention with the solicitor's
21 office.

22 A. Which I think has resolved itself.

23 Q. And we know that folks can take it out on you
24 that want to do you harm with no skin in the
25 game, except the effort to participate, which is

1 not minor or a meager effort. You've got to do a
2 little bit to get in the game to write things
3 about people. You've got, again, more positive
4 than negative. So I'm doing more talking than
5 asking, but do you understand my concern?

6 A. I'm trying to process what you're asking and to
7 put it -- to articulate it to your satisfaction
8 that I recognize that I'm human. I'm fallible,
9 that I'm not perfect, and that I really do take
10 to heart -- I love this system, and I feel -- and
11 I am the face of the system. And I would never
12 want anyone to leave the system feeling anything
13 other than confidence in it. And so every day I
14 inspect myself. I think how can I do things
15 better? And, you know, you and I had a
16 conversation years ago where you said to me --
17 and I've taken it to heart -- better that your
18 words be misinterpreted than misquoted. I say
19 very little in court. That may frustrate some
20 people. Sometimes I feel the need to explain
21 things because I don't think we always do a very
22 great job explaining things to the public of why
23 we do the things that we do and from the
24 mechanics of it. But I think also the surveys
25 have gained more importance in years. And,

1 again, I think it's a way for people who don't
2 have an outlet to display their dissatis- --
3 well, their dis- -- disappointment, I think, is a
4 better word -- with results. But, again, all I
5 can do is take it to heart and fix it and look at
6 areas where Ms. Benson has provided me with
7 comments and look at myself. I really don't ever
8 look to others to fix things. I look to me, and
9 to do whatever I need to do to correct any of
10 those mis-perceptions of how things are being
11 conducted. And I think some of that we corrected
12 with me setting hearings for everything. I think
13 that has largely -- and some of those people that
14 may have spoken about that haven't appeared
15 before me since I made that correction. I hope I
16 answered -- I don't know that I'm --

17 **Q. Again, I'm just not --**

18 A. I apologize if I haven't been able to articulate
19 it as well as I'm thinking it.

20 **Q. Finally, on this point, what attributes of Judge**
21 **Fields did he exhibit that you draw upon and that**
22 **perhaps in this instance with the comments, what**
23 **did Judge Fields do? And I will tell you, what**
24 **did Rock Rankin do? Again, how can I do better?**
25 **How can I be --**

1 A. Well, he was a people person, and he would say to
2 me, dear, you can never be too nice, and that is
3 how I operate. And he said -- and he would quote
4 his mother. And he would say, you have to get
5 along with folk even if you do have to do most of
6 the getting. And that's what I do every day.
7 There are things that we experience in a
8 courtroom that I really have not shared with you.
9 I've had people throw things. I've had people
10 yell at me. I've had people who will not stand
11 to address the Court who rear back in their
12 chairs like these and put their feet on the table
13 while they're talking to the Court. The
14 experiences that I've had, I would go and talk to
15 him and say -- you know, I have a nickname for
16 him that I won't divulge -- but I'd say, how do I
17 deal with this other than smile and be kind? And
18 he'd say, dear, I just don't even know how to
19 advise you because I just never experience these
20 things. He said, maybe it's because I got all
21 this gray hair and you don't. But I have had
22 situations where I have walked out of the
23 courtroom and the clerk and the deputy are
24 waiting there for me asking me if I want a copy
25 of the tape. That's how bad the behavior has

1 been. And, you know -- and I think, well, gosh,
2 do I need a tape? You know, they're like, yeah,
3 yeah, we think you -- did you really see what
4 just happened? And I would say, well, you know,
5 I just -- well, you know, maybe they're having a
6 bad day. I really -- like I said, I take to
7 heart what he said. You have to get along with
8 folk even if you have to do most of the getting,
9 and that's the way I approach it. That if
10 anybody has to bend, it's going to be me because
11 it's just one of me. It's a whole group of
12 people. So I figure if somebody has to make an
13 adjustment, it's easier for me to make the
14 adjustment than a whole group of people to make
15 an adjustment, and that's how I approach it.

16 **Q. And finally, I am going to invoke my last final -**
17 **- but a conversation with -- you have kind of**
18 **elicited, prompted me to say that we read about**
19 **judges that are firm but efficient. And as the**
20 **judge, you are the preeminent person in the room**
21 **who -- the only person to maintain order.**

22 **A. Yes, sir.**

23 **Q. And to instill respect of the litigants, the pro**
24 **se the represented the lawyers, everybody.**
25 **Perhaps your fewer words might need to be amped**

1 up such that there's a sense of decorum in your
2 courtroom and a respect for you that maybe with
3 those instances you're reflecting on suggests
4 that they don't have enough respect.

5 A. And I don't think it's just for me. I've talked
6 to colleagues, and they've experienced similar
7 things. I don't know whether it's just a change
8 in the ethics of who we're dealing with, whether
9 it's an indication of -- but I don't know that
10 it's refined to one generation, but it's not just
11 limited to me. I've seen it. I've discussed it
12 with colleagues across the board. I'm not -- we
13 have come together as a group and say, you know,
14 how do we address this? We don't know if it's an
15 indication of familiarity breeds contempt, us
16 being -- you know -- I apologize. I hope I
17 answered the question to your satisfaction. I
18 apologize if I didn't.

19 CHAIRMAN RANKIN: Mr. Safran.

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

21 JUDGE JEFFERSON - EXAMINATION BY MR. SAFRAN:

22 Q. We don't know each other. I think we've seen
23 each other up here several times.

24 A. Yes, sir.

25 Q. Understand that when we bring up these things,

1 particularly the ballot boxes, it's not just a
2 desire to take a shot at you.

3 A. Yes, sir.

4 Q. That's not it. You and I have been around long
5 enough to know that they just -- people didn't
6 just start bitching about things that happened in
7 court.

8 A. Yes, sir.

9 Q. We know that in the past when those things
10 happened, ballot boxes weren't there, so we
11 talked among ourselves. Don't think for a minute
12 that people didn't go back after they got an
13 adverse ruling or that they had a bad day and
14 that they said some things about the judge that
15 frankly, you know, are no different than what
16 you're saying on the ballot boxes. So this is
17 not a new phenomena, right?

18 A. Yes, sir.

19 Q. You know, when I worked for Judge Ness, he used
20 to tell me that there was an old rule that said
21 you got 24 hours. It was a 24-hour rule. You
22 could basically go say anything you wanted, but
23 after that you had to shut your mouth up, and
24 that was the end of it. You know, you move on.
25 Now, unfortunately, a lot of us didn't. We don't

1 forget, and I think what I guess the Chairman's
2 pointing out is this. There are things that
3 obviously we have to pay attention to.

4 A. Yes, sir.

5 Q. There are reasons, I guess, why people say these
6 things, and they may not all be legitimate, okay?
7 We recognize that, so certainly there's a grain
8 of salt taken with whatever the ballot box
9 comments are, and I think over time you just have
10 to determine, you know, whether or not there's
11 some true fire there as opposed to just some
12 smoke.

13 A. Yes, sir.

14 Q. And I think you touched on it earlier. It's
15 perception.

16 A. Yes, sir.

17 Q. I think you should be commended for the fact that
18 you have listened and taken to heart some of the
19 comments in the past and said, okay, yeah, this
20 is my problem. I'm going to fix it.

21 A. Yes, sir.

22 Q. You know, when you set hearings for the motions,
23 you know, you heard and said, you know what?

24 A. I took immediate action.

25 Q. Do it. I think like you just told us about what

1 happened, when you saw that there was an absolute
2 catastrophe in terms of the backlog of files,
3 that you did something quickly to do it. And so,
4 you know, I think those things are necessarily
5 ones we pay attention to too because this is
6 supposed to be constructive, instructive, and
7 hopefully in the long run, you know, lead to a
8 better judiciary. So, again, this is actually
9 not a situation where this is a brow beating or a
10 spanking. I mean, this is basically just a
11 matter of kind of discussing the situation. I
12 can't believe, you know, at all that the folks
13 that are here -- you know, the Reverend, I mean,
14 he doesn't know you, okay? He just saw something
15 in the courtroom that day that he thought maybe
16 was different than what he might have expected is
17 what I'm saying, okay? I don't know that, as you
18 say, that he got the message that the reason why
19 there was such a delay was because the courtroom
20 that y'all were basically needing was not
21 available, and that the one you were assigned to
22 was not going to be able to accommodate the
23 volume of witnesses that were there. I mean,
24 it's all a legitimate explanation, and I think we
25 now hear some of these things, and hopefully

1 maybe everybody takes a step back, takes a
2 breath, and says, okay, all right. But I think
3 the point is this. What we're hoping is is that
4 when these situations occur, like when you come
5 up here, and we bring them to your attention,
6 that, again, you will take them to heart.

7 A. Oh, absolutely.

8 Q. You know, you will basically say, you know what?
9 I mean, because, look, it's like someone
10 mentioned earlier today. It's about the practice
11 of law.

12 A. Yes, sir.

13 Q. It's an evolution. It never stops.

14 A. Never stops.

15 Q. You know, we've all basically been doing this for
16 a long time. Mr. Garrett and I were classmates.
17 We've been doing this a long, long time, and, I
18 mean, that's why we tell each other, you know,
19 that nothing stops in terms of the education we
20 receive.

21 A. I agree.

22 Q. And, you know, unfortunately, you're just in a
23 bigger spotlight, and because of that, you know,
24 some of the mistakes, some of the things that may
25 be misperceived, they get a lot more pub than

1 maybe if I did it or somebody else who's not
2 quite so, I guess, known. But, again, what I'm
3 hearing from you is this. There was a problem,
4 particularly that Representative Rutherford asked
5 you about and that Senator Garrett asked you
6 about. Those bonds, I mean, that was a major
7 problem, and what I'm hearing from you, though,
8 is this. The solicitor asked Judge Price to give
9 it to them, correct?

10 A. Yes, sir.

11 Q. And that basically they maintained it or -- and I
12 say maintained with quotes, for roughly a year
13 and then decided we're going to give it back to
14 you.

15 A. That's what happened, yes, sir.

16 Q. All right. And in that process, in that time
17 frame, you're talking about an 800 plus backlog
18 of motions? Is that basically what you came to
19 conclude?

20 A. I've gone back and redone it, and that number,
21 again, I reinforce can be misleading because it
22 falls into different categories.

23 Q. Well, I understood that. I'm not saying they
24 were all bonds. Some may have been revoking
25 bonds, too.

1 A. Yes, sir, a good many of them. Yes, sir.

2 Q. But the point is that would have some of been
3 ones the solicitor, you would think, would want
4 to hear, right?

5 A. You would think.

6 Q. All right. But the point is it was just
7 indifference to the whole thing, whether it was
8 one that might have been to their benefit or to
9 the benefit of the people who were incarcerated.
10 Either way, they took on the responsibility and
11 chose just to effectively ignore it.

12 A. Well, they heard some things. They would
13 schedule some things. They would schedule -- and
14 then there was also a system where people would
15 go directly to Judge Price, and he would set
16 bonds for people.

17 Q. And how did that process work? I mean, I assume
18 you had to contact him or his office directly?

19 A. Somebody would call his office, and he would
20 schedule it.

21 Q. But that wasn't necessarily something that the
22 general population was dealing with. That was
23 somebody who might have been in the know and had
24 the opportunity to do it?

25 A. Yes, sir.

1 Q. All right. So either way, during that one year
2 period, things really just did -- they sat and
3 did nothing?

4 A. Well, some things did get heard, but just not the
5 volume that we would have wanted, yes.

6 Q. Well, when you talk some things, okay, one
7 percent, five percent?

8 A. They would intersperse them among pleas, and it
9 would come in spurts.

10 Q. Well, let me ask you about a question. It would
11 take quite a bit of indifference to let the
12 numbers reach the level you found that made you
13 have to have a hair on fire reaction, right?

14 A. I don't know whether it was indifference or
15 incapacity to realize what it took to manage a
16 docket like that.

17 Q. Well, but they asked for it, didn't they?

18 A. They did, yes, sir.

19 Q. All right. So, I mean, you would think they had
20 a full understanding. We're taking it. We know
21 what we're getting into, right?

22 A. You would hope so, yes, sir.

23 Q. Okay. Well, Your Honor, we appreciate you being
24 here. This has gone on probably longer than you
25 might have expected.

1 A. That's okay. I just wanted to make myself
2 available. I appreciate all of your service to
3 the state, and I hope that I have -- you know,
4 sometimes it's so much information, you want to
5 try to get all your answers, and you don't, and I
6 apologize if there's anything I didn't answer
7 fully or that I neglected to answer.

8 **Q. There's no apologies.**

9 A. And, Mr. Safran, I see you at Chicken Salad Chick
10 sometimes.

11 **Q. I'm up here. I'm not --**

12 A. Well, no, when I hold court here, sometimes I see
13 you in passing. I was like, at least we've got
14 that in common. No, I'm being funny. But, no, I
15 don't take it. I think that the responsibility
16 of this Commission is serious. I think you all
17 take your responsibility seriously. I do not
18 take it in any untoward way. I think we can all
19 improve, and I take every day as a teachable
20 moment. I literally ask myself every day, what
21 can I do better? I don't think I'm perfect at
22 all. I have shortcomings. We all have, you
23 know, days where we fall short. And I -- you
24 know, the best I can -- I'm human, and I try to
25 do the best I can. And I -- you know, I hope

1 that that has come across.

2 Q. It has. You know, we're all a member of the same
3 club when it comes to that. Thank you for your
4 time.

5 A. Thank you.

6 CHAIRMAN RANKIN: Senator Sabb.

7 SENATOR SABB: Thank you, Mr. Chairman.

8 JUDGE JEFFERSON - EXAMINATION BY SENATOR SABB:

9 Q. And, you know, I really love this process, as
10 imperfect as it is. And I think that most of our
11 jurists that come through here look at it as an
12 opportunity to do an introspection and see where
13 the strengths are, where the weaknesses are. And
14 I think that we endeavor to be thoughtful and
15 deliberate about what we do, but I don't want you
16 to walk out of here thinking that what the
17 Chairman shared with you, in terms of the
18 combination between well qualified and qualified,
19 being somewhere between 67 percent and 70 percent
20 with you is outside of the norm, because it's
21 not. I just thought I'd look at some of the
22 numbers on those who are coming for reelection,
23 and that's where the numbers are. Most of them
24 hover around between 63 and 75 percent. So
25 you're actually right there in the norm, which I

1 think is an opportunity for not only you, but for
2 others to learn as well. One of the persons that
3 went for reelection -- obviously when there are
4 complaints, it takes us longer with a lot of our
5 jurists that are up for reelection. But a number
6 of persons that are up for reelection, we finish
7 with them in 15 minutes or so. But this young
8 lady, we spent almost an hour because she was so
9 impressive, and I think it gave us all an
10 opportunity to learn because Family Court is
11 tough.

12 A. It is very.

13 Q. And I know I learned a lot from her, but when you
14 look at her numbers, she's at 63 percent of well
15 qualified and qualified. And so I do think
16 you're right when you say as you've been around
17 for a while, you know, those kinds of things come
18 in. So anyway, my point is I didn't want you to
19 walk away thinking, well, my goodness, when I
20 look at myself, when I grade myself, I mean, I'm
21 horrible. So I wanted you to know that you're
22 really right there in the number.

23 A. Thank you.

24 Q. And I embrace the idea of you and what you shared
25 as far as and it's an opportunity to grow. I

1 think Mr. Safran is absolutely correct in terms
2 of -- I think, a great compliment that you took
3 on something that was of dire concern to all of
4 us and have made it better. I mean, but we all
5 remember the fights that went on between the
6 solicitor's office and the court as to who
7 controls the docket. I mean, and so that's
8 nothing new, but, you know, the old folks used to
9 say be careful what you ask for because sometimes
10 you might get it. And I think the solicitor
11 asked for it, and she got it, and she quickly
12 handed it back, obviously in worse shape than
13 what it was. But anyway, I just really wanted to
14 make those comments and to thank you for your
15 service.

16 A. Thank you for your service. I appreciate that.

17 CHAIRMAN RANKIN: Ms. Blackley.

18 JUDGE JEFFERSON - EXAMINATION BY MS. BLACKLEY:

19 Q. Good evening.

20 A. Good evening.

21 Q. I'll be short. I want to make some comments, but
22 I'm going to start with a question. I want to
23 address some of the comments in the ballot box
24 about time management, your time management.
25 What is your response to being questioned or

1 **comments being made about not being timely?**

2 A. I think, like I said, I sometimes feel such a
3 burden after Covid-19 to get caught up, I really
4 have overscheduled myself, and I had to take the
5 time to step back. And I think we schedule
6 things. People would love for things to be
7 scheduled at a date and time certain, and it just
8 doesn't work that way. So sometimes we have a
9 massive amount of things scheduled, like, say, at
10 9:30, and we're at 11:30, and we're not even
11 halfway through the list. And so I've really
12 taken the time to look at that and say, we need
13 to reorganize some of this, guys, because
14 people's time is valuable, even if we're doing it
15 virtually. We have got to get it to a place
16 where people are not feeling like they're sitting
17 and they're not making money, or they're sitting
18 and they're feeling like their cases are not
19 moving as fast as they would like. But I start
20 on time in the mornings.

21 **Q. So you understand why that is a concern?**

22 A. Absolutely.

23 **Q. And why people would complain about that?**

24 A. Absolutely. But I've tried to really take a step
25 back and look. After I talked with Ms. Benson, I

1 went back to the office, and I was like -- I got
2 with my docketing clerks, and I said, we've got
3 to look at this. We've got to make better
4 management of people's time.

5 **Q.** I am completely blown away about this whole bond
6 deal. I haven't been in the upstate in --

7 **A.** Having been a clerk of court.

8 **Q.** I've been a clerk of court, but also worked with
9 the judiciary to focus on bond hearings. And,
10 you know, I'm going to brag. I thought we got it
11 right, but that took some working with the
12 solicitor's office to make sure that everything
13 was proper, but letting the courts lead that.
14 And so, I mean, I've learned a lot from the clerk
15 down there. She is probably one of my mentors or
16 was one of my mentors.

17 **A.** She's excellent.

18 **Q.** So I am completely stunned in regards to that and
19 was, like, blown away at how long it takes for
20 hearings as such because I was that person when I
21 worked before I became the clerk to make sure all
22 these bond hearings, whatever type it was, was
23 scheduled.

24 **A.** They got scheduled, yes, ma'am.

25 **Q.** And, you know, I used to tell my staff, we've got

1 to get these scheduled. We've got to get them
2 scheduled. So I guess it's good that someone --
3 you know, the solicitor asked for it and then
4 realized what they asked for.

5 A. I think it became completely overwhelming.

6 Q. Well --

7 A. Because there was no mechanism in place to do it,
8 and we had a mechanism in place. But, you know,
9 I huddled with Julie and James, and I said,
10 listen, guys, it is what it is. We've got to get
11 a solution, and we've got to get it, like, today.

12 Q. Okay. Well, I hope you all get that straightened
13 out because that -- I mean, that's a big deal. I
14 did -- and I was going to ask you, you did
15 address this, this one particular comment in
16 regards to how someone has seen lawyers treat you
17 disrespectfully, and you handled it better than
18 anyone that they've observed in such a situation,
19 and you elaborated on that earlier. I cannot
20 even imagine an attorney sitting in the courtroom
21 with their feet propped up on the table.

22 A. With the chair reared back.

23 Q. I've seen judges hold attorneys in contempt for
24 doing such things as that. So, you know, I'm
25 going to echo what Chairman Rankin said in

1 regards to maybe you mentioned that you just hold
2 back. People are going to think what they're
3 going to think regardless, and I told someone
4 else, be authentically them, but handle things
5 according to the law and what is proper. And if
6 it is received in a negative way, then so be it,
7 but as long as it's fair, just, and what's right,
8 and respect goes both ways. Judges should have
9 the respect that they are given, and attorneys in
10 the courtroom, and victims, and whoever else
11 should have that same, but I can't imagine -- and
12 I mean, someone went as far as to put this in
13 great detail, what they actually saw and how you
14 were treated in the courtroom. And so, I mean,
15 y'all have obviously got some problems down there
16 in Charleston. I mean, it seems like it's some
17 serious problems that need to get under control.
18 I wish you the best on that, but, you know, I
19 wanted to just talk with you about the timeliness
20 because that seems to me to be the reoccurring
21 theme, and so whatever that problem is --

22 A. And I really do think it's because I over-
23 schedule myself. I really did, and, you know, my
24 father --

25 Q. Is it just you or is it across the board? Is it

1 **happening with other judges?**

2 A. Yeah, I think some of us -- I think some of us,
3 we just feel like we've got to -- we just
4 schedule more things than probably we can get to.
5 And I have -- sometimes I work through lunch
6 because of that, which is not healthy, and I'm
7 not bragging about it. I think it is the
8 deficit, frankly, but I really sat down with my
9 secretary and my docketing clerks, and I said,
10 guys, and with my court reporters, I said, I've
11 got to give my court reporters an hour. It's
12 healthy for me to have an hour for lunch, and a
13 lot of it is just over-scheduling. But what I've
14 also done is -- sometimes I think people think
15 I'm late for court, but I'm not late. I'm
16 waiting on a juror. I'm waiting on a lawyer.
17 And so what I have -- or if we start pleas at
18 9:30, I give them an hour -- I mean, a 30-minute
19 grace period because they never have the
20 paperwork ready. Since Covid, they've slid back
21 into the bad habits of meeting their --

22 **Q. When you say they, they who?**

23 A. Well, you know, the lawyers, they signing their
24 clients up in the hallway, they down in the
25 basement of the building, signing them up through

1 bars. You know, they're not doing it ahead of
2 time, and there are facilities for them to do
3 that. So I give them a 30 minute window, but I
4 have learned that they are saying that I'm not on
5 time. So now I go to the courtroom at 9:30, and
6 if they're not ready, I'm like, I need my
7 paperwork.

8 **Q. All right. Well, thank you.**

9 A. Yeah, you know, I found through the grapevine
10 that they -- yeah. So my largesse was being
11 perceived differently, and I've corrected it, but
12 my father taught us you had to be -- 30 minutes
13 early was on time, and that's how I operate, so,
14 yeah.

15 JUDGE JEFFERSON - EXAMINATION BY CHAIRMAN RANKIN:

16 **Q. Last question, and you've reminded me again from**
17 **a busy area with motions practice with the civil**
18 **bar.**

19 A. Yes, sir.

20 **Q. There is a**

21 A. Huge backlog.

22 **Q. That's not what I meant. There is a perception**
23 **that judges will not hold litigants and lawyers**
24 **to the rule of discovery and that there is a fear**
25 **of you doing what the rule requires, and not you,**

1 **but Circuit Court judges --**

2 A. I understand what you mean, yes, sir.

3 **Q. -- and enforcing and assessing sanctions for**
4 **willful withholding of discovery. Do you see**
5 **that?**

6 A. I --

7 **Q. Are you afraid to hold a litigant or issue**
8 **sanctions for a litigant?**

9 A. I think there's a general feeling among the bench
10 that if we do that, that we will have backlash on
11 ballot box, because it has been eked out that
12 that is what's going to happen from different
13 segments of the bar, yes.

14 **Q. All right.**

15 A. And I think that's very unfortunate because, you
16 know, we've got to make decisions, and when
17 people have blatantly violated discovery, there
18 need to be consequences. That's the only way
19 it's going to fix it.

20 **Q. All right. Well, do you believe that any of**
21 **these comments would be -- and again, I'm not**
22 **trying to re-plow that.**

23 A. No, sir.

24 **Q. Do you believe -- well, do you as a rule -- do**
25 **you not issue sanctions when warranted for fear**

1 **of repercussions?**

2 A. Sometimes I do. When somebody has just blatantly
3 and continually, like this is the third time I've
4 seen them, I will order fees. And most times
5 it's such a minimal amount. The other party is
6 just trying to send a message that, you know, I
7 want \$500.00 I've been here three times. They
8 promised me this discovery three times. I still
9 don't have it. You know, in those circumstances.
10 You know, but it's a fact -- it's a case by case
11 basis because sometimes you have people who are
12 retaliatory when they file motions in discovery,
13 where they talked to somebody yesterday and they
14 had the stuff hand delivered to their office, but
15 they filed a motion anyway just to be, I don't
16 want to use the word petty, but that's kind of,
17 you know, what it amounts to. But we do -- I do
18 think we have discovery abuse, and, you know, to
19 me, discovery is what gets a case moving. It's
20 the momentum in a civil case. And if you don't
21 start sending those messages early that we're
22 going to make you adhere to deadlines and to do
23 what you're supposed to do, you may be a year out
24 and a case never gets where it needs to be
25 because someone's been dragging their feet about

1 getting discovery. So I'm moving -- I guess my
2 thought process is evolving, and after
3 discussions, you know, at our -- amongst the
4 bench, as well as the concerns that have been
5 articulated by the appellate courts, I think that
6 -- but I do think that it's going to -- there's
7 going to be some different movement in that area,
8 but I do think that there is a general pervasive
9 fear among the bench that they feel that there
10 will be backlash.

11 **Q. Different movement in what regard?**

12 A. In terms of doing sanctions and holding people
13 accountable in discovery disputes.

14 **Q. And I remember, and I've heard it, discovery**
15 **motions are the bane of a judge's existence**
16 **because it's holding somebody accountable. But**
17 **to the degree that we have communicated to the**
18 **world that a judge should not do what is**
19 **warranted for fear of repercussion, I will hope**
20 **that -- let me get this on the record if I may,**
21 **that that's not what we're doing. We're not**
22 **looking at -- and again, this is not you. You're**
23 **the font allowing me to make this point. I don't**
24 **believe anyone up here would ding a judge for**
25 **holding someone accountable. On the flip side, I**

1 would hold them accountable for not doing what
2 they should when the -- if they're going to go to
3 mediation, you can't get it to mediation or to
4 trial without that final document, that that
5 slows things down, but I don't believe this JMSC
6 in its past, in my time, or hopefully in its
7 future, will be anything but supportive of a
8 judge, whether it be Family Court, which you
9 were, for making the hard decisions, or a Circuit
10 Court, for holding us accountable and having
11 control, and the fear of the judge is not an
12 unhealthy thing. The fear of a tyrant is an
13 unhealthy thing. So that message brought to you
14 by this little old Rankin. And with that, unless
15 there are other questions, Judge, I appreciate
16 your time.

17 A. Well, I appreciate your time. I appreciate
18 everyone's service on the Commission. I know it's
19 a sacrifice, and I want to say thank you.

20 CHAIRMAN RANKIN: With this, Judge, now this concludes
21 this portion of the screening process. You know,
22 again, that we take very seriously the letter and
23 spirit of ethics law. Any violation of
24 appearance of impropriety on your part would be
25 deemed very serious. You know that we could call

1 you back because the release of the formal record
2 of qualifications is when the record is closed.
3 Until that time, you understand that we could
4 call you back in the unlikely event that there
5 were any questions about conduct on your behalf,
6 correct?

7 JUDGE JEFFERSON: Yes, sir.

8 CHAIRMAN RANKIN: And, Judge, thank you so much.

9 JUDGE JEFFERSON: Thank you all.

10 CHAIRMAN RANKIN: Madam Court Reporter, do you want a
11 quick break?

12 COURT REPORTER: Are you all going to go into an
13 executive session right away?

14 CHAIRMAN RANKIN: No. I think we're going to --
15 unless we're going to go into an executive
16 session -- but we have one final candidate.

17 COURT REPORTER: Okay. Just long enough for her to
18 get in here. That'll be fine.

19 CHAIRMAN RANKIN: Now, on motion of Representative
20 Jordan, seconded by Ms. Blackley, we are going to
21 in executive session to take up a quick matter.

22 EXECUTIVE SESSION

23 CHAIRMAN RANKIN: We are back on the record and for
24 the record during Executive Session no votes were
25 cast and no decisions made. We will now proceed

1 to the next candidate.

2 SHANNON M. CHANDLER, being duly sworn, testifies
3 as follows:

4 CHAIRMAN RANKIN: If you will please state your name
5 for the record.

6 MS. CHANDLER: Shannon Matthews Chandler.

7 CHAIRMAN RANKIN: Welcome, Ms. Chandler, and we
8 appreciate your patience with us. You have with
9 you the PDQ, and the Sworn Statement. Are those
10 ready to be introduced into the record?

11 MS. CHANDLER: Yes.

12 CHAIRMAN RANKIN: All right. And those will be marked
13 accordingly. This is your first time, I believe,
14 running for judgeship, or am I --

15 (Exhibit Number 26 was marked for identification
16 purposes - (17 pages) Personal Data Questionnaire for
17 Shannon M. Chandler.)

18 (Exhibit Number 27 was marked for identification
19 purposes - (2 pages) Amendment to Personal Data
20 Questionnaire for Shannon M. Chandler.)

21 (Exhibit Number 28 was marked for identification
22 purposes - (7 pages) Sworn Statement of Shannon M.
23 Chandler.)

24 MS. CHANDLER: This is actually my second time. I ran
25 in 2019.

1 CHAIRMAN RANKIN: Very good, very good. And this is
2 2043 today, I think. It's been that kind of a
3 day, forgive me, but thank you for coming back.
4 But you understand how we do this and the nine
5 evaluative criteria that we look to, which
6 includes a ballot box survey, a thorough study of
7 your application materials, verification of your
8 compliance with the state ethics law, a search of
9 newspaper articles in which your name appears, a
10 study of previous screenings to check for
11 economic conflicts of interest. No affidavits
12 have been received or complaints in opposition to
13 your election, and no witnesses are present to
14 testify accordingly. I do note you have brought
15 a chorus of beautiful people with you. Would you
16 like to introduce your guests with you at this
17 point?

18 MS. CHANDLER: Absolutely, absolutely. With me this
19 evening, that's my father, Solomon Matthews, my
20 mother, Jacqueline Matthews, who also I'm going
21 to have to pay her overtime because she's my
22 paralegal or one of my paralegals, my sister,
23 Solomone Matthews, and my wonderful husband,
24 Everett Chandler.

25 CHAIRMAN RANKIN: Very well. Welcome, welcome. All

1 right. We have held this up a long time. You
2 can make an ever so brief opening statement if
3 you like. We're going to ask some questions, and
4 then you can make a closing statement later if
5 you deem appropriate, okay?

6 MS. CHANDLER: I have no desire to make an opening
7 statement. We can push ahead.

8 CHAIRMAN RANKIN: Very good. All right. Mr. Triplett.

9 MS. CHANDLER - EXAMINATION BY MR. TRIPLETT:

10 **Q. Good evening, Ms. Chandler.**

11 A. Good evening.

12 **Q. Ms. Chandler, please state for the record the**
13 **city and circuit in which you reside.**

14 A. I live in Graniteville, South Carolina, Aiken
15 County, which is the second circuit.

16 MR. TRIPLETT: Mr. Chairman, I note for the record
17 that based on the testimony contained in the
18 candidate's PDQ, which has been included in the
19 record for the candidate's consent, Ms. Chandler
20 meets the statutory requirements for this
21 position regarding age, residence, and years of
22 practice.

23 **Q. Ms. Chandler, why do you want to serve as a**
24 **Family Court judge, and why do you feel that your**
25 **legal and professional experience qualifies you**

1 **to be an effective judge?**

2 A. Okay. Being a Family Court judge at this point
3 in my career -- I've been practicing law for 25
4 years. I went and I looked, and on, actually,
5 Friday, it was 25 years. And so at this point in
6 my career, I think that being a Family Court
7 judge is just another opportunity for me to serve
8 my community. As far as my career is concerned,
9 I started out as a public defender. I actually
10 represented juveniles in Family Court. I did
11 that for about three years, went into private
12 practice for a little while as an associate with
13 Tony Dessausure. He's actually a high school
14 friend. And then I went into private practice
15 for myself. So I've been in private practice,
16 law office of Shannon D. Matthews, for about 20
17 years now, but I think that being at the public
18 defender's office has certainly informed my
19 practice of the law, because although I've been
20 in private practice for 20 years, there has not
21 been a year that I can think of that I have not
22 in some capacity served the indigent citizens of
23 our state. So even in private practice, I
24 prosecuted DSS cases for a little while, maybe
25 for about three, four years. And since that

1 time, I have represented individuals in abuse and
2 neglect cases, indigent individuals. So, you
3 know, the reason why I want to be a Family Court
4 judge is to further serve my community. I think
5 it's just the next level. It's what I have
6 always done. It's what I've always tried to do,
7 and certainly I think the second part of your
8 question was about my qualifications. Well, I've
9 given you some of that already, but in addition
10 to representing indigent individuals, in addition
11 to representing the Department of Social
12 Services, I have in my private practice -- I
13 think I've touched almost every aspect of family
14 law. So I've represented individuals in
15 divorces, child custody cases, name changes,
16 adoptions, every aspect that you can possibly
17 think of. Now, the interesting thing is that I'm
18 learning that, you know, as much as I think that
19 I've experienced, there's always something else
20 that comes up. Nevertheless, more recently,
21 probably within the past, I don't know, maybe
22 it's been about seven to ten years -- I became a
23 certified Family Court mediator. So I also
24 mediate cases in Family Court now, typically
25 about maybe three or four cases per month. So as

1 far as my experience is concerned, certainly I
2 think that I have the breadth of experience in
3 Family Court to do the job that needs to be done.

4 **Q. Thank you, Ms. Chandler. Are there any areas of**
5 **the law for which you would need additional**
6 **preparation in order to serve as a Family Court**
7 **judge, and how would you handle that additional**
8 **preparation?**

9 A. Well, as I've indicated, I think that there are
10 always things, new things, that come up and
11 things for me to learn. When I think about any
12 area of the law where I could use more practice
13 in particular, well, I'll say this. I remember
14 when I was before the Citizens Committee, one of
15 the things that someone brought up was that they
16 didn't think that I did high-dollar cases. And,
17 you know, I guess what I have to say about that
18 is that typically my clientele has been middle
19 class, lower to middle class clientele, but even
20 in that, in every family law case, you're
21 required to file a financial declaration. Most
22 divorces that I know of, we're dealing with
23 property issues, so we're dealing with houses,
24 we're dealing with retirement accounts. So even
25 in that, even though they may not have been high

1 dollar, I'm still dealing with the financial
2 issues. So I would be -- I'm not arrogant enough
3 to say that there is no area where I need some
4 help and some tutelage, but certainly, if
5 anything were to come up -- you know, I may not
6 be the smartest person in the room, but, you
7 know, I'm smart enough to put myself in the room
8 with the smartest people. And so what that means
9 is that when it is time for me to get information
10 that I need to know, I either know where to look
11 or who to ask.

12 **Q. Thank you. Ms. Chandler, please briefly describe**
13 **your experience in handling complex contested**
14 **Family Court matters, and specifically discuss**
15 **your experience with the financial aspects of**
16 **Family Court work.**

17 A. Okay. I think I did a little bit of that. So
18 when we talk about complex family law cases, when
19 I think about probably the most important cases -
20 - every case in Family Court is important, so let
21 me say that first, but I think of termination of
22 parental rights cases as the death penalty cases
23 of Family Court. So certainly they're important,
24 and when we talk about being complex, of course,
25 you have to follow the statute. But that's

1 probably the easy part, to be honest, or the
2 easiest part because the difficult part is that
3 you -- for me, because I represent indigent
4 clients often in that situation or even when I
5 was prosecuting, you have a parent that is
6 sitting before the court that is looking at the
7 possibility of losing his or her child or losing
8 his or her rights to his or her child. And so
9 representing that individual, managing them,
10 managing their expectations and managing their
11 emotions can sometimes be a little bit difficult.
12 And even in prosecuting the case, making the
13 decision about whether it's the appropriate thing
14 to do. But as far as that's concerned, otherwise
15 I've certainly represented individuals in custody
16 cases on numerous occasions, sometimes with
17 opposing counsel and sometimes with pro se
18 litigants. And as far as the financial aspects
19 are concerned, as I indicated, every Family Court
20 case -- number one, when you go into Family
21 Court, one of the things that you have to do is
22 fill out a financial declaration. Sometimes I
23 have clients that believe that their case is not
24 about finances, and so when we ask them to fill
25 out the financial, they're like, well, why do we

1 have to do that? But of course, it's a rule, so
2 it's something that we do. And as far as the
3 financial issues are concerned, here again, any
4 divorce, typically, unless it's a simple divorce,
5 we're going to be dealing with division of
6 property. We're going to be dealing with
7 equitable distribution and retirement accounts,
8 bank accounts, cars, personal property. So those
9 are certainly issues that I have seen and I
10 believe that I'm qualified to address.

11 Q. Thank you. Ms. Chandler, the Commission received
12 161 ballot box surveys regarding you with 29
13 additional comments. The ballot box survey, for
14 example, contained the following positive
15 comments: Shannon is an outstanding attorney and
16 would make a fine judge. She's intelligent,
17 fair, patient, an all around great person and
18 attorney. Shannon is a lawyer with a stellar
19 reputation. She fights hard for her clients but
20 does so with the utmost professionalism. She is
21 a very experienced Family Court attorney and
22 would serve the Family Court bench well. Ms.
23 Chandler is an excellent attorney who would be an
24 asset to the Family Court bench. She is cordial
25 in her dealings with counsel and litigants, up to

1 I believe on three occasions, they filed an
2 eviction, and I was never evicted. I paid each
3 time. As far as those are concerned, like I
4 said, at the time, I was a public defender, so I
5 was the working poor, and that's the story.

6 **Q. Thank you, Ms. Chandler.**

7 MR. TRIPLETT: I would note that the Midland Citizens
8 Committee found Ms. Chandler qualified in the
9 evaluative criteria of constitutional
10 qualifications, physical health, and mental
11 stability. The Committee found Ms. Chandler well
12 qualified in the evaluative criteria of ethical
13 fitness, professional and academic ability,
14 character, reputation, experience, and judicial
15 temperament. The Committee stated that they were
16 impressed with her Family Court experience.

17 **Q. A few housekeeping issues. Ms. Chandler, are you**
18 **aware that as a judicial candidate, you're bound**
19 **by the Code of Judicial Conduct as found in Rule**
20 **501 of the South Carolina Appellate Court Rules?**

21 A. Yes.

22 **Q. Ms. Chandler, since submitting your letter of**
23 **intent, have you contacted any members of the**
24 **Commission about your candidacy?**

25 A. Yes. I sent -- and I believe it's in my PDQ. By

1 mistake I sent out an introduction letter, and I
2 actually sent one to Representative Caskey. I
3 don't even know if he ever got it because
4 immediately when I figured out that it had gone
5 out, I contacted Lindi and made a statement right
6 away, but other than that, that's it.

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

11 A. Yes.

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

16 A. No.

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

21 A. No.

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

25 A. Yes.

1 MR. TRIPLETT: I would just note for the record that
2 any concerns raised during the investigation
3 regarding the candidate were incorporated into
4 the questioning of the candidate today. Mr.
5 Chairman, I have no further questions.

6 CHAIRMAN RANKIN: All right. Questions by members of
7 the Commission? All right. I want to just call
8 attention to the folks you've got endorsing your
9 effort here in terms of letters of reference. I
10 don't know you except having met you 43 years
11 ago, but I appreciate your willingness to serve
12 and willingness to offer for this and
13 particularly for bringing your beautiful family,
14 and I just thank you for putting yourself out
15 there to serve this day. All right. Anything
16 further at this point? Again, the late hour, I
17 appreciate your patience. Unless there are any
18 further questions, Ms. Chandler, this will close
19 this portion of the screening process. You know
20 that the record will remain open.

21 MS. CHANDLER: Yes, sir.

22 CHAIRMAN RANKIN: And that we treasure the spirit and
23 letter of the ethics law. Any violation of that
24 would be deemed very serious, and so you
25 understand that we could call you back in the

1 event that there was any question about any
2 conduct, which, of course, we don't expect, but I
3 need you to affirmatively acknowledge that for
4 the record.

5 MS. CHANDLER: Yes, sir. I understand.

6 CHAIRMAN RANKIN: All right. We will close for
7 tonight. We thank you very much, and that will
8 conclude tonight's or this afternoon's session at
9 7:30.

10 MS. CHANDLER: Thank you very much.

11 CHAIRMAN RANKIN: Thank you too.

12 (There being nothing further, the proceeding concluded at
13 7:30 p.m.)

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CERTIFICATE OF REPORTER

I, JENNIFER NOTTLE, COURT REPORTER AND NOTARY PUBLIC
IN AND FOR THE STATE OF SOUTH CAROLINA AT LARGE, HEREBY
CERTIFY THAT I REPORTED THIS PROCEEDING, ON MONDAY, THE
20TH DAY OF NOVEMBER, 2024, AND THAT THE FOREGOING 343
PAGES CONSTITUTE A TRUE AND CORRECT TRANSCRIPTION OF MY
STENOMASK REPORT OF SAID PROCEEDING.

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

IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL THIS
9TH DAY OF JANUARY, 2025.



JENNIFER NOTTLE, COURT REPORTER

MY COMMISSION EXPIRES JULY 19, 2033

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