



3200 Devine Street, Suite 103
Columbia, South Carolina 29205
info@garberreporting.com
Telephone: (803) 256-4500

HEARING PROCEEDINGS

November 26, 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

10

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

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MS. ERIN CRAWFORD, CHIEF COUNSEL

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DATE: November 26, 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, good morning. We are
2 on the record. Good morning. Judge, welcome to
3 Tuesday. Today is the 26th. It is 9:25 and you
4 have been sitting in that lobby for a minute. We
5 welcome you. You are the first candidate up for
6 the day.

7 THE HONORABLE ROBERT E. NEWTON, being duly sworn,
8 testifies as follows:

9 CHAIRMAN RANKIN: You've got two documents there, your
10 PDQ and sworn statement. Are those ready to be
11 entered into the record?

12 JUDGE NEWTON: Yes, sir. I believe they are.

13 CHAIRMAN RANKIN: All right. Hand those over, if you
14 will.

15 JUDGE NEWTON: Yes, sir.

16 (Exhibit Number 1 was marked for identification
17 purposes - (17 pages) Personal Data Questionnaire for
18 The Honorable Robert E. Newton.)

19 (Exhibit Number 2 was marked for identification
20 purposes - (1 page) Amendment to Personal Data
21 Questionnaire for The Honorable Robert E. Newton.)

22 (Exhibit Number 3 was marked for identification
23 purposes - (8 pages) Sworn Statement of The Honorable
24 Robert E. Newton.)

25 CHAIRMAN RANKIN: Judge, you brought with you a star,

1 I believe. Would you like to tell us and
2 introduce us?

3 CHAIRMAN RANKIN: You couldn't have described her
4 better. This is my wife, Caroline Newton. We
5 have been married 38 years. This is our fourth
6 time here, and I didn't want to break the streak.
7 So, we have been partners in everything, so we
8 are going to continue today.

9 CHAIRMAN RANKIN: Is it inappropriate for me to say we
10 welcome her? It is so good to see you.

11 JUDGE NEWTON: That is actually very appropriate.
12 Thank you.

13 CHAIRMAN RANKIN: All right, Judge, as you know, in
14 this effort to screen the candidates, we look at
15 the nine evaluative criteria, which includes a
16 ballot box survey, a thorough study of your
17 application materials, verification of your
18 compliance with the state ethics laws, a search
19 of newspaper articles in which your name appears,
20 a study of previous screenings and a check for
21 economic conflicts of interest, of which there
22 are none. Other than your wife, there is no one
23 here, and we will not swear her to make a
24 statement in opposition to you.

25 JUDGE NEWTON: Thank you, sir. I believe she would be

1 in support of.

2 CHAIRMAN RANKIN: We will dispense with the
3 pleasantries in the interest of your punctuality
4 and offer you an opportunity to make a statement
5 at the very end if you haven't gotten out what
6 you need to say. Otherwise, Ms. Trask will lead
7 it off, and then we will start with questions
8 from members of the Commission. Thank you, sir.

9 JUDGE NEWTON - EXAMINATION BY MS. TRASK:

10 **Q. Good morning, Judge Newton.**

11 A. Good morning.

12 **Q. After serving 12 years on the family court bench,**
13 **why do you want to continue serving as a Family**
14 **Court judge?**

15 A. Well, I will tell you that next to my family,
16 serving as a Family Court judge has been the
17 greatest privilege and proudest thing in my life.
18 I work every day to do better at my job, to help
19 the people that come before me, the families and
20 the children. I think, as I told you when you
21 asked me this question in our meeting, I think
22 I've kind of hit my stride in some regards, and I
23 know that may sound odd to say that it took 12
24 years to get there, but it is a learning curve,
25 and I feel like that I have excelled in my

1 ability to grasp the law, understand the law. I
2 have been receptive to change. I recall the
3 comments from six years ago. I have tried to
4 embrace those and do better. I have taken
5 comments and suggestions from the Bar over time,
6 and not just this body, but when lawyers talk
7 with me. So the reason I want to keep serving is
8 I think that I'm making strides in that regard.
9 I hope to be perceived as doing a good job and
10 good work, and it's a privilege to do the work
11 that I do again, especially for the children, and
12 I hope to be honored to continue to do that.

13 **Q. Thank you. Judge Newton, your SLED report**
14 **indicated that there were two lawsuits filed**
15 **against you since your last screening. The**
16 **first, Martin v. Department of Social Services,**
17 **et al., was filed in district court on March**
18 **18th, 2019 by Randolph Martin and was dismissed**
19 **as of July 28, 2020. And, Judge Newton, it is my**
20 **understanding that you were not aware, nor were**
21 **you ever served in this matter, correct?**

22 **A. That's correct.**

23 **Q. The second lawsuit, Greg Wilson v. Sumter County,**
24 **South Carolina, et al., was filed in district**
25 **court on April 3rd, 2019 by Michael Greg Wilson,**

1 and it was dismissed by the district court as of
2 June 1, 2020. And, Judge Newton, it is my
3 understanding that you were not aware, nor were
4 you ever served in this matter, either. Is that
5 correct?

6 A. Yes, ma'am, that's also correct.

7 Q. Judge Newton, what do you think your reputation
8 is amongst attorneys that practiced before you,
9 as well as court personnel that work with you?

10 A. Well, I would say to you that my hope would be
11 and my belief is that I am perceived as hopefully
12 a hardworking judge, a fair judge, one who is
13 very mindful of the rules. I think I've been
14 called a rules judge by some. I value the rules.
15 I was raised in a military household, and I was
16 taught the importance of duty and responsibility,
17 and I've tried to carry that through in my
18 understanding of the canons applicable to the
19 court, court decorum, maintaining that high order
20 in the courtroom, and my ethical responsibility
21 to do that. I will tell you that six years ago,
22 when I sat here, Chairman Rankin gave me a piece
23 of advice, and he said, wear the robe lightly.
24 And I took that to heart six years ago when he
25 told me that. So I've tried to do better at

1 that, and I hope that's helped with my reputation
2 amongst the lawyers. I will tell you that if I
3 had to craft my own legacy when it's all over,
4 that one of the comments that I received from the
5 Bar interview that I took as one of the proudest
6 things I'd ever heard was -- and it's not
7 verbatim because they don't quote it verbatim --
8 but it was basically, he's ruled for me, he's
9 ruled against me, but I never had to question
10 whether he ruled fairly. And if I had to think
11 of what you want a judge to have as a reputation,
12 that one I embrace. So I hope that's generally
13 my belief and understanding amongst the Bar.

14 **Q. Judge Newton, the Commission received 322 ballot**
15 **box surveys regarding you with 47 additional**
16 **comments. The ballot box survey, for example,**
17 **contained the following positive comments. He is**
18 **experienced, calm, courteous, and fair,**
19 **dedicated, hardworking, and intelligent, always**
20 **professional, excellent understanding of the**
21 **rules and law applied in Family Court, keen on**
22 **ensuring everyone gets a fair hearing. Nine of**
23 **the written comments expressed concerns. The**
24 **main topic of concern was regarding your judicial**
25 **temperament. What response would you offer to**

1 **this concern?**

2 A. Well, again, as we've talked about before, when
3 you're standing before a body such as this and
4 you have no context for the comments, it's very
5 difficult for me to put a point on how I would
6 respond to that. It always is troubling. I
7 always hope for the perfect score someday. I
8 hope to come before this body without any
9 negative comments being made. But I will tell
10 you that I practice -- not practice -- but I
11 serve in one of the busier counties in the state.
12 I've done the math, and I will tell you that we
13 average about 40 hearings a week. And if you
14 take that and you multiply it by annually over
15 the course of my time on the bench, I've probably
16 had over 35,000 cases come before me with various
17 litigants over my 12 years. I make that
18 observation simply because I want to point out
19 that I've always been very lucky. I've never had
20 a litigant file an affidavit. I've not had any
21 grievances. My appellate record is good. I've
22 only had one unpublished reversal in my 12 years.
23 So all the objective information would lend me to
24 believe I was doing a pretty good job, and then I
25 hear these comments, and it hurts. It's like,

1 okay, how did I not accomplish what I had set out
2 to do? But I come back to what Judge Joe
3 Anderson said one time when he was talking -- the
4 federal judge -- said one time when he was
5 talking to the Family Court bench at a CLE. He
6 said, I don't know how you guys do it. He said,
7 it's the most difficult job there is because at
8 the end of the day, even on your best day, 50
9 percent of the people are going to hate you, and
10 he made that observation, and I recognize that.
11 But what I've always hoped for is that they may
12 not agree with the result, but what I would hope
13 would be is that they felt that they were treated
14 fairly, that they were treated courteously, that
15 they were treated with respect, and that's what I
16 strive for. Could it be possible there have been
17 times when maybe I had fallen short on that? I
18 don't know. And if so, then I probably owe an
19 apology, but I will say that statistically it
20 does seem like I've improved since the last time
21 in that regard. So hopefully that's going to be
22 how it's perceived, and I just want to continue
23 to try and do that work.

24 MS. TRASK: I would note that the Midland Citizens
25 Committee found Judge Newton to be qualified in

1 the evaluative criteria of constitutional
2 qualifications, physical health and mental
3 stability. The Committee found him well
4 qualified in the evaluative criteria of ethical
5 fitness, professional and academic ability,
6 character, reputation, experience, and judicial
7 temperament. The Committee stated in summary, no
8 comment needed.

9 **Q. I have just a few housekeeping issues.**

10 A. Yes, ma'am.

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

14 A. No, ma'am.

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

18 A. Yes, ma'am.

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

23 A. No, ma'am.

24 **Q. Have you asked any third parties to contact**
25 **members of the General Assembly on your behalf,**

1 or are you aware of anyone attempting to
2 intervene in this process on your behalf?

3 A. I have not, and I am not aware of any.

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

7 A. I do.

8 MS. TRASK: I would just note for the record that any
9 concerns raised during the investigation
10 regarding the candidate were incorporated into
11 the questioning of the candidate today. And, Mr.
12 Chairman, I have no further questions.

13 A. Thank you.

14 CHAIRMAN RANKIN: All right. Representative Caskey.

15 VICE CHAIRMAN CASKEY: Good morning, Judge.

16 JUDGE NEWTON: Good morning.

17 VICE CHAIRMAN CASKEY: Certainly, we welcome you here
18 and glad to see you. One of the things that we
19 have talked about with a number of candidates,
20 particularly at the Family Court bench in the
21 last several weeks, I suppose, is the challenge
22 with respect to making sure that each and every
23 case is treated with the respect and dignity that
24 it deserves and that we cannot discharge those
25 obligations simply by dent of the large caseload.

1 And yet we are confronted with the reality that
2 the General Assembly has failed to resource
3 particularly our Family Court system with the
4 judges and other assets needed to do the
5 administration of these cases fairly and
6 equitably. And I say all that to say that you
7 all in Lexington County, you, Judge Siegler,
8 Judge Crouch, have done a fantastic job at
9 managing just that arduous and perhaps impossible
10 task of trying to meet the challenges of a never
11 ending caseload and the responsibility to treat
12 each case, again, with the dignity and respect
13 that each deserves, and I want to applaud you for
14 that. I don't think it absolves us of our
15 responsibility here in the General Assembly to
16 make sure that we provide the resources
17 necessary, and I'm optimistic with the chief
18 justice's support we can get that done. But
19 that's our challenge, not yours. And I share all
20 that with you to say, on behalf of the Lexington
21 County Bar, thank you. Thank you for what you've
22 done. We know that when visiting judges come to
23 town, it is something they typically don't look
24 forward to because they're going to have to work
25 all day every day, all day Friday, and the cases

1 aren't going to be easy. And that's just a
2 function of statistics.

3 JUDGE NEWTON: On my own behalf, but also on behalf of
4 Judge Seigler and Judge Crouch, I thank you for
5 that. My standing line is we work every day to
6 put 500 gallons through a five gallon hose.
7 That's our day over there.

8 VICE CHAIRMAN CASKEY: Well, I appreciate it, Judge
9 Newton. And the last thing I'll say is I not
10 only get to hear from members of our Bar
11 informally, but in our ballot box process,
12 there's a number of comments that I think that
13 are worthy of highlighting, maybe not for you,
14 but for Caroline. So you know the reputation
15 you've earned in our Bar. Just a few. Judge
16 Newton is a very smart judge. He knows the law
17 backwards and forwards and gives well-reasoned
18 decisions. He's fair and courteous to all who
19 appear before him. Judge Newton is the epitome
20 of fairness. He is sincerely concerned with
21 doing his best in every case, extremely
22 knowledgeable, works hard, excellent judge.
23 Judge Newton knows the laws and will run his
24 courtroom accordingly. He's fair, and lawyers
25 know where he's coming from when he rules. He's

1 fair and equitable and an excellent Family Court
2 judge. And this goes on for some six pages. For
3 self-evident reasons, we can't share all of these
4 things, but I want you to know that you have
5 earned an exemplary reputation because of your
6 faithful service to our community, and I thank
7 you for it, sir.

8 JUDGE NEWTON: Well, I appreciate that. That means
9 the world to me.

10 CHAIRMAN RANKIN: Mr. Safran.

11 MR. SAFRAN: Thank you, Mr. Chairman. What impresses
12 me now and impressed me last time is you were
13 here six years ago. I know I spoke directly to
14 you about some of these comments, and what I --
15 was really, I guess, surprised in some respects
16 because I don't see it all the time. You really
17 were hurt, and it bothered you. And I think it
18 wasn't said in malice. It was said in education,
19 and I think you've basically taken that and tried
20 to do the best with it. And I think -- here's
21 the thing, when you read these comments, as
22 Representative Caskey said, there's one
23 continually ringing thought, fair. Nobody
24 questions your fairness. Nobody questions your
25 capability. Nobody questions your honesty or the

1 fact that you work towards the common goal of
2 getting this stuff done, okay. So you ought to
3 be very proud of that.

4 JUDGE NEWTON: Thank you, sir.

5 MR. SAFRAN: And I know -- look, I think basically,
6 you know, you and I are similarly, I guess,
7 somewhat contemporary. We came up in a time
8 where maybe the judges weren't quite as loving.

9 JUDGE NEWTON: Yes, sir.

10 MR. SAFRAN: And so, I mean, it's hard to walk away
11 from that, particularly if you respected them and
12 not want to take maybe something of their
13 repertoire with you, okay. And I can understand
14 how somebody would go in and say, look, I wanted
15 a judge to be fair, and it didn't bother me if
16 they were no nonsense. Well, that seems to be
17 what you've adopted. Keep in mind, you know,
18 it's like Rick Nelson said, you can't please
19 everyone, and I think, truthfully, you're never
20 going to. But what I think is the most important
21 is is at least they're walking out of that room,
22 even if they're shaking their head going, boy, he
23 was kind of short with me today -- they're
24 saying, you know what, but he still -- regardless
25 of that, he did the right thing.

1 JUDGE NEWTON: Thank you, sir.

2 MR. SAFRAN: And that's what you're there for.

3 Appreciate your continuing to offer to serve.

4 JUDGE NEWTON: Thank you very much.

5 CHAIRMAN RANKIN: Mr. Strom.

6 MR. STROM: Thank you, Mr. Chairman. Good morning,
7 Judge.

8 JUDGE NEWTON: Good morning.

9 MR. STROM: I just want to pile on to these comments.
10 Also, I remember six years ago we had these
11 conversations, and, you know, I don't appear in
12 front of you, but I know a lot of people who do.
13 And your reputation now is just outstanding. I
14 mean, you're consistent with your rulings.
15 You're on time. You're fair. You read what the
16 people present to you, and good lawyers really
17 enjoy being in front of you.

18 JUDGE NEWTON: Thank you very much. I appreciate it.

19 MR. STROM: So, I don't think it was ever an issue of
20 any competence at all in the past. I just think
21 it was a little bit of old school versus new
22 school temperament. And you have adjusted that,
23 and you know, you're A+.

24 JUDGE NEWTON: Thank you, sir.

25 MR. STROM: Thank you.

1 JUDGE NEWTON: Thank you very much.

2 CHAIRMAN RANKIN: Senator Garrett.

3 SENATOR GARRETT: Thank you for re-up.

4 JUDGE NEWTON: Yes, sir.

5 SENATOR GARRETT: It's great. Listen, I'm new to
6 Lexington as a new senator there. I have about
7 35,000 people, so I wanted to find out about my
8 judges. I had already -- I knew Greg Siegler
9 well. Greg actually worked in my law office
10 before he came up.

11 JUDGE NEWTON: Yes, sir.

12 SENATOR GARRETT: So it was a pleasure working with
13 Greg, and he has nothing but the highest
14 compliments for you.

15 JUDGE NEWTON: Well, I appreciate that.

16 SENATOR GARRETT: He goes back again to your point,
17 friendly, fair, but firm. And you hit two points
18 a while ago, decorum and ethics. It is
19 imperative that our judges require lawyers to
20 have the decorum in the courtroom, to not use bad
21 words, to not lower the expectation of what our
22 courts are all about. That level of respect is
23 all of our responsibilities, both the bench and
24 the Bar, and it appears that you are the type of
25 judge who demands it, and I can only appreciate

1 that.

2 JUDGE NEWTON: Thank you very much.

3 SENATOR GARRETT: Thank you.

4 JUDGE NEWTON: Thanks, Senator.

5 CHAIRMAN RANKIN: Anyone else? I want to just ditto
6 effectively the theme of what each of these
7 gentlemen have said thus far, and particularly
8 with reference to your letters of reference.
9 Ethics, integrity, and compassion, and finally,
10 forgive me, Ms. Newton, but heart, because you
11 did get a cardiovascular surgeon to send a letter
12 on your behalf, so --

13 JUDGE NEWTON: And he's known me a long time, as you
14 can see.

15 CHAIRMAN RANKIN: Well, you know, as the song goes,
16 you've got to have heart, so anyway. And that
17 figuratively and literally in the sense of what
18 you deal with in a courtroom --

19 JUDGE NEWTON: Yes, sir.

20 CHAIRMAN RANKIN: -- with the tenderness of children
21 hanging in the balance and decisions that will
22 affect them as we have seen this go around and as
23 we see every year, someone who has been stung by
24 something that, rightly or wrongly, they believe
25 that the judge could have done differently. The

1 idea of you saying one day you're going to have
2 it without any negative comment, I'm suggesting
3 to you that you're right there.

4 JUDGE NEWTON: Well, thank you.

5 CHAIRMAN RANKIN: And so I want to salute you for
6 continuing this path and continuing to serve and
7 continuing to kind of wear it lightly.

8 JUDGE NEWTON: Yes, sir.

9 CHAIRMAN RANKIN: And so kudos to y'all both, because
10 it does take a team and a family to support each
11 other in that walk.

12 JUDGE NEWTON: Yes, sir, thank you very much.

13 CHAIRMAN RANKIN: Unless -- is there's anything else?
14 Again, you understand, I did offer you -- if
15 you'd like to make any other closing remarks, we
16 will close it down with this caveat. And you
17 know, as having been previously screened before,
18 we keep the record open until the formal release
19 of the record of qualifications. Any violation
20 by you of the letter or spirit of the ethics laws
21 would be deemed to be serious by us, allowing us
22 to call you back should that occur, which we
23 don't expect, but you do understand that,
24 correct?

25 JUDGE NEWTON: Yes, sir.

1 CHAIRMAN RANKIN: All right. Y'all have a great trip
2 back not that far up the road, and God bless you.
3 Happy Thanksgiving.

4 JUDGE NEWTON: Thank you. Same to y'all. I
5 appreciate everybody's work. Thank you so much.

6 OFF THE RECORD

7 CHAIRMAN RANKIN: Good morning, Judge.

8 JUDGE RICHARDSON: Good morning. I'm a little
9 scratchy, so I've got some water, so I apologize.

10 CHAIRMAN RANKIN: Very good. We'd offer you a scone,
11 but that would not help.

12 JUDGE RICHARDSON: That probably would not.

13 CHAIRMAN RANKIN: All right. If you will, raise your
14 right hand.

15 THE HONORABLE ALICIA ALLSBROOK RICHARDSON, being
16 duly sworn, testifies as follows:

17 CHAIRMAN RANKIN: Welcome back, Judge Alicia Allsbrook
18 Richardson.

19 JUDGE RICHARDSON: Thank you.

20 CHAIRMAN RANKIN: You have two sworn statements, a PDQ
21 and the sworn statement. Are those ready to be
22 entered into the record?

23 JUDGE RICHARDSON: They are ready.

24 (Exhibit Number 4 was marked for identification
25 purposes - (18 pages) Personal Data Questionnaire for

1 The Honorable Alicia Allsbrook Richardson)
2 (Exhibit Number 5 was marked for identification
3 purposes - (6 pages) Sworn Statement of The Honorable
4 Alicia Allsbrook Richardson.)

5 CHAIRMAN RANKIN: All right. And you have someone
6 with you, a very young somebody with you. Do you
7 want to introduce your someone?

8 JUDGE RICHARDSON: This is my husband, Charles.

9 CHAIRMAN RANKIN: Very good. Welcome back. Good to
10 see you. And thank y'all for being early.
11 Judge, as you know, in this vetting process, we
12 look at the nine evaluative criteria, which
13 includes a ballot box survey, a through study of
14 your application materials, verification of your
15 compliance with the state ethics law, a search of
16 newspaper articles in which your name appears, a
17 check for economic conflicts of interest and a
18 study of previous screenings. No one has filed
19 an affidavit of opposition to your reelection.
20 You are unopposed. We have questions from Emma
21 here, who you've met, and if you'd like at the
22 end of this to make any closing statements for
23 purposes of topics that we've not identified,
24 you're welcome to do that.

25 JUDGE RICHARDSON: All right.

1 CHAIRMAN RANKIN: And we will jump right now with Ms.
2 Hall, and take it away, Ms. Hall. Welcome again.

3 JUDGE RICHARDSON: Thank you.

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

5 JUDGE RICHARDSON - EXAMINATION BY MS. HALL:

6 **Q. Good morning, Judge Richardson. It's good to see**
7 **you again.**

8 A. You too.

9 **Q. After serving for about a year on the Family**
10 **Court, why do you want to continue serving as a**
11 **Family Court judge?**

12 A. I feel like I've learned so much this year and
13 I've grown so much. A lot of it was different
14 than what I expected, but I have really enjoyed
15 it. I've been in 12 counties already. I've
16 enjoyed traveling across the state. And I really
17 -- before I took this job, I knew the importance
18 of it, but being in court has really just made me
19 understand not just the honor that it is to be a
20 judge, but also the responsibility.

21 **Q. Thank you. Judge Richardson, what do you think**
22 **your reputation is among attorneys that practice**
23 **before you?**

24 A. Well, I think a lot don't really know yet, so
25 sometimes I get a lot of settlements when I go to

1 new areas, but I hope that they see that I'm
2 patient and that I will work hard if they need
3 extra time. I try to work that in. Sometimes
4 people don't schedule enough time, but I try to
5 make my schedule flexible because I think it's
6 not just important for the attorneys, but it's
7 important for the litigants to have some
8 finality. So I try to work really hard. Staying
9 on schedule is often a chore or something that
10 I've had to learn, but I do try to work really
11 hard, let everybody be completely heard before I
12 make a decision.

13 **Q. Thank you. The Commission received 264 ballot**
14 **box surveys regarding you with 38 additional**
15 **comments. The ballot box survey, for example,**
16 **contained the following positive comments: Judge**
17 **Richardson approaches her cases with common**
18 **sense, intelligence, and a sense of humor, a**
19 **breath of fresh air in South Carolina's**
20 **judiciary. And Judge Richardson is a great**
21 **judge. She considers the facts before her. She**
22 **is well versed in the rules and often cites them**
23 **in her rulings, and she is forthright. I highly**
24 **respect her. None of the comments had any**
25 **concerns.**

1 A. That's good news.

2 MS. HALL: On to the Citizens Committee. I would note
3 that the Pee Dee Citizens Committee found Judge
4 Richardson qualified in the criteria of
5 constitutional qualifications, physical health,
6 and mental stability, and well qualified in the
7 criteria of ethical fitness, professional and
8 academic ability, character, reputation,
9 experience, and judicial temperament.

10 Q. Lastly, just some housekeeping issues. Judge
11 Richardson, since submitting your letter of
12 intent, have you contacted any members of the
13 Commission about your candidacy?

14 A. No, I have not.

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

18 A. I am.

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

23 A. No, I have not.

24 Q. Have you asked any third parties to contact
25 members of the General Assembly on your behalf,

1 or are you aware of anyone attempting to
2 intervene in this process on your behalf?

3 A. No.

4 Q. Have you reviewed and do you understand the
5 Commission's guidelines on pledging and South
6 Carolina Code 2-19-70 subsection E?

7 A. I am.

8 MS. HALL: I would just note for the record that any
9 concerns raised during the investigation
10 regarding the candidate were incorporated into
11 the questioning of the candidate today. Mr.
12 Chairman, I have no further questions.

13 CHAIRMAN RANKIN: Thank you, Ms. Hall. Representative
14 Jordan.

15 REPRESENTATIVE JORDAN: Judge, thank you for agreeing
16 to serve again. I look back, it feels like we
17 were just here not that long ago.

18 JUDGE RICHARDSON: I know, it seems like that.

19 REPRESENTATIVE JORDAN: But I want to compliment you.
20 When you ran initially, the concern was you had a
21 lot of Family Court experience, been in the
22 solicitor's office for an extended period of
23 time, but you have transitioned from what I've
24 read in the comments and what I've heard in our
25 circuit, marvelously. And so I want to

1 compliment you and encourage you to stay on the
2 right track. And again, thank you for agreeing
3 to serve again.

4 JUDGE RICHARDSON: Thank you.

5 CHAIRMAN RANKIN: Mr. Safran.

6 MR. SAFRAN: Thank you, Mr. Chairman. Judge, I know
7 it's only been going on a year, but you mentioned
8 there are things that you found unexpected. Give
9 me a sample of that.

10 JUDGE RICHARDSON: Well, first of all, the scheduling
11 has been a little unexpected, and some circuits
12 are busier than others. And so sometimes it's
13 very hard to keep on track. I find it very
14 difficult to do a temporary hearing in 15
15 minutes, particularly when children are involved.
16 Although it is a temporary solution for those
17 parties, it does not feel that way. And I think
18 they deserve to have a judge who reads everything
19 that's presented and is not rushed. So normally
20 the schedule will kind of work itself out, but
21 that has been a particular challenge because I
22 know how important it is in the lives of those
23 litigants for at least, if things remain
24 contested, another year. I've also had some
25 circumstances that have been very surprising.

1 I'm not going to go into the facts of it to
2 protect the privacy of the people, but I had a
3 situation where it was a very emotional case. It
4 was no one's fault. It was a medical error. And
5 I watched a litigant come in and ask to speak out
6 of turn, and everyone allowed her to do that.
7 And she changed everything and was completely
8 self sacrificing and just changed everybody's
9 demeanor, the attorney's and everyone. And
10 instead of what was a head-to-head combat, it
11 became a cry fest. Everybody in the courtroom
12 was emotional. So sometimes I have learned a lot
13 just from the litigants themselves and how they
14 can come in and, despite the legal arguments,
15 just really get to the emotion and heart of the
16 matter, and that has been refreshing to see.

17 MR. SAFRAN: Well, I mean, what you just mentioned, I
18 mean, ultimately, isn't that where you want to
19 be?

20 JUDGE RICHARDSON: That is.

21 MR. SAFRAN: Let me ask you also, I don't think
22 anybody disputes that, whether we like it or not,
23 as a practical matter, that a temporary hearing
24 more than sets the tone. It basically sets
25 almost in stone what's going to happen at the end

1 of the case. And I think it's refreshing to hear
2 that you're concerned enough about what the
3 implications are at that stage to say we can't
4 just look at the clock all the time. And I
5 commend that. And I really hope, because this is
6 just one of my pet issues, that you stay of that
7 mind because if we recognize just how important
8 it is, I think the time spent now is going to
9 really be far more valuable than what we may try
10 to do at a final hearing down the road. So I'm
11 happy to see that you've acknowledged it, and I
12 think your path is pretty clear here. We hope
13 you'll be doing this for quite a long time.

14 JUDGE RICHARDSON: Well, thank you. I appreciate that.

15 MR. SAFRAN: Thank you.

16 CHAIRMAN RANKIN: Senator Garrett.

17 SENATOR GARRETT: Thank you, Mr. Chairman.

18 JUDGE RICHARDSON - EXAMINATION BY SENATOR GARRETT:

19 **Q. Thank you for doing it again. If you could wave**
20 **your magic wand as it relates to these temporary**
21 **hearings, whatever, what do you think would be a**
22 **better system? I mean, would 30 minutes be**
23 **better, mandatory, especially if custody is**
24 **involved?**

25 **A. If custody is involved -- and I'm sure that**

1 clerks and administrative judges around the state
2 would shake their head at me for this -- but I
3 think if custody is involved, that 30 minutes
4 would be more suitable, just so you can have
5 time. And I like to ask some questions, too.
6 There are some things that come to mind that the
7 attorneys may not think about, particularly with
8 work schedules that the parents have and other
9 obligations like that. But I do think 30
10 minutes, if custody is contested, would be much
11 better. Now, I don't know that they need to
12 increase the number of pages, because with the
13 eight page limit and then now 16 for a 30 minute,
14 that's just scratching the surface. We usually
15 get a stack of text messages, photos, and that
16 sort of thing. And in that vein, I've been
17 particularly concerned that people just put
18 everything in the record at these temporaries,
19 and I try to make a special effort to have the
20 attorneys take some steps to protect the identity
21 of particularly the children and any personal
22 identifying information such as Social Security
23 numbers, addresses, and that sort of thing that
24 are included in the record for the public to
25 view.

1 Q. Well, thank you. The lawyers are trying to get
2 everything they can out to you --

3 A. Right, quickly.

4 Q. -- to help you make a decision. Some lawyers are
5 better at it than others. Some of them can get
6 it down to the eight pages in 15 minutes, and
7 some of them have difficulty doing that. And
8 then sometimes, what I would do, is I would have
9 the additional information there for you. I
10 would give you the synopsis and then have that
11 stack available to you on the desk in case you
12 wanted to ask a question about something in
13 particular. I found that helpful to some of the
14 judges in some of these disputes where they're
15 limited to 15 minutes. But I agree that we need
16 to try to do that. And if the lawyers -- and
17 generally if you have good lawyers working
18 together, they'll let you know when there's
19 something going to be settled, and it's going to
20 be a consent, and we can get in and get it done
21 quickly. And then, you know, you can start
22 shaving minutes off to be able to handle the
23 later ones. So, you know, if you could figure
24 out a way -- and this is my dream,--is if you
25 could go ahead -- you've got all your contested

1 DSS stuff coming in, hitting you with that,
2 emergencies, you've got to take care of that.
3 Then you get to your docket. It would seem to me
4 that the better practice would be, if you could,
5 those lawyers who have settled cases present
6 those cases in settlement early on, and then you
7 have the rest of the afternoon maybe to work on
8 the more litigious, or give them 30 minutes a
9 piece. I don't know if that's something that you
10 could do as an administrative judge, or have you
11 got to that point yet where they've made you an
12 administrative judge?

13 A. No, not yet, and not for at least another year.
14 And some areas do it differently. So some do
15 block scheduling where they'll do five
16 temporaries in an hour so that the ones that are
17 settled are handled first or handled by consent.

18 Q. Right.

19 A. And then some schedule them every 15 minutes. So
20 it just depends on the practice in the particular
21 circuit. And I have found that throughout the
22 state every area does it a little different.

23 Q. Well, I don't want to make you keep talking.

24 A. I know. I'm sorry.

25 Q. Thank you. Thank you, thank you for the job that

1 you're doing. And I tell you what, if you can
2 keep up this, not having anybody complain about
3 you as a Family Court judge, that's tremendous,
4 so congratulations on that.

5 A. Well, thank you.

6 Q. Thank you.

7 CHAIRMAN RANKIN: Other questions? Judge, I want to
8 just comment again, as Representative Jordan
9 said, it's not been that long since we saw you
10 here, and you continue to have great comments
11 attributed to you or about you anonymously, which
12 as Senator Garrett just said, that is a rare
13 feat. Perhaps you're so new that they have
14 nothing but plaudits for you, and so keep it
15 coming, as was suggested earlier. I want to note
16 Dorn Smith, Morgan Martin, and Kathy Floyd and
17 their comments about your ethics, your integrity,
18 and your compassion. And I want to be reminded,
19 you were this deputy solicitor with Jimbo
20 Richardson, correct?

21 JUDGE RICHARDSON: Correct.

22 CHAIRMAN RANKIN: If ever we have seen a better
23 evidence of frugality of our solicitor's office,
24 Kathy Floyd's letter on your behalf includes you
25 still on the letterhead as a deputy solicitor.

1 JUDGE RICHARDSON: Oh, goodness.

2 CHAIRMAN RANKIN: They're watching their pennies in
3 Horry County, the 15th Judicial Circuit. So,
4 thank you. And unless there are any other
5 questions, this will close this portion of the
6 record. You know that it is not closed until the
7 final release of the record of qualifications,
8 and any violation by you or the appearance of
9 impropriety of the state ethics laws would be
10 very seriously considered by us, and you
11 understand that we could call you back in that
12 unlikely event, correct?

13 JUDGE RICHARDSON: Correct.

14 CHAIRMAN RANKIN: All right. Godspeed to you on your
15 travels home, and your getting your voice back,
16 and happy Thanksgiving to you and your family.

17 JUDGE RICHARDSON: Thank you. You, too.

18 CHAIRMAN RANKIN: Take care.

19 (OFF THE RECORD)

20 CHAIRMAN RANKIN: Welcome, Judge.

21 JUDGE McEACHIN: Glad to be here with y'all.

22 CHAIRMAN RANKIN: Raise your right hand, please.

23 THE HONORABLE FITZLEE H. McEACHIN, being duly
24 sworn, testifies as follows:

25 CHAIRMAN RANKIN: State your name and the way that you

1 pronounce your last name, please.

2 JUDGE MCEACHIN: It's FitzLee Howard McEachin.

3 JUDGE MCEACHIN: McEachin, not McEachin.

4 CHAIRMAN RANKIN: Welcome back, Judge McEachin.

5 JUDGE MCEACHIN: Thank you.

6 CHAIRMAN RANKIN: You have two documents in your hand,
7 the PDQ and the sworn statement. Are those ready
8 to be introduced into the record?

9 JUDGE MCEACHIN: They are.

10 (Exhibit Number 6 was marked for identification
11 purposes - (14 pages) Personal Data Questionnaire for
12 The Honorable FitzLee H. McEachin.)

13 (Exhibit Number 7 was marked for identification
14 purposes - (6 pages) Sworn Statement of The Honorable
15 FitzLee H. McEachin.)

16 CHAIRMAN RANKIN: Okay, if you will hand those to
17 Lindi, we'll do that. Judge, thank you for being
18 here early. They're trying to suggest that I sit
19 up and do better and turn my volume down. Judge,
20 as you know, we look at the nine evaluative
21 criteria in considering your election or
22 candidacy for reelection. Those involved, the
23 ballot box survey, a thorough study of your
24 application materials, verification of compliance
25 with state ethics laws, a search of newspaper

1 articles in which your name appears, a study of
2 previous screenings and then a check for economic
3 conflicts of interest. No one has filed a
4 complaint in opposition to your campaign and
5 candidacy, and so we are going to turn it over to
6 Mr. Stimson for questions. Then members of the
7 Commission may have some questions, and if you'd
8 like to make a closing statement for any items
9 that we've not covered, you'll be welcome to do
10 that.

11 JUDGE MCEACHIN: Thank you very much, Mr. Chairman.

12 MR. STIMSON: Thank you.

13 JUDGE MCEACHIN - EXAMINATION BY MR. STIMSON:

14 **Q. Judge McEachin, after serving five years on the**
15 **Family Court, why do you want to continue serving**
16 **as a Family Court judge?**

17 A. The timing of that question is actually perfect.
18 Yesterday, we had the statewide adoption day in
19 South Carolina, and I was fortunate to be one of
20 the judges who was handling adoption day. And I
21 had 12 separate adoption hearings yesterday, and
22 18 children were adopted. And the sheer joy you
23 saw in those families' faces and those children's
24 faces is certainly something that has motivated
25 me to do what I do. You know, I think that most

1 people understand that Family Court is generally
2 not a happy place, but the ability to continue to
3 positively affect children's lives in this state
4 is certainly something that motivates me, and I
5 hope to continue to do that.

6 Q. Thank you, Judge. Judge McEachin, what do you
7 think your reputation is among attorneys that
8 practice before you as well as court personnel
9 that work with you?

10 A. Well, I certainly hope they think I'm fair and
11 reasonable. I certainly allow everybody to put
12 their particular positions up on their cases, and
13 I take those into consideration when ultimately
14 making my ruling that complies and conforms with
15 the law.

16 Q. Judge McEachin, the Commission received 410
17 ballot box surveys regarding you with 66
18 additional comments. The ballot box survey, for
19 example, contained the following positive
20 comments: an excellent judge, hardworking,
21 compassionate, honest and fair, works hard to
22 assure that when people have their day in court,
23 they get the best in professionalism and
24 preparation from everyone involved, including
25 himself. Judge McEachin is a mature beyond his

1 years as a Family Court judge. He has an
2 excellent temperament and exhibits a knowledge of
3 the law with a common sense approach, great
4 judge. And Judge McEachin is smart, fair, and
5 treats everyone with respect. He is a great
6 judge. There were no written comments that
7 expressed concern.

8 MR. STIMSON: I would note that the Pee Dee Citizens
9 Committee found Judge McEachin qualified in the
10 evaluative criteria of constitutional
11 qualifications, physical health, and mental
12 stability. The Committee found Judge McEachin
13 well qualified in the evaluative criteria of
14 ethical fitness, professionalism, and academic
15 ability, character, reputation, experience and
16 judicial temperament. The Committee did not make
17 any written statements.

18 Q. Just a few more housekeeping issues, Judge
19 McEachin. Since submitting your letter of
20 intent, have you contacted any members of the
21 Commission about your candidacy?

22 A. I have not.

23 Q. Are you familiar with South Carolina Code Section
24 2-19-70, including the limitations on contacting
25 members of the General Assembly regarding your

1 screening?

2 A. I am aware of that.

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

7 A. I have not.

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

12 A. I have not.

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

16 A. I am familiar with the code.

17 MR. STIMSON: I would just note for the record that
18 any concerns raised during the investigation
19 regarding Judge McEachin were incorporated into
20 the questioning of him today. Mr. Chairman, I
21 have no further questions.

22 CHAIRMAN RANKIN: All right. Representative Jordan.

23 REPRESENTATIVE JORDAN: Thank you, Mr. Chairman.

24 Judge, I've heard it pronounced McEachin more
25 than I've heard it pronounced McEachin, so I want

1 to make sure that it is the correct
2 pronunciation.

3 JUDGE MCEACHIN: When I was at the Citadel, they told
4 me I got it wrong.

5 REPRESENTATIVE JORDAN: That sounds about right. I
6 wasn't here when you initially screened, Judge,
7 but I can only guess that my good friend,
8 Representative Safran over here, gave you what
9 would have been the concern at the time, that
10 based on your age -- not that that isn't
11 something that can be overcome, but it is
12 something that needs to be addressed. You could
13 end up being a judge for 30-plus years based on
14 when you initially became a judge. I'm pleased
15 as I look through these comments. I think one of
16 them hit the nail on the head. It talks about,
17 initially, I was concerned due to his youth, but
18 you have exceeded expectations, more than
19 capable, competent Family Court judge. It
20 continues to list some of the things that we've
21 heard that's already been said about you. As I
22 look back -- sometimes I think it's important to
23 go back and look back at what was the concern, if
24 there was any concerns, looking back at it, and
25 realize that you have addressed those issues with

1 flying colors, so to speak. The other thing, and
2 I'll move on because I know we're -- we've got a
3 lot to do today. You're the second candidate
4 from Florence to come through who's gotten a
5 glowing recommendation from our Clerk of Court.
6 Am I the only lawyer who's deathly afraid of our
7 Clerk of Court in Florence?

8 JUDGE MCEACHIN: Certainly not, Representative Jordan,
9 certainly not.

10 REPRESENTATIVE JORDAN: So I commend you on that, and
11 thank you again for serving, and I hope you'll
12 serve for years to come.

13 JUDGE MCEACHIN: Thank you.

14 CHAIRMAN RANKIN: Senator Sabb.

15 SENATOR SABB: Thank you, Mr. Chairman. I, too, would
16 just lend my voice to let Judge McEachin know
17 that we're just extremely proud of the reputation
18 that he's garnering all around the state. Those
19 of us who knew him, know his dad, are not
20 surprised at all, but obviously it's a day-by-day
21 walk that we engage in, and so we just pray that
22 things will continue to blossom in the way that
23 it has and just keep up the good work.

24 JUDGE MCEACHIN: Thank you, Senator Sabb.

25 CHAIRMAN RANKIN: All right, other members? Senator

1 Garrett.

2 JUDGE MCEACHIN - EXAMINATION BY SENATOR GARRETT:

3 Q. I'm intrigued by your love of the adoption
4 process. They tell me that's the funnest thing
5 for a Family Court judge to do, especially when
6 you're fighting all the fights that you have to
7 referee, and it's an area that I'm very
8 interested in. And so talking about adoptions
9 for just a minute, do you have a vision of how
10 you can make it better? If you were able to
11 write the law -- I know you can't, we can't --
12 but if you could write the law to make it better,
13 what would you do? What are your thoughts on
14 that?

15 A. Well, I separate into three types of adoptions.
16 There are really two types, but I separate into
17 three. You've got the familial adoptions, which
18 is when you have a stepparent or another family
19 member adopting a child, and that process in and
20 of itself is streamlined a lot more than your
21 other adoptions in that it doesn't require the
22 background investigations, the pre placement,
23 post placement investigation, the accountings,
24 those things. They're all exempt by statute if
25 the court finds it appropriate. So I don't think

1 that's what your question is. I think it's
2 relating to these other types of adoptions, which
3 are your foster care adoptions, which is what we
4 did yesterday, and then your other private
5 adoptions where your adopting parents who have no
6 relationship to the child. As far as
7 recommendations to speed up the process would be
8 my first recommendation, if possible. What we're
9 seeing -- and I will say, based on what I saw
10 yesterday, the time from adoptive placement to
11 final hearing, even from five years ago, is much,
12 much quicker. A lot of the adoptive placements I
13 dealt with yesterday, these children were placed
14 in July or August or September even, and I think
15 I did one last week where the placement was in
16 October for adoptive purposes, and ultimately we
17 were able to get those accomplished. Where you
18 do see a little bit of an issue with regard to
19 foster care cases is the time from initial
20 placement until the adoption hearing and adoptive
21 placement. In a lot of cases, the ones I heard -
22 - and it may be an issue with just getting the
23 right placement for these children, but you may
24 have a TPR order from 2021 or 2022, and the
25 adoption is not taking place until October of

1 2024. And I don't necessarily know that's
2 anything that can be corrected by statute or law.
3 That may be more of just finding the right
4 placement for these children because each child
5 is unique, and each child, especially the ones
6 that are coming through the foster care program,
7 have their own set of issues that -- you have to
8 find the appropriate placement for them. And I
9 will say that compared to what it was even five
10 years ago, the process is certainly, I feel, more
11 streamlined than it used to be.

12 **Q. Having one judge handle one case, that's really**
13 **helped, hasn't it?**

14 **A.** We weren't part of that pilot program in our
15 circuit, so I'd be flying a little blind in
16 telling you that it's been successful just
17 because I haven't personally experienced that.

18 **Q. What I'm trying to do is, in thinking of these**
19 **foster care cases, suppose you've got a**
20 **termination of parental rights. You know, you've**
21 **got to get that done before you can even talk**
22 **about it, but suppose your family plan doesn't**
23 **work. Instead of giving them two years or ten**
24 **years to get straightened out, tighten it up, six**
25 **months to a year, and that's it. And at the same**

1 time, while you're doing that, let them know that
2 we're going to have a family member, if there's a
3 biological marriage or otherwise. That person is
4 getting screened and getting ready to do the
5 adoption. Certainly you'd want a family member
6 to do it first, if at all possible. As you said
7 a while ago, that makes it easier. Then the
8 second person there may be a parent, a person who
9 has become a parent just by association for a
10 long time. You know what I'm talking about?

11 A. Foster care.

12 Q. Yeah, so you've got that, and then you've got
13 that, and then go ahead and have a third-party
14 adoption, and all three going at the same time
15 with the same guardian. And then that way, when
16 you have your termination of parental rights
17 hearing, at that hearing, you go ahead and adopt
18 the child right there because you've got either
19 the biological parent, either the psychological
20 parent, or a third-party adoptive parent.

21 A. Senator, I will go back to the initial question
22 you asked me about how to streamline the process,
23 and by that question you've just asked me, it did
24 make me think of something. The ICPC process, it
25 delays these cases substantially longer than

1 anything else. And that involves multistate
2 stuff, and some states are very quick to get
3 their ICPCs back to South Carolina. Some states
4 take -- and even if we ask for expedited take --
5 nine months to a year to get their ICPC
6 compliance back to us. And these are family
7 members of these children who are willing to
8 adopt, who want to adopt, and because we've got
9 to wait on that ICPC compliance to come back
10 before we can even place the children with them,
11 that is certainly delaying these cases.

12 **Q. Okay, but that's federal, isn't it? Or is that**
13 **the compact?**

14 A. Well, it's also contained within the state code.

15 **Q. Okay, it's part of the compact?**

16 A. Yes, sir.

17 **Q. Or state compacts, okay. So maybe we can look at**
18 **that. Well, listen, thank you for your time. I**
19 **know this is a screening, but that's an important**
20 **issue going forward. We're all working on**
21 **adoptions to try to help that process. Thank**
22 **you.**

23 A. Thank you, Senator Garrett.

24 CHAIRMAN RANKIN: Questions by anybody else? All
25 right. Judge McEachin, I want to call attention

1 to a couple of things. Your scouts, work with
2 Boy Scouts. As an Eagle Scout, you are giving
3 back. A wonderful letter about you from a member
4 of your scout universe. And then to the letter,
5 short and sweet but so powerful to me, from Ben
6 Ziegler. And I cannot help but hearken back to
7 Senator Sabb's comments about your father and
8 about a legacy of law that you are pursuing and
9 carrying forward and your ability to get it right
10 early. So many folks come before this Commission
11 in my time and in previous years that are new,
12 that don't have perhaps much seasoning in the
13 legal world, and this batch of candidates as
14 well. But you obviously grew up in a family
15 where you observed, you recorded, and you
16 correlated how to be a lawyer's lawyer and now a
17 judge's judge, and so I want to commend you for
18 that. And apparently doing it with such ease
19 that the world that can say things about you
20 without attribution is no different than what
21 folks are saying who have signed their names to
22 these letters. So keep it up. God bless you.
23 And if you need us, let us know. We have heard -
24 - Representative Caskey has not asked you -- but,
25 again, we understand that some judges have got

1 law clerks now, apparently five, in these high-
2 trafficked areas court wise. Please reach out to
3 your representatives and senators to let them
4 know what needs you might have that your clerk is
5 not shouting from the mountaintop, apparently,
6 already. So, with that, Judge, anything further
7 from you?

8 JUDGE MCEACHIN: Certainly. I just want to thank the
9 Commission. I know that y'all have a ton of
10 candidates y'all have to screen. I certainly
11 appreciate the attention that you've given to me
12 and obviously wish you the best of luck in your
13 endeavors as well, and I certainly appreciate
14 it, Mr. Chairman.

15 CHAIRMAN RANKIN: Very good. Again, for the record,
16 you know that the formal record of qualifications
17 is the last word, and the record remains open for
18 instances of any violation by you of either the
19 letter or spirit of the state ethics laws, which
20 we would deem very serious. You understand that
21 we could call you back, and as a result that this
22 record does remain open, correct?

23 JUDGE MCEACHIN: Yes, sir, I understand that.

24 CHAIRMAN RANKIN: Very well. Godspeed, and happy
25 Thanksgiving to all you folks in the Pee Dee.

1 JUDGE MCEACHIN: Thank you, y'all, too.

2 (OFF THE RECORD)

3 CHAIRMAN RANKIN: If you will, please raise your right
4 hand.

5 THE HONORABLE W. MARSH ROBERTSON, being duly
6 sworn, testifies as follows:

7 CHAIRMAN RANKIN: You've got two statements that
8 you've signed. Are they ready to be entered into
9 the record?

10 JUDGE ROBERTSON: Yes, sir.

11 CHAIRMAN RANKIN: All right, thank you. And we will
12 put those in the record. You have brought
13 someone with you. Would you like to introduce
14 your guest?

15 (Exhibit Number 8 was marked for identification
16 purposes - (15 pages) Personal Data Questionnaire for
17 The Honorable W. Marsh Robertson)

18 (Exhibit Number 9 was marked for identification
19 purposes - (6 pages) Sworn Statement of The Honorable
20 W. Marsh Robertson.)

21 JUDGE ROBERTSON: This is my wife and best friend,
22 Pat.

23 CHAIRMAN RANKIN: Pat, welcome. Thank you for being
24 here and having such great smiles on your faces.
25 We're only two minutes late, which is remarkable,

1 and I'm going to make quick dispensation and work
2 of my introduction, only to the point that you
3 understand our efforts here in your reelection,
4 our interview of you, in this process. It
5 focuses on those nine evaluative criteria. It
6 includes a ballot box survey, a thorough study of
7 your application materials, verification of your
8 compliance with state ethics laws, a search of
9 newspaper articles in which your name appears, a
10 study of previous screenings and a check for
11 economic conflicts of interest. There are no
12 objections to your campaign for re-election, no
13 one here to speak in opposition to you. The
14 floor is now yours to make a brief statement.
15 Otherwise, we'll turn it over to Ms. Webb, and
16 then at the end, if you'd like to offer any
17 closing comments, we'll extend that offer to you.

18 JUDGE ROBERTSON: Thank you. I'll be extremely brief,
19 but I would be remiss if I didn't take this
20 opportunity to say thank you to this Commission
21 and its extraordinary staff for the job, the
22 great work you do, for the judicial branch.

23 CHAIRMAN RANKIN: Thank you. Ms. Webb.

24 JUDGE ROBERTSON - EXAMINATION BY MS. WEBB:

25 **Q. Good morning, Judge Robertson.**

1 A. Good morning, Ms. Webb.

2 **Q. Judge Robertson, after serving almost 15 years on**
3 **the Family Court, why do you want to continue**
4 **serving as a Family Court judge?**

5 A. Well, thank you. I am in my 15th year, and I
6 continue to enjoy the challenges and appreciate
7 the rewards that come with this job every day,
8 maybe more so now than ever. I feel like during
9 the past 15 years I've learned something new
10 every year. I feel like I've improved as a judge
11 every year, and I'm continuing to learn and
12 improve. And with that experience, I feel like
13 I've got a lot to offer not only the public, as
14 I've been doing for the past 14 and a half years,
15 but also perhaps now as more one of the senior
16 judges, my colleagues on the Family Court bench,
17 by being perhaps a resource or a guide for them,
18 particularly some of the newer elected judges.
19 And so I'm looking forward and hope to have the
20 opportunity to serve another term to that end.
21 Thank you.

22 **Q. Thank you. And Judge Robertson, the Commission**
23 **received 351 ballot box surveys regarding you**
24 **with 35 additional comments. The ballot box**
25 **survey, for example, contained the following**

1 positive comments: One of the smartest judges on
2 the bench, great demeanor and judicial
3 temperament, thoughtful, diligent, and prepared,
4 highly competent and very experienced Family
5 Court judge who truly cares about the best
6 interest of children and families and is the best
7 the judicial system has to offer. Six of the
8 written comments expressed concerns. Some of the
9 concerns expressed indicated that you are a
10 stickler in your courtroom on your rulings and
11 orders. What response would you offer to this
12 comment?

13 A. Yeah, we talked about that at my interview, and I
14 don't consider myself a stickler, and I'll get
15 back to that. But if I am a stickler at all to
16 some degree, it's that I'm a stickler for a good
17 record. The record is a judge's best friend. It
18 is a lawyer's best friend. It is a litigant's
19 best friend, and so I do make an effort during
20 every hearing to ensure that we have a good
21 record, not a perfect record. That's too much to
22 ask, and that's not going to happen, but a good
23 record, a record that would sustain review at the
24 appellate level or other types of reviews. So I
25 am very cognizant of the record, and some

1 attorneys may think too cognizant. Getting back,
2 I'll tell a little story. When I first became a
3 lawyer, I went into practice with my dad back in
4 the early 90s, and there was a judge on the
5 Greenville County Family Court bench named R.
6 Kinard Johnson, Jr., and he had a reputation as a
7 stickler, inflexible. You had to have everything
8 perfect. And so, like a lot of the young
9 attorneys, I was hesitant, perhaps even a little
10 afraid, to go into his courtroom when I first got
11 started. So what did I do? I prepared a little
12 harder. I worked a little harder before I went
13 into his courtroom. I dotted every I. I crossed
14 every T. And then when I went into the hearing,
15 what happened? I represented my client better,
16 and the result of all that was I became a better
17 lawyer. And Judge Johnson became my favorite
18 judge, much like a professor. He was the hardest
19 professor you ever had, but you learned the most
20 from him, or her, and I ended up succeeding Judge
21 Johnson on seat two of the Thirteenth Circuit
22 Family Court. But there's one difference between
23 me and Judge Johnson -- and a lot of people
24 compare us, and I take that as a high compliment
25 -- but if you went into Judge Johnson's courtroom

1 and you didn't have it all right procedurally,
2 you were probably going to leave that courtroom
3 with a continuance, maybe even a dismissal. I
4 don't do that. Unless I absolutely have to
5 continue a case, I'm looking for ways not to
6 continue that case, and what that means is that
7 I'm looking for ways within the rules to fix it,
8 to fix the record, so that those litigants who
9 came to the courtroom -- maybe with an attorney
10 that didn't do it right, but coming into the
11 courtroom looking for some closure -- if it's a
12 final hearing perhaps, or resolution if it's a
13 temporary hearing, I want to make sure those
14 litigants don't have to be hanging out in the
15 wind for another month or two waiting for their
16 rescheduled hearing because of a continuance.
17 And generally I find that I'm able to do that if
18 I'm smart enough and creative enough to look for
19 a good way to do it.

20 **Q. Thank you. And Judge Robertson, another concern**
21 **indicated that you can sometimes be irritable**
22 **while on the bench. What response would you**
23 **offer to this concern?**

24 **A.** Yeah. And when I met with you and with the South
25 Carolina Bar a week or two or three before that,

1 that came up. And I will say that if the
2 question is have I ever been irritable in the
3 courtroom, the answer to that is yes, I have.
4 And I think most Family Court judges, if being
5 honest, would say that they have, but I don't
6 think there's likely to be a more self aware
7 Family Court judge on the bench. When I call a
8 case into the courtroom, I start multitasking,
9 and that means that I'm looking and seeing and
10 observing. I am hearing and listening. I am
11 starting to make some judgments, make up my mind
12 about the issues before the Court, but I'm also
13 doing something else. I am judging myself and
14 the perception that I'm projecting to those in
15 the courtroom, particularly the litigants and the
16 lawyers. And occasionally I do catch myself when
17 I'm starting to perhaps show a little
18 frustration. I'm not raising my voice. I'm not
19 embarrassing anybody, certainly not
20 intentionally, but I catch myself. Maybe I'm
21 being a little rushed, maybe a little hurried.
22 And when I catch myself, I change. I dial it in,
23 and I fix it. I become extremely courteous and
24 extremely patient and extremely attentive. If I
25 don't catch myself until after the hearing, I

1 feel bad about it, and I commit to do better, but
2 these are rare instances, and I think that the
3 comments that you began that question with about
4 excellent temperament and demeanor, hopefully
5 those are the more accurate ones for me on the
6 regular.

7 **Q. Thank you, Judge Robertson.**

8 MS. WEBB: I would note that the Upstate Citizens
9 Committee found Judge Robertson well qualified in
10 the evaluative criteria of ethical fitness,
11 professional and academic ability, character,
12 reputation, experience, and judicial temperament,
13 and qualified in the evaluative criteria of
14 constitutional qualifications, physical health,
15 and mental stability. The Committee had no
16 related comments.

17 **Q. Now, Judge Robertson, just for a few housekeeping**
18 **issues. Judge Robertson, since submitting your**
19 **letter of intent, have you contacted any members**
20 **of the Commission about your candidacy?**

21 A. I have not.

22 **Q. Okay. And are you familiar with Section 2-19-70,**
23 **including the limitations on contacting members**
24 **of the General Assembly regarding your screening?**

25 A. Yes.

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

5 A. I have not.

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

10 A. Not at all.

11 Q. Thank you. And have you reviewed and do you
12 understand the Commission's guidelines on
13 pledging in South Carolina Code Section
14 2-19-70(E)?

15 A. Yes.

16 Q. Thank you.

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

22 CHAIRMAN RANKIN: Okay. Thank you. Question?

23 Senator Garrett. Let me go to Mr. Sabb first.

24 MR. SABB: No, you go ahead. You can go first.

25 SENATOR GARRETT: Thank you.

1 SENATOR GARRETT: Judge Robertson, it's good to see
2 you.

3 SENATOR GARRETT: Good to see you, Senator Garrett.
4 It's always a pleasure to have you come to
5 Greenwood. I can tell you our Bar doesn't think
6 that you're ill tempered. Exactly, we actually
7 like when you come to -- you're always even
8 keeled, and you're very helpful to the lawyers.

9 JUDGE ROBERTSON: Thank you. Greenwood may be my
10 favorite assignment. I've shared that with
11 others.

12 SENATOR GARRETT: Well, I hope so. We have a great
13 Bar, and we work together, and when we have good
14 judges -- Mr. Kinard Johnson came before you, and
15 he was tough, but, again, I didn't have a problem
16 with that because I trained under tough judges.
17 So I'm with you. I think there's a lot to be
18 learned by judges who are friendly, fair, yet
19 firm.

20 JUDGE ROBERTSON: And that's exactly what I try to be.
21 That's well put.

22 SENATOR GARRETT And you've done that, and thank you
23 for deciding to go ahead and do that. You'll be a
24 great mentor to some of these younger judges.
25 They're blessed to have you as a mentor to them,

1 and thank you for agreeing to reserve.

2 JUDGE ROBERTSON: Thank you very much for those kind
3 words, Senator.

4 CHAIRMAN RANKIN: Mr. Safran.

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

6 JUDGE ROBERTSON - EXAMINATION BY MR. SAFRAN:

7 Q. I agree. I mean, I think that what the
8 overriding theme is of these comments is you know
9 what you're doing. You've been experienced
10 enough to kind of gain a bank of knowledge that
11 most people don't possess, and I think we're
12 fortunate to have somebody like you. The other
13 thing that I saw in some of the comments is this.
14 I mean, you pointed out some of the judges you
15 went in front of coming up were not exactly cream
16 puffs. And I think that while it's incumbent
17 upon all the judges to make a real effort to try
18 to, as you say, kind of dial it in or dial it
19 back, it just doesn't always happen. I mean,
20 we're all human, and I think what sometimes
21 people fail to appreciate is that while we're
22 here trying to screen judges and provide
23 competent and good judges, we're not providing
24 perfect. Everybody has days, okay, and so I
25 don't think anybody should hold that against you

1 because, you know what, everybody's going to have
2 a moment, okay. It just happens. The other
3 thing that I saw was kind of odd is this. You
4 talked about it in terms of the record, but, you
5 know, it's your order. If you're not happy with
6 what's in the order, you have every right to
7 change it. I think somebody was bemoaning the
8 fact that you would take your pen out and make
9 some changes. I know if I was in your place, I
10 would be doing it routinely. And the reason is -
11 - and I'm sure you've seen it -- what has
12 surprised me over the course of time is the older
13 we get, I think people -- I notice that people
14 just don't want to spend time on an order. They
15 don't realize the impact that it has in the
16 litigation and how important it is to get it
17 right. And so I wouldn't in any way be ashamed
18 or embarrassed about fixing the order because
19 you're the one putting your name on it, aren't
20 you?

21 A. That's exactly right. When I heard that comment
22 at the interview, I considered that a compliment,
23 not a criticism because it shows that I take time
24 to review the order, which I think is important
25 to do because it is my name at the bottom. The

1 lawyer who writes the order is not writing the
2 order as the lawyer. They are putting words in
3 my mouth. They are my ghostwriter, and if
4 they're putting the wrong words in my mouth, then
5 I think I reserve the right to fix it and to have
6 it come out the way I want, and if that means
7 taking a pen to paper, as that commentator said
8 and making a handwritten ad initially, then
9 that's what it means. That lawyer, I think,
10 said, I doubt Judge Robertson has ever received
11 an order that he didn't take pen to paper on.
12 Well, that may be true for that lawyer. I let a
13 lot of things go. I could be a lot more of a
14 stickler with orders than I am. I think when I
15 first started I was more of a stickler than I am
16 now. But I do believe that the order should be
17 something that I'm comfortable signing my name
18 to.

19 **Q. Do you find -- because you've been doing this now**
20 **for a while, I mean, do you find that really**
21 **putting the time into an order is kind of an**
22 **underappreciated element from the lawyers these**
23 **days?**

24 **A. Yes. I actually, several years ago, wrote an**
25 **article for a presentation, but I use it all the**

1 time, and I talk about it a lot -- I send it out
2 to lawyers if they want it -- but the title of
3 the article is, "Helping You Help Me, Ten Tips
4 for Writing a Better Order". And it's just got
5 some practical pointers on what I like to see.

6 Q. Well, you know, I mean, I think we all have our
7 ways about it, but I made a conscious decision a
8 long time ago that said, you know, if I'm the one
9 writing the order, I may end up not prevailing on
10 the case for a lot of reasons, but it ain't
11 because of a crappy order, you know. And I mean,
12 that oftentimes is the fatal flaw in those
13 things, is that they don't do what they need to
14 do.

15 A. And a lot of the reason for that, I think, is
16 that lawyers wait -- for some reason, they
17 procrastinate on preparing the order. When I
18 practiced, I wrote the order the day of the
19 hearing. If that meant going back at a 4:45
20 hearing that ended at 5:00, going back to the
21 office away from my house and writing that order,
22 that's what it meant. But I didn't trust myself
23 to remember it, so I wrote it as fast as I could.

24 Q. Well, I'll tell you this. I plead guilty when it
25 comes to delaying doing orders, primarily because

1 if you're by yourself and you have an ongoing
2 practice, I have to set aside a lot of time to do
3 it. And unfortunately, it's usually Sunday
4 afternoon, and usually during the week there's
5 not time to really sit down and get them done.
6 But I think yours is the better way, and maybe by
7 the time I retire in 20 years, God willing, I'll
8 get there.

9 A. But I hear what you're saying. A lot of lawyers
10 do phone it in with the order, and it's because I
11 think a lot of them become sort of dependent on
12 the forms. They just go find a form, and then
13 they change the caption and try to customize it a
14 little bit. So tip number one, I think, of my
15 Helping You Help Me article is don't be overly
16 dependent on forms. We all use them. When I
17 write my own orders, I start with an order I've
18 done in the past.

19 Q. Sure.

20 A. But I'm a big fan of true customization to make
21 it right.

22 Q. Well, isn't your doing that exactly what you said
23 before, that you're effectively trying to make
24 lawyers better lawyers?

25 A. Exactly, yes, and I don't think there's anything

1 wrong with that.

2 **Q. One last thing has nothing to do with this. I**
3 **saw your son works for the Orioles.**

4 A. He does.

5 **Q. Yeah. How did that happen?**

6 A. Well, he -- and I think six years ago, Chairman
7 Smith at the time asked about that too. He
8 played college baseball at Davidson and had a
9 really big senior year and ended up that their
10 team did really well and almost made it to Omaha.
11 They were super regionals as a tiny school.

12 **Q. Oh, yeah.**

13 A. They went into their conference tournament as a
14 sixth seed, and then they just started winning.
15 And Will had had a really big individual year.
16 He had a bunch of home runs and made some
17 All-American teams. And because of the
18 visibility of the post season, he got drafted by
19 the Orioles, and he played three years in their
20 minor league system, and when he saw that as an
21 analyst -- which is what he is by nature anyway,
22 what he was hired to do before he got drafted --
23 he analyzed himself and decided it was time to
24 transition. So he met with some of the
25 executives with the Orioles and said he would be

1 interested in a front office position, and he
2 earned one. And he's in their front office now.

3 **Q. Well, I'm sure coming from Davidson, he was well**
4 **prepared.**

5 A. Absolutely.

6 **Q. Well, thank you for offering again.**

7 A. Thank you, I appreciate it.

8 CHAIRMAN RANKIN: Ms. Blackley.

9 MS. BLACKLEY: Judge, I don't know if you remember,
10 but I used to love it when you would come to
11 Spartanburg. I was a former clerk there, but I
12 see you have some great letters, one from someone
13 I think very highly of, Bryce Garrett.

14 JUDGE ROBERTSON: Yes, oh, yes. I think very highly
15 of Bryce Garrett as well.

16 MS. BLACKLEY: And Max.

17 JUDGE ROBERTSON: Right.

18 MS. BLACKLEY: And you had a plethora of just
19 wonderful reference letters --

20 JUDGE ROBERTSON: And Jim Thompson from Spartanburg, I
21 believe, was one of them, yeah.

22 MS. BLACKLEY: And Jim Thompson, yes. Just wanted to
23 say I think there was nothing better than when
24 you had staff who looked forward to a visiting
25 judge who we knew was going to get things done.

1 I'm a stickler for the rules and let's get things
2 done and let's get them right, and for you being
3 that, especially with your orders, made
4 administrative staff life a lot easier to get
5 things moving, and I wanted to have it on the
6 record that that is appreciated. Although, I
7 mean, some of these comments may reflect
8 differently, but I know what your work is. You
9 never know who's watching, and you may not even
10 know them. We don't really know each other, but
11 I was a fan then and still the fan of yours and
12 your work. So just keep doing the peoples'
13 business for families in South Carolina and
14 Upstate, and you are appreciated.

15 JUDGE ROBERTSON: Thank you. Thank you for those kind
16 words, and it's good to see you again.

17 CHAIRMAN RANKIN: Anyone else?

18 JUDGE ROBERTSON - EXAMINATION BY CHAIRMAN RANKIN:

19 **Q. Judge, I checked out your undergraduate degree,**
20 **and that was from W&L, correct?**

21 **A. Yes.**

22 **Q. Surprisingly, it was not in English, but it was**
23 **history, but to the folks who comment on your**
24 **being a stickler for detail and putting pen to**
25 **paper, they would have thought you would have**

1 been an English major, I assume.

2 A. No doubt about that.

3 Q. In that vein, one of these comments in terms of
4 the world's view of you, lest there be any
5 question, the overwhelming, overwhelming comments
6 are nothing but favorable, positive. And in that
7 vein, one says the most technical judge, and this
8 is not just about the formula for figuring out
9 child support, but it is about words mattering
10 and them being properly spelled, proper
11 pronunciation, proper grammar, I guess, not just
12 the theme of the order but the black letter law.
13 You've said the record is important, making the
14 record, and I applaud you for being a stickler
15 for the little things that do count
16 overwhelmingly when someone's reading it to see
17 what did they mean, what did this mean. So to
18 the degree that this becomes -- and this is not
19 in our exchange with you, Judge -- but kind of
20 the shelf life of a Family Court judge in terms
21 of your ability to continue to do it and not be
22 beat down, worn out by the humdrum of what, in my
23 world, I called fighting over the eight track
24 tapes, the spoons from the trips that they went
25 around the country. I don't know what people

1 **fight over now that is equal of those, but how do**
2 **you bring a fresh approach to this and not get**
3 **kind of worn out?**

4 A. I think it has to do with passion. If you're
5 passionate about something, then that part of it
6 comes easy, whether it be a sport or a profession
7 or anything else. And I am passionate about
8 this. This is what I did for 22 years, I think,
9 before I became a Family Court judge 14 years
10 ago. It's what I know, it's what I love, and
11 that helps. Also, I feel like I've got -- and I
12 think Family Court judges as a whole probably
13 have this more than the general population -- is
14 ability at the end of the day to clean the slate
15 and start over the next day and not carry it home
16 with you. I think a lot of people I've talked to
17 that are lawyers but have no interest in being a
18 Family Court judge say, I don't see how you do
19 what you would do. I would not be able to sleep
20 at night with some of the things you all hear.
21 I'm pretty good at putting it behind me and going
22 home and starting fresh at home and then going to
23 work fresh the next day.

24 Q. **Very good. Well, I commend you on your passion**
25 **and your willingness to keep doing it and**

1 bringing both a technical technician's eye, a
2 sharp eye, but also not wearing the robe too
3 heavily and recognizing, again -- both as a
4 mentor and a teacher but also conveying to folks
5 in the courtroom -- they're getting a fair shake
6 and they're being heard. And for my ears, my
7 eyes and this record before me, I think you're
8 doing a superb job at that.

9 A. Thank you very much, Senator. Much appreciated.

10 CHAIRMAN RANKIN: Unless there are further comments,
11 Judge, this will conclude this portion of the
12 screening process. As you know, the record is
13 not final until the formal release of the record
14 of qualifications. We abide by both the spirit
15 of and the letter of the ethics law and expect
16 our judicial candidates to do the same. Any
17 appearance of impropriety or violation by you,
18 you understand, we would call you back for
19 questioning in that unlikely event.

20 JUDGE ROBERTSON: As it should be.

21 CHAIRMAN RANKIN: Very well. Thank y'all, and safe
22 travels back to the Upstate, and Godspeed for a
23 wonderful Thanksgiving.

24 JUDGE ROBERTSON: Thank you all. And I really
25 appreciate all of you.

1 CHAIRMAN RANKIN: On motion of Mr. Strom, seconded by
2 Ms. Blackley, we are going to go into Executive
3 Session for a brief moment.

4 EXECUTIVE SESSION

5 CHAIRMAN RANKIN: All right, we are back on the
6 record, and for the record, during Executive
7 Session, no votes were taken, no decisions were
8 made. We will now proceed to the next candidate.
9 Sir, raise your right hand if you will.

10 JONATHAN D. HAMMOND, being duly sworn, testifies
11 as follows:

12 CHAIRMAN RANKIN: State your name for the record.

13 MR. HAMMOND: Jonathan Drew Hammond.

14 CHAIRMAN RANKIN: Very well, sir. You have two
15 documents that you have prepared, the PDQ and the
16 sworn statement. Are they ready to be put into
17 the record?

18 MR. HAMMOND: Yes, sir, they are.

19 (Exhibit Number 10 was marked for identification
20 purposes - (15 pages) Personal Data Questionnaire for
21 Jonathan D. Hammond.)

22 (Exhibit Number 11 was marked for identification
23 purposes - (7 pages) Jonathan D. Hammond.)

24 CHAIRMAN RANKIN: Very well. This is your first time
25 screening, I believe. Is that correct?

1 MR. HAMMOND: It is.

2 CHAIRMAN RANKIN: Welcome.

3 MR. HAMMOND: Thank you.

4 CHAIRMAN RANKIN: You know our process here by which
5 we vet your candidacy. We focus on the nine
6 evaluative criteria, which includes a ballot box
7 survey, a thorough study of your application
8 materials, verification of your compliance with
9 the state ethics laws, a search of newspaper
10 articles in which your name appears, a check for
11 economic conflicts of interest. And no
12 affidavits or objections have been filed in your
13 candidacy. We are going to open it up with
14 questions by Breeden John, who you've met.

15 MR. HAMMOND: Yes, sir.

16 CHAIRMAN RANKIN: And then we will entertain questions
17 by members of the Commission. And following
18 that, if you have any closing remarks you'd like
19 to make, I'll extend that over to you.

20 MR. HAMMOND: Thank you.

21 CHAIRMAN RANKIN: Welcome.

22 MR. HAMMOND: Thank you.

23 MR. HAMMOND - EXAMINATION BY MR. JOHN:

24 **Q. Good morning, Mr. Hammond.**

25 **A. Good morning, Mr. Reed.**

1 CHAIRMAN RANKIN: Real quick, did you bring anyone
2 with you? I apologize.

3 MR. HAMMOND: I did, thank you. My wife, Amanda, is
4 with me. Thank you for recognizing her.

5 CHAIRMAN RANKIN: Very well. She's hiding behind you,
6 so come on up. Let everybody see you.

7 MR. HAMMOND: She never stands behind me. I always
8 like her to be beside me.

9 CHAIRMAN RANKIN: Well, very good. Welcome, both of
10 y'all.

11 MR. HAMMOND: Thank you.

12 CHAIRMAN RANKIN: Now, Mr. John.

13 **Q. Could you please state for the record the city
14 and circuit in which you reside?**

15 A. I live in the County of Greenville, City of
16 Greenville. It's the 13th Judicial Circuit.

17 **Q. Thank you.**

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

25 **Q. Mr. Hammond, why do you want to serve as a Family**

1 **Court judge, and why do you feel that your**
2 **professional and legal experience qualify and**
3 **will assist you to be an effective judge?**

4 A. Thank you. I want to serve as a Family Court
5 judge because this is where my professional and
6 my personal experiences have brought me. I
7 believe serving as a Family Court judge is where
8 I am supposed to be. I've been practicing or
9 been licensed to practice for 23 years now. My
10 career did not start in the Family Court. It
11 started in a much different track, but I wound up
12 in Family Court as an associate at a larger firm
13 and found myself drawn to Family Court in a way
14 that I could not describe and certainly wouldn't
15 have predicted. I have the passion, I have the
16 desire, and I believe I have the experience to
17 serve as a Family Court judge. I believe my
18 experience, my professionalism, my qualities as a
19 person and as a practitioner will serve the
20 community, will serve the people that appear
21 before the Family Court, and serve South
22 Carolina.

23 **Q. Could you please briefly describe your experience**
24 **in handling complex and contested Family Court**
25 **matters and specifically discuss your experience**

1 **with financial aspects of Family Court work?**

2 A. Absolutely. There are many cases that I touch
3 involving complex issues. I've tried and handled
4 cases involving intricate legal issues regarding
5 foster care, children in custody, children in DSS
6 custody, complex adoptions, but in cases
7 particularly involving division of assets. I
8 have experience trying those cases, mediating
9 those cases, and so what I know about those cases
10 is they require attention to detail, they require
11 diligence, but they also require just
12 understanding and compassion for the sensitivity
13 of it. The people who are involved in those
14 cases, the important issues to them are the most
15 important issues to them, and so I approach each
16 and every case, whether it is a large asset case
17 or a small asset case or no asset case, with
18 equal attention to resolving it and resolving it
19 correctly and resolving it hopefully for the well
20 being of the person involved and people involved.

21 **Q. Are there any areas of the law for which you**
22 **would need additional preparation, and if so, how**
23 **would you go about handling that?**

24 A. I don't believe so. I have -- and in my
25 application I noted, I have what I would consider

1 limited experience with juvenile justice cases,
2 which is to say I have been involved in those
3 cases mostly indirectly as a county attorney for
4 DSS and as attorney for the guardian ad litem
5 office, and abuse neglect cases. Those cases
6 will have some overlap and overlay from time to
7 time. So I certainly have exposure to it and
8 some experience with it. So my lead up, my
9 curve, if you will, for that type of work would
10 be, I think, fairly short and not steep.

11 **Q. The Commission received 204 ballot box surveys**
12 **regarding you, 24 additional comments. The**
13 **majority of these were positive, noting that you**
14 **were knowledgeable and experienced in all areas**
15 **of Family Court, always prepared, and would make**
16 **an excellent Family Court judge. A few comments**
17 **expressed concerns regarding your time management**
18 **and responsiveness, and I guess I'll do these**
19 **kind of together. The Citizens Committee --**
20 **Upstate Citizens Committee also found you well**
21 **qualified, but included the following comment**
22 **that I'll read to you and then ask for your**
23 **response. Interviews revealed that those who**
24 **work with him say he can be difficult to reach.**
25 **The candidate did explain this to the Committee**

1 that he is responsible for court appearances in
2 several counties each week. This is some
3 explanation for our concerns. However, this
4 Committee is more concerned that the candidate
5 chose not to appear for his in person interview,
6 and instead notified us by text that he would
7 call in for the interview.

8 A. Absolutely. As to the responsiveness, it is
9 accurate that I appear in court very frequently.
10 I represent the guardian's office in three
11 different counties in the Upstate, and I serve as
12 a private guardian ad litem. So the likelihood
13 of me being in court or visiting with a child at
14 a school or meeting with a child at another is
15 pretty high. And so my responsiveness is not
16 because I am not trying to get in touch with
17 anyone, and everyone who needs to reach me. It's
18 because I am working and trying to move cases
19 forward and advocating for either my ward or for
20 my client or just appearing in court for my
21 client. As to the appearance at the Citizens
22 Committee, that scheduling, that occurred when I
23 was scheduled to actually appear for the abuse,
24 neglect, DSS docket in an Upstate county. When it
25 was scheduled, I did try to make some

1 arrangements to get coverage, but unfortunately I
2 was not able to get coverage for that particular
3 docket. So I did request to appear virtually.
4 It certainly was no disrespect to the Committee
5 or to the process. I take this process very
6 seriously, and certainly would not oppose
7 appearing in front of any person or any body that
8 wanted to speak with me about this.

9 **Q. Thank you. And as noted, the Citizens Committee**
10 **did find you qualified in the evaluative criteria**
11 **of constitutional qualifications, physical health**
12 **and mental stability, and well qualified in the**
13 **academic ability, character, reputation,**
14 **experience, and judicial temperament. Let's see.**
15 **Mr. Hammond, you've been involved in two lawsuits**
16 **as a named party. One was a foreclosure action**
17 **from 2012. Could you explain that to the**
18 **Commission, please?**

19 **A.** Yes, sir. That case occurred as part of a
20 dissolution of a previous marriage, and my now
21 ex-wife and I dealt with that. That case was
22 resolved, and my name was in that case not as a
23 payor on the mortgage, but as an equitable
24 defendant. It was resolved by judgment. It was
25 discharged appropriately.

1 Q. Very good. And then a second foreclosure from
2 February of this year. Could you explain the
3 nature of that, please?

4 A. Yes, sir. That was a matter --I was a
5 beneficiary of a deceased relative, and the
6 property had gone into foreclosure. So myself
7 and my brother, who was also a beneficiary, were
8 named as, again, defendants in an equitable
9 fashion.

10 Q. Right, right. Okay. Thank you.

11 MR. JOHN: Mr. Chairman, I'd like to request that we
12 go into Executive Session to handle a
13 confidential matter.

14 CHAIRMAN RANKIN: All right. Seconded. All right.
15 All in favor, say aye.

16 (Ayes are heard.)

17 CHAIRMAN RANKIN: We will go in Executive Session.
18 Mr. Hammond, stick with us.

19 EXECUTIVE SESSION

20 CHAIRMAN RANKIN: All right, we are back on the
21 record, and for the record, during Executive
22 Session, no votes were taken, no decisions were
23 made. We will proceed now to further questions.
24 Mr. John.

25 MR. JOHN: Thank you, Mr. Chairman.

1 Q. Mr. Hammond, I just have a few housekeeping
2 issues as we wrap up. Are you aware that as a
3 judicial candidate, you are bound by the Code of
4 Judicial Conduct as found in Rule 501 of the
5 South Carolina Appellate Court Rules?

6 A. Yes, sir, I am.

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

10 A. No, sir.

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

14 A. Yes, sir, I 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. I have not.

20 Q. Have you asked any third parties to contact
21 members of the General Assembly on your behalf or
22 aware of anyone doing so?

23 A. No, sir.

24 Q. Have you reviewed and do you understand the
25 Commission's guidelines on pledging and South

1 **Carolina Code 2-19-70(E)?**

2 A. Yes, sir, I have.

3 **Q. Thank you.**

4 MR. JOHN: I would just note for the record that any
5 concerns raised during the investigation
6 regarding the candidate were incorporated into
7 the questioning of the candidate today, and I
8 have no further questions.

9 CHAIRMAN RANKIN: Thank you, Mr. John. Members of the
10 Commission, questions? Representative Jordan.

11 REPRESENTATIVE JORDAN: Thank you, Mr. Chairman.

12 MR. HAMMOND - EXAMINATION BY REPRESENTATIVE JORDAN:

13 **Q. Mr. Hammond, you've been a sole practitioner,**
14 **solo practitioner, for the last six years, is**
15 **that right?**

16 A. That's correct.

17 **Q. I want to go back a little bit and just -- as I**
18 **look back at your PDQ, it looks like you clerked**
19 **in federal court initially?**

20 A. Yes, sir.

21 **Q. And then there seemed to be several stops, one,**
22 **two, three, four, five, six. Kind of walk me**
23 **through, was that just finding your footing or**
24 **was that looking for -- I guess, as you come here**
25 **today, your passion seems to be Family Court.**

1 **Tell me sort of the path that led you to your**
2 **sole practitioner.**

3 A. Absolutely. Thank you. As I mentioned, when I
4 started law school and started practicing, I had
5 a belief that I was supposed to go work at a big
6 law firm and have a big office and work on high-
7 end litigation. And so I started in federal
8 district court as a law clerk and progressed to
9 what I would call larger law firms for South
10 Carolina, worked on the business litigation teams
11 or the bigger defense litigation teams. And in
12 that market, when you get a few years' experience
13 as an associate, you get recruited to go to other
14 firms. And so there was some bounce around, I
15 guess, from that perspective, trying to find what
16 is the practice area that best fits my
17 personality and my skill set and my passion. It
18 turns out that at the time I was an associate in
19 one of those law firms. The Office of Indigent
20 Defense didn't operate what's the 608 program now
21 in DSS abuse and neglect cases. Those cases went
22 down the county register, and the senior
23 shareholders of these law firms would pass them
24 to the associates. It trickled downhill. So I
25 was handed a few of those, and I liked them.

1 That sounds a little bit sadistic, but I enjoyed
2 being in Family Court in a way that I had not
3 experienced before. I felt my skills being used
4 in a way that I could not describe, and I felt
5 energized and passionate about it. It was a very
6 serious and very difficult set of circumstances
7 to be handling, but I just took to it. I took to
8 it in a way that that's where I landed and that's
9 where I wanted to be. So it was a roundabout way
10 to get where I was supposed to be as a
11 practitioner professionally, and it suits me
12 personally as well. I have a passion for helping
13 people.

14 **Q. So based on that answer, I see kind of in the**
15 **middle of a few of those stops for a large**
16 **insurance company, I'm assuming you saw or**
17 **decided you didn't want to be in the corporate**
18 **industry as well as part of that, figuring out**
19 **what I like and what I don't like. Is that fair?**

20 A. That's fair. That's correct.

21 **Q. And then on to, I think, immediately prior to**
22 **your own firm, DSS, is that correct?**

23 A. That's correct, sir. I was a county attorney for
24 DSS and the regional manager, regional director
25 of DSS in the Upstate, I guess saw some things in

1 me that he liked and recruited me or asked me to
2 seek out a position as a county director. So
3 that's how I wound up as a DSS county director.

4 **Q. Thanks, sir.**

5 REPRESENTATIVE JORDAN: Thank you, Mr. Chairman. Thank
6 you, Mr. Chairman.

7 CHAIRMAN RANKIN: Mr. Safran.

8 MR. HAMMOND - EXAMINATION BY MR. SAFRAN:

9 **Q. Just to follow up, because I think Representative**
10 **Jordan got pretty much to where I wanted to go.**
11 **I mean, obviously you had good marks in school.**
12 **That's how you got the clerkship. That's how**
13 **these big firms look for you, and that's why you**
14 **got in there in the first place. And it doesn't**
15 **happen often, but, I mean, I see you get in that**
16 **environment and you don't necessarily feel like**
17 **it's a great fit. And I think you gave yourself**
18 **several opportunities to try. I think at this**
19 **point, you know, as far as your scope of**
20 **practice, there are some areas of Family Court**
21 **that you really haven't been extremely exposed to**
22 **up to this time, right?**

23 **A. I think I've been exposed to almost all of the**
24 **areas other than juvenile justice directly. I**
25 **haven't handled a lot of high-end asset cases. I**

1 have been involved in some, but I'm not the
2 practitioner that is typically going to get those
3 cases on a regular basis. I will get them
4 through a referral, through a family acquaintance
5 or a friend, as opposed to perhaps some of the
6 firms that are more known for handling those
7 kinds of cases.

8 **Q. But I think from a standpoint of at least your**
9 **intellectual background, those are things you**
10 **think you can handle?**

11 A. Absolutely, yes, sir.

12 **Q. Tell me this. I mean, why now as opposed to**
13 **necessarily -- because it sounds like you've been**
14 **very passionate about what you've been doing. I**
15 **mean, and I understand you can say I could maybe**
16 **do more for more people, but it seems like you've**
17 **really enjoyed what you're doing up to now. And**
18 **so you're kind of embarking on maybe a bit of an**
19 **unknown adventure. So kind of what's been the**
20 **motivation?**

21 A. Well, absolutely correct. And I enjoy what I do
22 very much, and if I didn't, I would probably find
23 something else to do. So my passion is here.
24 But this is a point in my life and my career
25 where I feel like this is the appropriate step

1 for me to take. I've been thinking about this
2 for a few years, but it just wasn't the right
3 time. I was enjoying my practice enough. My
4 children were younger, and so I like my children,
5 I like my wife, and I enjoy spending time with
6 them, but we are at a point, my family is at a
7 point, where this is a step that just seems like
8 the right fit for me. And I believe I've got
9 the experience to do this.

10 Q. I think my demeanor has been shaped by my
11 professional experiences and my personal
12 experiences. I think this is a calling for me to
13 serve in this way.

14 Q. Last thing, and I touch on this with several
15 people. I get the sense that not everybody likes
16 it, but they have to deal with kind of the
17 mentality in Family Court where everybody seems
18 to be looking at the clock and making sure, okay,
19 we only got 15 minutes. But I'm sure you've run
20 into a number of situations where 15 minutes just
21 doesn't do justice to why you're there. I mean,
22 is that a fair statement?

23 A. I think it's very difficult to digest the
24 complexities of any number of cases in 15
25 minutes.

1 Q. Well, and I understand that if successful, you
2 would just be one person trying to do the best
3 they can, But what I've found is is there's at
4 least a decent segment of judges who oftentimes
5 are ranked as the highest caliber that really say
6 the clock's just not the issue with me, that I've
7 got to do what I've got to do. And that, yes,
8 sometimes it backs up in the hall, and sometimes
9 I might have these folks go wait, and they'll
10 come back later, but we're going to do justice to
11 what the circumstances may be. I mean, is that
12 kind of going to be your philosophy?

13 A. Well, I think any person who's been a litigant in
14 Family Court is deserving of all the attention of
15 the court. And so a clock is obviously part of
16 the process of being a professional and managing
17 your time, and a judge has to manage many things,
18 including the clock. However, getting the right
19 answer and serving whatever the issue is
20 correctly in accordance with the law in an
21 equitable way, that's the goal. And that goal, I
22 think, has to be shaped by time, but not just
23 shaped by time.

24 Q. And let me just -- in that same vein, obviously
25 people hire you for a service, and they also

1 expect you to bring to bear the skills you've
2 developed over the course of years of going into
3 the Family Court and approaching these different
4 issues. There are some judges that show up here
5 and say, I don't let the lawyers open their
6 mouths in any of these hearings, which seems to
7 me to be troublesome. I mean, what would your
8 approach be to that?

9 A. Approach would be to --

10 Q. Lawyer participation in these hearings, you know,
11 as opposed to just saying, sit down, I'll read
12 the affidavits.

13 A. Right. Well, you know, I think the affidavit
14 rule, it's a rule of the Court, and we need to
15 abide by the rules, especially if you're the
16 person in charge of the rules in the courtroom,
17 but I don't think that's -- I don't think
18 everything should be limited to what's
19 encapsulated in a document, a written document in
20 front of the judge. There may be points made by
21 an attorney. There may be points made by a pro
22 se litigant that they couldn't communicate
23 because they weren't aware, and they should be
24 held to the same standards, but sometimes in a
25 court of equity, I think you have to do what is

1 equitable. And again, I think sometimes there
2 are things that we can do, things that can be
3 done as a judge, that would get the right answer
4 while adhering to the rules and the process.

5 Q. Well, and just -- sorry, I don't want to overdo
6 it.

7 A. Yes, sir.

8 Q. And I'll try to end at this.

9 A. Yes, sir.

10 Q. But you mentioned the court of equity. What's
11 equitable about something that I seem to have
12 picked up on listening here the last couple days,
13 that effectively the parties don't exchange
14 affidavits until they're literally walking in the
15 courtroom? So what's equitable about trial by
16 ambush?

17 A. In that moment, very little. Unfortunately, it
18 is the process, and it is a gut wrenching
19 process, and I often find myself looking at my
20 client saying, you don't know what's going to be
21 said or what is going to be raised in here, but
22 what I always tell people is what you want to ask
23 the court to do is what is right, not what you
24 think can hurt the other party or what can better
25 you. You want to do what's right here. So I

1 think it can be -- the process certainly can be
2 improved.

3 Q. Well, you mentioned that. As somebody who's
4 bright and enthusiastic, how do you build a
5 better mousetrap when it comes to at least trying
6 to avoid the surprises that seemingly should be
7 able to be minimized by simply saying, give the
8 other side of the thing three days in advance or
9 something? I mean, I find it unconscionable that
10 somebody's walking in there and going to have to
11 face something for the first time, you've got a
12 little bit of time that you're going to do it. I
13 mean, you could spend half that time, if not all
14 of it, sitting here trying to figure out what's
15 being -- in the affidavit. I mean, it makes no
16 sense to me that that is a standard, okay. So
17 how do you try to deal with that?

18 A. Well, of course, you could take some cues from
19 other courts. In Circuit Court and in Federal
20 court, where I do have some background, there's a
21 little bit more formalistic approach to sharing
22 and exchanging information in anticipation of a
23 hearing. I would venture to say that that may
24 actually streamline some of the docketing in
25 Family Court because you may know these are the

1 contested issues. This is where we can focus our
2 efforts and perhaps resolve cases or resolve
3 matters temporarily before you ever set foot in a
4 courtroom.

5 **Q. Well, thank you. I appreciate your candid**
6 **responses.**

7 A. Yes, sir.

8 CHAIRMAN RANKIN: Senator Garrett.

9 SENATOR GARRETT: Thank you, Mr. Chairman.

10 MR. HAMMOND - EXAMINATION BY SENATOR GARRETT:

11 **Q. And thank you for applying for this most**
12 **important job. I'm assuming that you've been in**
13 **front of numerous judges by now.**

14 A. Yes, sir.

15 **Q. What are the attributes of the best judges that**
16 **you've been in front of? And I'm not going to**
17 **ask you for the name because that might put you**
18 **in danger, then I'd like to hear the worst, you**
19 **know, because I want to know where you're going**
20 **to be at.**

21 A. Yes, sir.

22 **Q. So tell us about that.**

23 A. I could probably rattle off. We have great
24 judges in our state, in the Family Court in
25 particular, and that's why when I applied for

1 this I said I'm humbled to even have the
2 opportunity to apply because I'd be in great
3 company with our judges. The judges that I
4 respect and admire, which is most of them, all of
5 them, they show an attention to the facts, but
6 they understand the facts and the law have to be
7 merged in a way that gets the outcome that suits
8 this family or suits these individuals or suits
9 these children in a way that does not --
10 hopefully does not, cause more harm or more
11 stress to the situation. Family Court is not a
12 place, typically a place where people go for
13 happy times. And so the best judges, in my
14 opinion, are the ones that are constantly keeping
15 that in mind, that these are real people and
16 these are families being touched, and what
17 happens in this courtroom can impact them not
18 only today, tomorrow, but for the rest of their
19 lives. And so that has always resonated with me
20 when I see a judge actually take the time to
21 connect with what's in front of them, to connect
22 with the sensitivity and the importance of the
23 situation. Conversely, I would say --

24 **Q. Give me the other side.**

25 **A.** Yes, sir. I think if a judge presiding over a

1 matter loses focus on grace and compassion, I
2 think that can result in additional distress on a
3 family, on a person, on a child. And it causes,
4 I think, some more unraveling to have to take
5 place in a way that the court -- the court's not
6 there to fix all the problems, obviously, and
7 I've said that to many clients. Sometimes these
8 are problems the Family Court can't correct. But
9 if the Family Court is there to help guide and
10 push matters along the way our law requires,
11 hopefully you do get to a place where the court,
12 when the court is out of it and the lawyers are
13 out of it and the guardians are out of it, the
14 family can heal and move forward.

15 **Q. As it relates to timing, you know, in these**
16 **larger circuits where your dockets are tighter,**
17 **tighter, et cetera, do you find that those judges**
18 **that are acting that way are under the auspices**
19 **of time constraints and they're having to move**
20 **these cases at an abundant rate? In other words,**
21 **I'm trying to -- to Mr. Safran's point, is there**
22 **a better way to fix this mousetrap? Is there a**
23 **better way to make it work? To your point, for**
24 **grace, to make sure that the people are part of**
25 **the -- and obviously the children have to be the**

1 first and primary. I've always said I don't
2 really care about the parents. When I go in
3 front of a Family Court judge, if I'm not
4 protecting the children or giving him a way to
5 protect the children, I'm going to lose that
6 case. So I've always felt that way about it. So
7 you want to comment on that?

8 A. Yes, sir. I think that there are -- there's
9 always room for improvement in the process, and I
10 think if the Family Court is serving the
11 community the way it's supposed to, the Court
12 will understand I need to give this my full
13 attention and my full compassion. As to the
14 question of improvements, I do think there are
15 ways to improve. And, again, I would go back to
16 in the Circuit Courts and in the federal district
17 courts, there are obviously some more structured
18 approaches to litigation. Family Court
19 practitioners are, by and large, very capable and
20 skillful. It does -- I don't think -- I do not
21 think it would be difficult to condition the
22 practitioners to adapt to a little bit
23 formalistic approach to it, as opposed to let's
24 see what we can zing early on in the process and
25 let the other party dig out of this hole.

1 Q. To Mr. Safran's point, maybe 30 minutes in the
2 contested custody matters, as opposed to 15 is
3 just -- it just seems to me that it's very
4 difficult. And, as said, the status quo ante,
5 you know, when that judge says, I'm going to
6 maintain the status quo -- which I think they're
7 required by statute to try to do that if they can
8 -- provide the children safety. But, as said,
9 that pretty well sets the tempo of the case for
10 the rest of the case. I don't know if that's
11 been your experience. It's been mine.

12 A. Yes, sir. It has been.

13 Q. And so maybe we need to have -- and the other
14 point, you know, if you become a chief
15 administrative judge, it might not be a bad thing
16 to say, you know, I want my lawyers to have at
17 least 24 hours or 48 hours of you supplying the
18 other side. Now, you know, if you're a
19 practitioner, you're scrambling right before
20 court to try to get those affidavits done. I
21 mean, I understand it. But, you know, in Circuit
22 Court we have rules that we follow that could
23 also be followed in the most important of cases,
24 i.e., protecting children. And so it seems to me
25 that we could adopt some of those standards in

1 our Family Courts.

2 A. Yes, sir.

3 Q. Thank you.

4 A. Thank you.

5 MR. HAMMOND - EXAMINATION BY CHAIRMAN RANKIN:

6 Q. Mr. Hammond, I want to go back to the scheduling
7 and your being in many places at one time and
8 being pulled by various judges and your term,
9 grace. And I'm not trying to pick on, but I do
10 want to kind of expound on, have you, on the
11 concern raised by the Citizens Committee who,
12 again, as Mr. John noted -- they didn't ding you
13 on any of the nine evaluative criteria that we
14 are looking for. But I want to know whether
15 their last line, again, about if it's more
16 concerned that you chose not to appear for the
17 in-person interview and instead notified us by
18 text, you would call in for the interview. When
19 did you alert them that you would not be able to
20 attend the in-person interview?

21 A. So when I was initially contacted by the
22 chairperson, I think it was -- Mr. Beatty Ashmore
23 was the chairperson of that Committee, I was
24 actually scheduled to be in two different
25 courtrooms that day already. One of those

1 matters was able to be resolved, but the one that
2 actually took place was a DSS docket in Cherokee
3 County. I mistakenly believed that the interview
4 would be conducted virtually if there was a
5 scheduling issue. And so I did not make any
6 arrangements to be there in person, again, not
7 because I didn't take the process seriously. I
8 specifically recall being in front of the judge
9 that morning and saying, I will be asking for a
10 break at a specific time because I have this
11 interview, this important interview, at which
12 time the judge said, I don't anticipate any
13 problems with that. So it was probably a mistake
14 on my part to not understand that I needed to be
15 there in person above anything and everything.
16 Perhaps I let my dedication to being in court get
17 in the way.

18 **Q. Well, where was that court and where was the**
19 **interview?**

20 A. It was in Cherokee County and my interview was in
21 Greenville, so it's about 45 minutes away.

22 **Q. So did you -- my question at the outset, again --**
23 **maybe you've answered and I'm just not hearing --**
24 **but did you -- you said you got a text from the**
25 **chair of that Citizens Committee that day?**

1 A. The original text, no, I think it was about a
2 week before the interview, maybe a week and a
3 half before the interview.

4 **Q. And then did you reply to that text the day of**
5 **the interview?**

6 A. I did. I said I will be calling in in the next
7 few minutes because I -- I thought it was maybe a
8 Zoom call, candidly. I thought it was going to
9 be a virtual, by the computer, by the phone
10 interview, which I was happy to be in my car or
11 be in a conference room, wherever I needed to be.

12 **Q. And, again, this is just one touch point along**
13 **the way, but we read various comments along the**
14 **way, and that is perhaps an unusual comment to**
15 **include. How did that interview take place? Was**
16 **it by phone or did you create a Zoom where you**
17 **were able to look at them and they were able to**
18 **look at you and exchange ideas or questions?**

19 A. I called Mr. Ashmore's cell number, yes, sir.

20 **Q. And do you know him? Have you met him before?**

21 A. I've known him for many years, yes, sir.

22 **Q. Okay. And the members of that Citizens**
23 **Committee, you know them as well?**

24 A. I know most of them, and I spoke with at least
25 one of them leading up to that interview to send

1 some information that he requested.

2 **Q. This process, in terms of how you have come**
3 **through, other than that perhaps hiccup, have you**
4 **found this to be a fair process, encouraging you**
5 **to share, if they have criticisms or challenges,**
6 **have you been given the opportunity to explain?**

7 **A. Yes, sir, absolutely. The process has been very**
8 **fair to me. I've been pleased and impressed with**
9 **the process.**

10 CHAIRMAN RANKIN: Okay. Any questions? Anybody else?

11 Mr. Hammond, as you recall at the outset, I
12 offered you the opportunity to make a closing
13 statement if you'd like. You don't have to.

14 MR. HAMMOND: I want to thank you all for your time.
15 I'm, again, truly humbled to be here. I hope
16 that my passion has been shown in my answers and
17 my demeanor here today because it is sincere and
18 it is my belief that I'm ready to serve in this
19 way.

20 CHAIRMAN RANKIN: Well, and to the point, again, as a
21 new person here, and Ms. Hammond, new attendee
22 here, you do have many, many anonymous admirers
23 who have said great things about your ability,
24 whether now or in the future. You certainly
25 enjoy a great reputation in the Family Court

1 arena.

2 MR. HAMMOND: Thank you.

3 CHAIRMAN RANKIN: So thank you for your willingness to
4 serve here and offer for election.

5 MR. HAMMOND: Yes, sir, thank you.

6 CHAIRMAN RANKIN: This will close this portion of the
7 screening process. You know that the record is
8 not closed because of our focus on adherence to
9 and being bound by the letter and spirit of the
10 state ethics law, as well as yours. Any
11 violation by you or the appearance of impropriety
12 by you would warrant you being called back in the
13 event that that would occur, which we don't
14 expect, because the formal record of
15 qualifications is not released until later. I
16 just need a verbal affirmation that you
17 understand that we can call you back.

18 MR. HAMMOND: Yes, sir, I understand.

19 CHAIRMAN RANKIN: Thank you very much. Godspeed to
20 y'all on your travels back, and Happy
21 Thanksgiving.

22 MR. HAMMOND: Yes, sir, the same to you. Thank you.

23 (OFF THE RECORD)

24 CHAIRMAN RANKIN: Good morning, sir.

25 MR. TORRICOS: Good morning.

1 CHAIRMAN RANKIN: Let me ask you to raise your right
2 hand.

3 MARCELO TORRICOS, being duly sworn, testifies as
4 follows:

5 CHAIRMAN RANKIN: State your full name for the record.

6 MR. TORRICOS: Marcelo Torricos.

7 CHAIRMAN RANKIN: Welcome, Mr. Torricos. You have two
8 items that you have handed to -- are they ready,
9 the PDQ and the sworn statement, are they ready
10 to be entered into the record?

11 MR. TORRICOS: I believe so, yes, Your Honor.

12 CHAIRMAN RANKIN: Thank you. You'll be, Your Honor,
13 if you're successful, and it will not be us.
14 (Exhibit Number 12 was marked for identification
15 purposes - (20 pages) Personal Data Questionnaire for
16 Marcelo Torricos.)

17 (Exhibit Number 13 was marked for identification
18 purposes - (11 pages) Sworn Statement of Marcelo
19 Torricos)

20 MR. TORRICOS: It's habit.

21 CHAIRMAN RANKIN: Yeah. And so this is your first
22 time screening, correct?

23 MR. TORRICOS: That is correct, sir, yes.

24 CHAIRMAN RANKIN: And so in this process that you are
25 now embarking upon for the first time, you

1 understand that we are focusing on the nine
2 evaluative criteria, which includes your ballot
3 box survey, a thorough study of your application
4 materials, confirmation that you have complied
5 with the state ethics laws, a search of newspaper
6 articles in which your name appears, a check for
7 economic conflicts of interest. And in this
8 case, no affidavits or objections have been filed
9 in opposition to your candidacy. We have Ms.
10 Wilkinson, who's ready to ask some questions. I
11 appreciate your patience. We are about 23
12 minutes behind schedule, and so we will jump to
13 questions, and I'll offer you the opportunity to
14 make a closing statement if you like.

15 MR. TORRICOS: Thank you, sir.

16 CHAIRMAN RANKIN: Very well.

17 MR. TORRICOS - EXAMINATION BY MS. WILKINSON:

18 **Q. Good morning, Mr. Torricos. Please state for the**
19 **record the city and circuit in which you reside.**

20 A. I live in Simpsonville, South Carolina, which is
21 in Greenville County, which is a part of the 13th
22 Circuit.

23 MS. WILKINSON: Mr. Chairman, I note for the record
24 that based on the testimony contained in Mr.
25 Torricos' PDQ, which has been included in the

1 record with his consent, he meets the statutory
2 requirements for this position regarding age,
3 residence, and years of practice.

4 **Q. Mr. Torricos, why do you want to serve as a**
5 **Family Court judge, and why do you feel that your**
6 **legal and professional experience qualify and**
7 **will assist you to be an effective judge?**

8 A. Well, I think that the key word in your question
9 there, Ms. Wilkinson, was serve. Why do I want
10 to serve as a Family Court judge? And the short
11 answer to that is service to my community. I was
12 born in Bolivia, South America, which is not only
13 one of the poorest countries in Latin America,
14 but one of the poorest countries in the world.
15 And what I've been able to accomplish
16 professionally, academically, and what I'm doing
17 before you today is something that people in
18 countries like that only dream of. And I
19 wholeheartedly believe that we live in the
20 greatest country on earth. We have created the
21 greatest judicial system to have ever existed,
22 and I want to be a part of that, and I want to
23 give back to the people of this state and
24 Greenville County and the Thirteenth Circuit that
25 have provided me with so many opportunities to do

1 things that, like I said, people in other parts
2 of the world only dream of. In terms of my
3 experience, I've been very lucky to work at a law
4 firm with other lawyers that have provided me an
5 opportunity to really dive into almost every area
6 possible in the Family Court arena, divorces,
7 separate support and maintenance actions, custody
8 cases, child support cases, alimony cases, DJJ
9 cases, DSS cases. I've done pretty much
10 everything you could possibly do in Family Court
11 numerous times over and over for the last ten, 11
12 years. And so I think when you take my
13 professional experience and then my real-world
14 life experiences and you put those together, I
15 think I make a fine Family Court candidate.

16 **Q. Are there any areas of the law for which you**
17 **would need additional preparation in order to**
18 **serve as a Family Court judge, and how would you**
19 **handle that additional preparation?**

20 A. I would say that if I had to pick an area, it
21 would be probably DSS. I have handled DSS cases
22 in the past, especially as they've sort of been
23 attached to some of my private cases, but I think
24 that's an area that I could sharpen. I've been
25 sitting in on DSS hearings and on the DSS docket

1 with the judges in Greenville that have allowed
2 me to do so, and so I've been doing that since
3 about September. And so I'd say that DSS would
4 be that area that I probably would need to fine
5 tune a little bit. But like I like to say, I'm
6 sure I know enough just to be dangerous, right?
7 So I'm comfortable in the arena, but always, you
8 know, I don't know everything, and that would
9 give me an opportunity to sort of sharpen up that
10 tool.

11 **Q. Please briefly describe your experience in**
12 **handling complex contested Family Court matters**
13 **and specifically discuss your experience with the**
14 **financial aspects of Family Court work.**

15 A. So when you use the term complex Family Court
16 matter, my mind immediately goes to two areas,
17 right? You have complex financial cases and you
18 have complex custody cases. I think I have a
19 breadth of experience in both of those areas. In
20 terms of complex financial cases, I've handled
21 cases where we've divided, identified, valued,
22 and divided estates worth 15, 17, 20 million
23 dollars. I've also done the opposite. I've been
24 a part of cases where marital estates were under
25 water, and really it's a debt fight, and we're

1 trying to allocate who's going to take what debt,
2 and we're fighting about that. But, you know,
3 I've spent a large portion of my career poring
4 over EBITDA calculations and cash flow statements
5 and profit and loss sheets and calculating
6 deductions and amortization schedules. I'm
7 familiar with all that. So in terms of complex
8 financial cases, I'd say I've got a breadth of
9 experience there. I will say that when it comes
10 to those cases, though, the more you do them, the
11 sort of easier they get and less complex they
12 become. But in terms of complex custody cases,
13 those are always complex. They were complex when
14 I started practicing law. They were complex ten
15 years in. They're probably going to be complex,
16 you know, if I'm elected, to the end of my
17 judicial career because of the emotions attached
18 with those sorts of cases. But in terms of my
19 experience with those types of complex cases,
20 I've had custody cases with mentally handicapped
21 children. I've had cases with children with
22 behavioral issues that require so many resources
23 and sort of so many nuanced ways of dealing with
24 schedules and support. A majority -- I would
25 say, the majority of my handling of complex

1 custody cases, though, would be interstate
2 custody actions. For some reason, over the last
3 five years, I've been hired on a bunch of these
4 cases. You know, a mother from Oklahoma hires me
5 because there's a custody action now in South
6 Carolina with a father, or a father from Virginia
7 hires me because there's a custody action now
8 with a mother who lives in South Carolina. I've
9 had a lot of experience when it comes to
10 interstate custody actions, and so when it comes
11 to those two areas, I think I'm very well set.

12 **Q. Mr. Torricos, the Commission received 181 ballot**
13 **box surveys regarding you with 38 additional**
14 **comments. The ballot box survey, for example,**
15 **contained the following positive comments: good**
16 **judicial temperament with broad knowledge of the**
17 **law, would be a great asset on the bench. Mr.**
18 **Torricos is considered one of the preeminent**
19 **Family Court attorneys here in the Upstate. I**
20 **appreciate he is willing to step away from**
21 **private practice to serve. He is an even-keeled**
22 **attorney who is widely respected for his**
23 **temperament and intellect. He would be an asset**
24 **to the Family Court in Greenville as we need a**
25 **Family Court judge who speaks fluent Spanish.**

1 Seven of the written comments expressed concerns
2 which showed a pattern in two areas. First,
3 several comments focused on a lack of experience
4 in Family Court. For example, it was stated that
5 you need to continue sharpening your skills in
6 Family Court. How would you respond to this
7 concern?

8 A. Well, thank you for that. A humbling part of
9 this process is always listening to some
10 critiques, and it's always a little difficult to
11 hear, but I would respectfully disagree with
12 that. I think that I've got plenty of experience
13 in all of the relevant areas that would be
14 relevant to me taking the bench at this moment in
15 time. Like I said, I've represented hundreds and
16 hundreds of individuals in every sort of form of
17 domestic litigation in this case, whether they be
18 uncontested or contested, high net worth, low net
19 worth. I've represented grandparents, aunts and
20 uncles, brothers and sisters. I've done DJJ
21 work. I've done DSS work. I've done pro bono
22 work. And so my response would be, you know, I
23 certainly appreciate the concern, but I think I'm
24 satisfied as to what my experience level is at
25 this moment in time. And I honestly wouldn't be

1 here today if I didn't think that I had the
2 requisite experience.

3 **Q. The second pattern of concern focused on your**
4 **connections to members of the General Assembly.**
5 **How would you respond to this concern?**

6 A. It is true. I've practiced law with Chairman
7 Bannister. I've practiced law with Mr. Bannister
8 the entirety of my career. But we've had
9 face-to-face conversations, and we are both on
10 the same page. I owe nobody anything. That may
11 not be perfect English there, but if Bruce
12 Bannister doesn't owe me anything, I don't owe
13 Bruce Bannister anything. And so if anyone has
14 any notion that there be any favoritism in that
15 area, I can unequivocally say that there would
16 never be. We have the type of relationship where
17 I don't think he would ever ask me to do anything
18 I was uncomfortable doing, and I surely would
19 never ask him to do anything he was ever
20 uncomfortable doing. So that's my response.

21 **Q. Mr. Torricos, you have been involved in two**
22 **lawsuits as noted in your PDQ. The first was in**
23 **state court in Noriega v. Wilkins. Please**
24 **describe the nature and disposition of the case.**

25 A. So along with my Family Court practice, I also

1 practice in the area of criminal defense. In that
2 case, I was sued by a criminal defendant that I
3 represented. In that suit, he alleged that I was
4 negligent in failing to request credit for time
5 that he had done on home incarceration prior to
6 his guilty plea. The only issue was that he was
7 never on home incarceration, and I correctly
8 requested the appropriate credit that he
9 deserved, which was the 39 days that he did in
10 jail prior to bonding out. And the case was
11 dismissed because the court of General Sessions
12 recognized that this gentleman was never actually
13 on home incarceration and was never entitled to
14 that credit. So that case was dismissed.

15 **Q. The second case was Torricos v. Greenville County**
16 **Planning Commission. Please describe the nature**
17 **and disposition of that case.**

18 A. So I am the trustee of my younger brother's
19 trust, and the trust purchased a piece of
20 property in Greenville, and we applied for us to
21 subdivide the property on behalf of the trust,
22 and it was denied. We believe that the denial of
23 that application was wrongful, and we appealed
24 and had the denial eventually overturned, and the
25 property is being subdivided.

1 MS. WILKINSON: Mr. Chairman, I would note that the
2 Upstate Citizens Committee found Mr. Torricos
3 qualified in the evaluative criteria of
4 constitutional qualifications, physical health,
5 and mental stability. They found him well
6 qualified in the evaluative criteria of ethical
7 fitness, professional and academic ability,
8 character, reputation, experience, and judicial
9 temperament.

10 Q. Mr. Torricos, we do have some housekeeping
11 issues. Are you aware that as a judicial
12 candidate you are bound by the Code of Judicial
13 Conduct as found in Rule 501 of the South
14 Carolina Appellate Court Rules?

15 A. Yes, ma'am.

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

19 A. No, ma'am.

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

23 A. Yes, ma'am.

24 Q. Since submitting your letter of intent, have you
25 sought or received the pledge of any legislator

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

3 A. No, ma'am.

4 Q. Have you asked any third parties to contact
5 members of the General Assembly on your behalf,
6 or are you aware of anyone attempting to
7 intervene in this process on your behalf?

8 A. No and no.

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

12 A. I'm aware of it, yes.

13 MS. WILKINSON: I would note for the record that any
14 concerns raised during the investigation
15 regarding Mr. Torricos were incorporated into the
16 questioning of him today. Mr. Chairman, I have
17 no further questions.

18 CHAIRMAN RANKIN: All right. Thank you, ma'am, Ms.
19 Wilkinson. Questions by members of the
20 Commission.

21 MR. TORRICOS - EXAMINATION BY CHAIRMAN RANKIN:

22 Q. I want to start with your very youthful
23 appearance and youthful chronology here in
24 youthful age and your progress or progression
25 from graduation in 2013, I believe. Is that

1 right?

2 A. Yes, sir.

3 Q. John Marshall Law School?

4 A. Yes, sir.

5 Q. Where is that?

6 A. Atlanta.

7 Q. Okay. I had never heard of that school, but
8 that's probably because it's so top notch that I
9 would never be considered.

10 A. It's a very, very teeny, tiny private school in
11 Atlanta, sir.

12 Q. You grew up where?

13 A. In Atlanta.

14 Q. Okay. And the path to South Carolina, you may
15 have mentioned that. Forgive me for not paying
16 attention to that.

17 A. So I moved to Greenville after my sophomore year
18 of high school. I finished at Mauldin High, and
19 I met my wife at Mauldin High. We went to
20 Clemson together, and then I decided to go to law
21 school. I had a conversation with my wife about,
22 you know, would we move back to Atlanta or stay
23 in Greenville, and that conversation was very
24 short. And here I am living in South Carolina.
25 I love it. I wouldn't change it for the world.

1 So that's sort of my path to Greenville.

2 **Q. Well, and Clemson, of course, as well, with a**
3 **degree in psychology.**

4 A. Yes, sir.

5 **Q. That alone -- do you think that degree makes you**
6 **more suited for Family Court?**

7 A. So, yes, the short answer is yes. A very big
8 part of the curriculum for a bachelor's in
9 psychology is developmental and adolescent
10 psychology. And in my experience with complex
11 custody cases, when we get reports from mental
12 health professionals, behavioral professionals,
13 and they spit out verbiage in these reports that
14 are 20, 30, 40 pages long, I think that that
15 background and that degree do help you interpret
16 those results, and they help you articulate
17 arguments before the Family Court. So
18 absolutely, yes, sir.

19 **Q. You were no wallflower in any of your undergrad**
20 **or graduate school, and I'm recognizing or**
21 **reading about your mock trial competition, your**
22 **engagement with the Latino Law Students**
23 **Association. CALI, excellent award. You put**
24 **yourself out there.**

25 A. Yes, sir.

1 Q. It reminds me of somebody else that I know very
2 well that just put themselves out there,
3 squeezing every bit of the undergrad and law
4 school experience. Then you -- during that, you
5 were clerking at the U.S. Attorney's Office and
6 then became -- got to clerk with Judge Childs as
7 well, all while in undergrad, correct?

8 A. Yes, sir.

9 Q. I mean, in law school.

10 A. Law school, yes, correct.

11 Q. Before you graduated. So a guy that's on his
12 way, taken off, you've done exceedingly well, it
13 appears, with your breadth of work and the
14 ability to do wonderful things for your family,
15 your two young children, from a financial
16 standpoint.

17 A. Yes, sir.

18 Q. Why would you give up that path to perhaps
19 greater prosperity and go to a job that you may
20 well have for a long time, depending on if you're
21 successful here, and enjoy it on the bench? Why
22 would you choose this path?

23 A. You know, I've been asked that question a lot
24 throughout this process, and I think that the
25 answer to that is that when you feel called to

1 something, you sort of run towards it, and I
2 don't see a reason why to delay my service to the
3 bench when I think we need it now, in a way. I
4 think that in Greenville, in the 13th Circuit, we
5 have an absolutely fantastic composition of
6 judges that I look forward to practicing before
7 every time I have a hearing. We've got male
8 judges, we've got female judges, we've got white
9 judges, we've got black judges, we've got all
10 different types of judges from all different
11 walks of life. We really don't have any younger
12 judges. I think that's one area where we're not
13 diverse in, and we have no Spanish-speaking
14 judges that I've ever appeared in front of. And
15 so I think that where I am in my practice, where
16 I am in my personal life today is very stable,
17 and I think that right now is the appropriate
18 time to make this jump. I think that you're
19 right. I would be giving up probably the prime
20 earning years of my career to do this, but that
21 is a sacrifice that I'm willing to make in the
22 name of service.

23 **Q. You worked as a law clerk with Judge Stilwell.**

24 **A. Yes, sir.**

25 **Q. Saw lots of civil, criminal cases, litigants, pro**

1 se attorneys. In terms of your not holding him
2 up as an example, but a judge who has the right
3 approach with control of the courtroom, but also
4 the perception and the takeaway of folks feeling
5 like they've gotten a fair shake, as a law clerk
6 you get to see a lot more than folks who don't.
7 As a judge yourself, whether it be a Circuit
8 Court judge, whether it be a Family Court judge,
9 or whoever, whatever level, federal or state, who
10 could be a who if you want to fill in the blank -
11 - I'm not looking for a plus for anybody
12 necessarily -- but who do you hold up as what you
13 would like to be considered comparable to in a
14 favorable way?

15 A. So I would say that when I look at the judges
16 that I've appeared in front of, Rob Stilwell
17 certainly has sort of been a mentor of mine for a
18 very long time. When I left his chambers, I
19 thought that this would be a real possibility for
20 me, that this is something that I would really
21 look into very hard about becoming a judge one
22 day. He motivated me and influenced me that
23 much. I think that highly of him. Right next
24 door to Judge Stilwell was Letitia Verdin, and
25 she has rocketed up the judicial ladders, and for

1 good reason. She has exceptional control of the
2 courtroom. She's a quick thinker. She studies
3 hard. She knows her cases. She's updated on the
4 law. She's patient. She's kind. She's
5 understanding. So between those two, I think I
6 was able to mold myself in a very, very positive
7 way. You know, when I was with Judge Stilwell,
8 there was a period in time where Judge Verdin
9 lost a clerk, so I was able to step in and help
10 her with some stuff, and I really enjoyed my time
11 with her. She's a blessing to the people of
12 South Carolina. And I hope that one day people
13 will maybe view me in that light, hopefully.

14 **Q. In terms of your mix of practice, you list 40**
15 **percent as criminal.**

16 A. Yes, sir.

17 **Q. Still?**

18 A. Yes, sir, yes, sir.

19 **Q. Are we talking juvenile, Family Court, or are you**
20 **talking about general sessions outright?**

21 A. General sessions. I haven't had a DJJ case in a
22 while, but I have found that the blend of
23 criminal work and Family Court work are
24 synchronized in very many ways. Criminal work
25 sharpens you in ways other areas of law don't. I

1 mean, in terms of understanding of evidentiary
2 rules and procedure, trying cases in general
3 sessions is where you get really sharp, and I've
4 always really enjoyed trial work. I consider
5 myself a trial junky. That's why I went to law
6 school. I wanted to be a trial lawyer. I didn't
7 want to be a transactional lawyer, and that's why
8 I clerked for Rob Stilwell, and I clerked for
9 Michelle Childs and have tried to consume as much
10 time in the courtroom as I possibly can. And a
11 blend of Family Court work and criminal work has
12 really helped me accomplish that.

13 **Q. You have listed five cases. And I don't want to**
14 **say not all winners, but definitely one where you**
15 **didn't prevail, and that being maintaining sole**
16 **custody for your client.**

17 A. Correct.

18 **Q. You lost that. Why is that one -- why did you**
19 **include that one?**

20 A. That case really taught me two things. One, that
21 you never have a case in the bank ever as a
22 lawyer. That was a case that I was confident I
23 thought I was going to win, and I ended up losing
24 it in a way. It was a case that involved a
25 parent -- it was one of those interstate custody

1 cases. He was from Virginia. His mother was in
2 South Carolina. He was charged in Virginia with
3 assault and battery on a minor child, and when
4 that happened, the mother in South Carolina filed
5 a modification of custody action, and the child
6 was brought from Virginia to South Carolina. And
7 she wanted custody of the child, and he obviously
8 wanted custody of the child back. The assault
9 and battery did not involve their child. It was
10 another child, and at the end of the day, even
11 though he lost sole custody, he retained joint
12 custody after his arrest, and so it, in a way,
13 helped me reframe what is a win. I went into
14 trial with a client who was arrested for assault
15 and battery on a child and yet did enough to
16 demonstrate to the Court that he was a good
17 enough parent to at least maintain joint custody,
18 and at the time, I didn't feel -- I felt like I
19 just outright lost the case, but now that -- when
20 I was going through the process of filling out my
21 PDQ, I look back on my case and say, you know
22 what, I did the best that I could with the facts
23 that I had. I tried really, really hard. I think
24 I did a really, really good job before that
25 judge, and ultimately they thought the joint

1 custody was appropriate, and so it sort of helped
2 me reframe what a win was in many different ways.

3 Q. My last question to the glee of my brothers and
4 sisters here on this Commission, but we -- the
5 last week has been -- two weeks now, second day
6 of our second week, have entertained various
7 complaints, a few largely from Family Court
8 litigants who do not feel that they got a fair
9 shake. I don't ask you to weigh in on what is a
10 fair shake or not, but you are offering to come
11 into an area of the law that is fraught with
12 feelings that can never be totally satisfied.
13 And many judges who have served have no
14 complaints at all, no negative ballot box
15 comments, but who are stepping into -- and you
16 for the first time, an area where you've got to
17 manage expectations, but not manage the outcome
18 except based on the facts that you have before
19 you. Do you see this as an area that you can
20 navigate without feelings being hurt, and if so,
21 how do you do that where everybody leaves the
22 courtroom believing that they've been heard and
23 given their day in court?

24 A. Certainly. I think that any lawyer that spends a
25 lot of time in Family Court at times walks away

1 feeling like they weren't heard, and I think that
2 that is the most important thing. You're right,
3 you can't control results outside of what you as
4 a Family Court judge have been -- the authority
5 that you've been given by way of statute, and so
6 I think that for me, it's an understanding that I
7 have a job to do. My job is -- as a member of
8 the judicial branch, is to take the facts and
9 apply them to the law as the members of the
10 legislature have intended it to be done, and the
11 results will sort of pour out from there.
12 Anytime you walk into a courtroom and there are
13 children involved, there's money involved,
14 there's relationships involved, there's always --
15 the possibility that someone's feelings could get
16 hurt are always there, so you can't eliminate it,
17 but giving attorneys and litigants, pro se
18 litigants especially, opportunities to lay out
19 their cases and to be attentive and to listen and
20 to be engaged is the way to do it. And I think
21 that -- you know, you mentioned my age and my
22 youthful appearance, and I think that when it
23 comes to being engaged, alert, awake, and
24 energetic, I think my youth plays into that
25 positively. Like I said, I've appeared in front

1 of a lot of judges all across the state, and
2 there have been times where I walk out of that
3 courtroom and I'm like, I don't know if he was
4 awake, I don't know if he was listening or she
5 was listening, and Family Court judges get tired,
6 and so I like to think that I could bring a spark
7 of energy to the bench in Granville County.

8 **Q. Very well. Representative Caskey.**

9 REPRESENTATIVE CASKEY: Thank you, Mr. Chairman.

10 MR. TORRICOS - EXAMINATION BY REPRESENTATIVE CASKEY:

11 **Q. (Speaks Spanish.)**

12 A. I appreciate the question. I didn't see that
13 coming.

14 CHAIRMAN RANKIN: I want you to reply in Spanish.

15 A. In Spanish. So just for the record, the question
16 was how many clients have I represented that
17 don't speak English in Family Court?

18 CHAIRMAN RANKIN: He said more than that.

19 MR. TORRICOS: He did say more than that.

20 **Q. Just summarize my point. You don't have to**
21 **summarize the whole thing.**

22 A. Sure, sure. (Speaks Spanish.)

23 CHAIRMAN RANKIN: All right. Now, for the court
24 reporter.

25 A. So, again, he asked me how many Family Court

1 clients I've had that -- or represented that
2 didn't speak any English. And my response to
3 that was, I would guess around 40 clients that
4 didn't speak any English that I represented in
5 Family Court.

6 REPRESENTATIVE CASKEY: And I would offer, Mr.

7 Chairman, the reason I began that question in
8 Spanish is I want to make a broader point about
9 the importance of appreciating the difficulties
10 that folks have when they come into a situation
11 where they only speak one language, and that it
12 is a real value to have people who can speak
13 another language. And it is something that our
14 state has not fully embraced for reasons far
15 broader than our purposes here, but it's
16 something worth considering nonetheless.

17 **Q. So, thank you for offering. I appreciate your**
18 **service. Glad to have you.**

19 A. Thank you.

20 MR. TORRICOS - EXAMINATION BY CHAIRMAN RANKIN:

21 **Q. I am curious --**

22 A. Yes, sir.

23 **Q. -- if you're successful and you have an English**
24 **speaking or non English speaking, Spanish**
25 **speaking only, can you be both the interpreter**

1 **and the judge to speak back and forth, as you've**
2 **just done with Representative Caskey?**

3 A. That's an interesting question. I'll tell you a
4 story. I've been a lawyer in one case and an
5 interpreter on the case right behind it in
6 general sessions. One of the first times I was
7 in general sessions, I was before Judge
8 Stillwell, and he thought in a way -- the
9 interpreter didn't show up. He's looking around
10 the courtroom and says, I need an interpreter,
11 and I'm sitting there sort of in the gallery, and
12 he sort of pops up to the side. He points,
13 brings me up, swears me in as an interpreter, and
14 I interpret the case right then and there. So
15 I've done it sort of as a lawyer and then an
16 interpreter, so I will let you know how that goes
17 in terms of whether I could be a judge and
18 interpreter at the same time. I think I could
19 provide information in Spanish, like where to go
20 to the clerk's office to pick out a packet for a
21 temporary hearing or that they need to fill out a
22 financial declaration. But let's be clear, the
23 record needs to be preserved for appellate
24 review, and so walking in and out of different
25 languages on the record would be pretty

1 difficult.

2 Q. And we would ask you both at your own time, not
3 now, to translate for the court reporter in
4 writing, submit that to this body, the entirety
5 of your conversation. If you don't do that, I
6 don't think there's any shame. We'll just chide
7 Representative Caskey for that.

8 CHAIRMAN RANKIN: Any questions? Mr. Safran.

9 MR. SAFRAN: Just a quick one.

10 MR. TORRICOS - EXAMINATION BY MR. SAFRAN:

11 Q. Let me ask you. You kind of touched on something
12 in terms of the inability of some of the clients
13 to understand English, and one of my concerns has
14 been -- and one reason I don't handle a lot of
15 Hispanic cases -- is that I think you lose
16 something sometimes with the interpreter. You as
17 a lawyer recognize that a big part of your
18 representation is to connect with your client,
19 and I think that the inability to speak the
20 language kind of leaves something to fall short
21 in terms of that connection. I mean, have you
22 seen that?

23 A. Yes, sir. Not only do you lose it in terms of
24 connection with your client, you literally lose
25 it with interpreters in the courtroom.

1 Q. Right. And that's the other question. I wonder
2 how often they don't necessarily accurately
3 convey what you're basically trying to get
4 across.

5 A. So I will say that we have a lot of really good
6 interpreters, so this is not a cloud on our
7 interpreters in the state because they do a
8 really good job and they try really hard, and for
9 the most part, they're very, very highly
10 effective. However, I had a case when I was just
11 coming out, maybe my first year or second year.
12 It was a very serious general sessions case. We
13 were defending a gentleman that was accused of
14 criminal sexual conduct on a minor where the
15 implications were not just a little jail time.
16 We're talking about decades in jail. And as a
17 part of the defense, we got that case mistried
18 because I continued to hear poor interpretation
19 from the court reporter in that trial. And when
20 you're dealing with high-stakes criminal
21 litigation and cases where the intent of the
22 defendant is clearly before the court, words like
23 I think and I believe, creo y pienso, are very,
24 very different. So you and I want to say, well,
25 I believe X, Y, and Z, or I think X, Y, and Z,

1 and we really don't think about the difference
2 between believing and thinking something. But
3 again, in the criminal context and in the
4 interpretation context, she kept interpreting --
5 it was either she kept substituting the word
6 think for believe or the other way around. You
7 know what I'm saying? And so I objected a number
8 of times. She continued to do it. The case got
9 mistried, and we had to tee that thing up a
10 couple of months later. And so it was
11 ineffective use of judicial time and all that
12 sort of stuff. But I certainly absolutely agree
13 with you that there's a lot of loss when you
14 don't speak the language your client does.

15 **Q. Well, I mean, do you see that the number of**
16 **Hispanic clients is increasing in Family Court**
17 **over time?**

18 **A. Uh-huh.**

19 **Q. So the other thing I've noticed is that there**
20 **seems to be a cultural difference, and that there**
21 **are certain things that we may take for granted**
22 **that we may more or less want to convey, even if**
23 **it's something very simple, like you should fight**
24 **this, that there's still sometimes a reluctance**
25 **on the part of some clients, depending on where**

1 they come from and what their socioeconomic
2 status was -- that there's just a reluctance to
3 want to take it on. I mean, do you run into that
4 too?

5 A. Absolutely. And I will tell you, you mentioned
6 cultural differences in Family Court. There are
7 a lot of cases where judges or opposing attorneys
8 or even guardian ad litem critique individuals
9 for living with their parents. And by that I
10 mean a father. You know, they break up, they're
11 going through the divorce proceedings, father
12 moves in with grandma because he's looking for a
13 place to live or whatever. That's viewed as a
14 negative in so many instances because, you know,
15 apparently he can't support himself, that he
16 needs his mother's help to raise the children,
17 things like that, right? And so -- but in the
18 Hispanic community, the idea that your abuela
19 lives with you is very, very common. It is not a
20 sign of weakness. And I've had to sort of
21 educate guardian ad litem at times on those
22 issues and maybe some judges and other lawyers
23 that try to sort of poke at that and needle that
24 issue that, you know, mom had to move in with her
25 dad or dad had to move in with a grandma. Like,

1 yeah, but that's just the way, you know, they
2 were brought up. They lived with their
3 grandmothers. And so I really appreciate the
4 comment, and I totally agree with you that there
5 are definitely cultural issues that are not
6 entirely observed in Family Court that should be.

7 **Q. And do you envision potentially being -- if**
8 **successful sitting on the bench and necessarily**
9 **hearing something and knowing that whatever the**
10 **court reporter is putting down is wrong, just**
11 **like you did in that trial.**

12 **A. Yeah, yeah, absolutely. And I think it is my**
13 **responsibility and my job to stand up and say**
14 **something about it and to confront those issues**
15 **because, you know, Family Court cases are -- it's**
16 **a high rate of appeal and we need to have clear**
17 **records and the interpreters need to be on it.**
18 **And so I think that in that way, I'm an asset to**
19 **the bench.**

20 **Q. Well, and lastly -- I mean, you touched on it**
21 **earlier. I mean, you look like you have all the**
22 **makings of a very shining star in the attorney**
23 **end of it. And I understand that there's always**
24 **some goal to be on the bench. I think yours was**
25 **nurtured early. I mean, when I was a law clerk**

1 doing similar to what you did, I had thoughts
2 then, but sometimes things just don't work out or
3 you just don't necessarily have that same fire.
4 I guess the question is, though, you're still
5 only about ten years out roughly. I mean, do you
6 really feel like you've experienced everything
7 that you might necessarily want to experience in
8 the context of being a lawyer? I mean, because,
9 again, it seems like the sky is still the limit
10 for you when it comes to that.

11 A. Well, I appreciate that, Mr. Safran, and I really
12 do. And I think that the answer to that is yes.
13 I think that I'm satisfied with my career to this
14 point. And if I am lucky enough to serve my
15 people in Greenville County and in the 13th
16 Circuit in Pickens, then I'm going to look back
17 on my career very fondly and say that I did
18 really good work that I'm very, very proud of. I
19 got to work with some excellent people at my law
20 firm that I'm going to miss very dearly. And
21 clients, I mean, so many clients after the fact
22 that -- I'm going to miss that. But in terms of
23 my satisfaction with my career and where I am, I
24 think I am satisfied.

25 Q. Well, thank you.

1 A. Thank you, Mr. Safran.

2 CHAIRMAN RANKIN: All right. If nothing further, Mr.
3 Torricos, this will close this portion of the
4 screening. You understand that the record is not
5 closed until the formal release of the record of
6 qualifications.

7 MR. TORRICOS: Yes, sir.

8 CHAIRMAN RANKIN: In the event that you were to
9 violate by direct or indirect the appearance of
10 impropriety of the state ethics law, you
11 understand we can call you back because that
12 would be deemed very serious by this Commission.

13 MR. TORRICOS: Yes, sir.

14 CHAIRMAN RANKIN: Don't expect that to be the case,
15 but again, you have acknowledged that, and that's
16 all we need for a complete record. And can you
17 translate yes, sir, in Spanish for the court
18 reporter?

19 MR. TORRICOS: Sí, señor.

20 CHAIRMAN RANKIN: Muchas gracias.

21 MR. TORRICOS: Thank you, sir. I appreciate it.

22 CHAIRMAN RANKIN: Godspeed to you, and Happy
23 Thanksgiving to you and your family.

24 MR. TORRICOS: Thank y'all very much.

25 (OFF THE RECORD)

1 CHAIRMAN RANKIN: Welcome Judge Smoak.

2 JUDGE SMOAK: Welcome, how are you?

3

4 CHAIRMAN RANKIN: Very well, thank you. Thank you for
5 being with us today and being here early. We are
6 17 minutes late, but let me assure you that we
7 will make quick work of you, hopefully. You've
8 been here before, and so let me first get you to
9 raise your right hand.

10 THE HONORABLE GERALD C. SMOAK, JR., being duly
11 sworn, testifies as follows:

12 JUDGE SMOAK: I do.

13 CHAIRMAN RANKIN: The two statements, PDQ and the
14 sworn statement, are they ready to be entered
15 into the record?

16 JUDGE SMOAK: Yes, sir.

17 CHAIRMAN RANKIN: Very well. Judge, you know how this
18 works. Our effort in vetting your candidacy for
19 reelection, we're looking at those nine
20 evaluative criteria, which includes a ballot box
21 survey, a thorough study of your application
22 materials, verification of your compliance with
23 state ethics laws, a search for newspaper
24 articles in which your name appears, a study of
25 previous screenings and a confirmation that no

1 economic conflicts of interest have occurred. No
2 affidavit or complaint has been filed in
3 opposition to your campaign for reelection.

4 We're going to turn it over to Ms. Benson, Paula
5 Benson, and then members of the Commission may
6 have questions, and then we'll go from there.

7 Thank you so much for being here, and Ms. Benson.

8 (Exhibit Number 14 was marked for identification
9 purposes - (12 pages) Personal Data Questionnaire for
10 The Honorable Gerald C. Smoak, Jr.)

11 (Exhibit Number 15 was marked for identification
12 purposes - (4 pages) Sworn Statement of The Honorable
13 Gerald C. Smoak, Jr.)

14 MS. BENSON: Thank you, Mr. Chairman.

15 JUDGE SMOAK - EXAMINATION BY MS. BENSON:

16 **Q. Judge Smoak, after serving 29 years on the Family**
17 **Court, why do you want to continue serving as a**
18 **Family Court judge?**

19 A. I continue to like what I do. I enjoy the
20 people. I enjoy trying to solve the disputes
21 between persons coming to Family Court. I enjoy
22 different parts of Family Court. I enjoy
23 adoptions. I'm just a person that just loves
24 what he does, and I still love it, and I hope to
25 continue.

1 Q. Thank you, Judge. Judge, what do you think your
2 reputation is among attorneys that practice
3 before you and also among the court personnel
4 that practice with you?

5 A. Well, I would hope it would be that I am a
6 patient person. I hope it would be that I have a
7 good sense of humor at times when it's needed. I
8 hope it is that when the law is cited that the
9 attorneys know I know the law, and they know I
10 render my decisions quickly. I don't sit on my
11 opinions. I don't wait days and days and days.
12 Court personnel, I hope they would think I'm a
13 nice fellow to be around because that's certainly
14 some of the people you enjoy most are the people
15 at the different courthouses. So I would hope
16 that would be some of them.

17 Q. Thank you, Judge. Judge Smoak. The Commission
18 received 412 ballot box surveys regarding you
19 with 26 positive additional comments and no
20 negative comments. The ballot box survey, for
21 example, contained the following positive
22 comments: kind, courteous, experienced,
23 outstanding, one of the best, respectful, fair,
24 thoughtful, awesome, and personable. Several
25 commentators said it was a privilege to appear

1 **before you.**

2 MS. BENSON: I would note that the Lowcountry Citizens
3 Committee found Judge Smoak qualified in the
4 evaluative criteria of constitutional
5 qualifications, physical health, and mental
6 stability, and well qualified in the remaining
7 evaluative criteria of ethical fitness,
8 professional and academic ability, character,
9 reputation, experience, and judicial temperament.
10 The Committee stated in summary: very
11 experienced, great demeanor, patient, and an
12 excellent judge.

13 **Q. Just some housekeeping issues, Judge Smoak.**
14 **Since submitting your letter of intent, have you**
15 **contacted any members of the Commission about**
16 **your candidacy?**

17 A. No, ma'am.

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

21 A. Yes, ma'am.

22 **Q. Since submitting your letter of intent, have you**
23 **sought or received the pledge of any legislator,**
24 **either prior to this date or pending the outcome**
25 **of your screening?**

1 A. No, ma'am.

2 Q. Have you asked any third parties to contact
3 members of the General Assembly on your behalf,
4 or are you aware of anyone attempting to
5 intervene in this process on your behalf?

6 A. No, ma'am.

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

10 A. Yes, ma'am.

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

16 CHAIRMAN RANKIN: All right. Members of the
17 Commission. Mr. Safran.

18 MR. SAFRAN: You know, when I saw you walk in the
19 room, I was thinking about somebody we both knew
20 so well, and the first thing that popped in my
21 mind was him telling you to get a haircut. These
22 forms, you remember as well as I do.

23 CHAIRMAN RANKIN: Why don't we name that person, Mr.
24 Safran? Give the candidate a lifeline.

25 MR. SAFRAN: The candidate knows. We sat together in

1 his class, I do believe. So let me say this. It
2 is extremely uncommon to see the kind of
3 responses that we get to the ballot box. And, I
4 mean, there is without any qualification no doubt
5 that you are as good as they come. You've been
6 doing it a long time, and to hear what these
7 people say, that when you're in as high a charged
8 atmosphere as a Family Court day after day, and
9 that nobody could say anything other than he's a
10 great guy, he's a great judge, he's patient, he
11 is the model, I think that's something to be
12 very, very proud of, and you've certainly earned
13 it. You've put a lot of time in, and I don't
14 have any doubt that you love what you do every
15 day, and we love the fact that you love doing it
16 because people like you are what we need on the
17 bench. And, unfortunately, some of them get to a
18 point where they say, you know, it's time to go,
19 but I don't think that day's around for you. And
20 I can tell you, you know, you come from good
21 stock. Your daddy was a great one, and, you
22 know, I just wish there was another Smoak out
23 there, you know, to be kind of waiting in the
24 bullpen to come on. So I want to congratulate
25 you for doing it. I want to thank you for doing

1 it. I want to make sure that everybody around
2 knows that if they want to know how it is done,
3 all they need to do is come to your doorstep.

4 JUDGE SMOAK: Well, I appreciate that.

5 CHAIRMAN RANKIN: Senator Garrett.

6 SENATOR GARRETT: You graduated in 1983.

7 JUDGE SMOAK: Yes, sir.

8 SENATOR GARRETT: Is that correct?

9 JUDGE SMOAK: Yes, sir.

10 SENATOR GARRETT: All right. I wish we could just
11 clone you and give you as an example to each of
12 these young Family Court lawyers who are coming
13 in here. I mean, it's impossible to have over
14 400 comments and not even the first negative
15 comment. I mean, that's wonderful. I don't know
16 how to say it, but that's just beautiful. So
17 thank you, thank you, thank you. And I would
18 hold you up to any young Family Court judge. I
19 hope you decide at some point that you will
20 teach. I'm sure you're doing it when you're
21 working with these younger lawyers and that kind
22 of thing as they're coming up, but I hope you do
23 it in a more formalistic way. We need you in
24 this world where everybody's fighting about
25 everything. We need your kind of leadership and

1 your kind of judgment. Thank you, sir.

2 JUDGE SMOAK: Appreciate that, Senator.

3 CHAIRMAN RANKIN: Other questions by other members of
4 the Commission?

5 JUDGE SMOAK - EXAMINATION BY CHAIRMAN RANKIN:

6 Q. Judge, I, too, want to tack to the familial and
7 your father, as Mr. Safran mentioned again, and
8 the legacy of service and love of the law that
9 your family has put in place in our state for a
10 long time and your willingness to continue to do
11 it on the bench. Neither child of yours, neither
12 nor, have a law degree, so I don't know if
13 there's a change in career paths perhaps one
14 might make to fulfill Mr. Safran's hope, but you
15 certainly have blazed your own trail in a great
16 way. I just have to touch on one of the letters
17 of reference, and something that unfortunately
18 we're not going to get to see here unless you
19 take the bait. Your Clerk of Court said you had
20 a great sense of humor, so I want to know what
21 your retort to Mr. Safran's comment about your
22 haircut would be.

23 A. The only retort I have to that is he echoed what
24 my wife said this morning. I mean, I just
25 couldn't fit it in. I mean, that's the first

1 thing she said, the least you could have done is
2 get a haircut.

3 Q. You know, Mr. Safran reminds me of my wife a lot
4 of times as well, in a good way, only a good way.
5 Well, Judge, you obviously do have a light touch
6 in your courtroom. As the two commenters have
7 said, near impossible to have everyone leading,
8 litigants and the lawyers, who, again -- these
9 folks don't have to tell us who they are -- and
10 we call it out, the good or the bad, and there
11 are a handful of y'all that have just exceeded
12 that metric for us in terms of not pleasing
13 everybody but not offending someone such that
14 they would take a shot at you based on how they
15 were treated in your courtroom. So you're marked
16 to that. Perhaps your father or who else has
17 given you the imprint of this is how to do it, or
18 perhaps here's how not to do it? You don't have
19 to go to the negative, but give me the positives.

20 A. I mean, probably my dad and mom. I mean, treat
21 people like you want to be treated. I mean, it's
22 kind of simple in my opinion. Nobody wants to
23 have to, you know, take a bunch of flack. I
24 mean, just remember how you would like to be
25 treated if you were in the same position, and

1 that's what I try to remember every day, every
2 hearing. It's harder some days, but I try to
3 remember that.

4 CHAIRMAN RANKIN: Well, very well. All right. Unless
5 there are any other questions or comments, Judge,
6 again, we thank you for your willingness to
7 continue to serve. And again, I made the offer
8 at the outset, if you'd like to make any closing
9 remarks, the floor is yours.

10 JUDGE SMOAK: I don't think so. The only thing I can
11 say in closing is if I'm back up here again,
12 chances are I'll be, I think I figured it out a
13 month away from 72. I don't have to tell you all
14 what that means. And I guess I would be remiss
15 in not saying that I guess almost 30 years now
16 I've been lucky enough to work with, I mean, some
17 fantastic people, whether it's the Family Court
18 judges, the people in the courthouses, the
19 clerks. And, of course, most if not all of y'all
20 weren't on this committee in 2000 or '95, but I
21 just appreciate that opportunity. Not many
22 people can say that, that they were given that
23 chance and were able to do it 30 years. So I
24 appreciate that.

25 CHAIRMAN RANKIN: Well, thank you very much for your

1 passion and your humility and your people's touch
2 by implementing the Golden Rule as well as any
3 judge in our state and perhaps our country, could
4 do. So congratulations to you.

5 JUDGE SMOAK: I appreciate it, Senator.

6 CHAIRMAN RANKIN: Real quick, housekeeping. This does
7 not close the record, just this portion of the
8 screening, and you know it well, the ethics laws,
9 we adhere to both the letter and the spirit. Any
10 violation by you, you would understand that we
11 could call you back in that unlikely event. For
12 the record, I need a yes.

13 JUDGE SMOAK: Yes, sir.

14 CHAIRMAN RANKIN: Not yes, sir, but yes, and God bless
15 you. Godspeed. Happy Thanksgiving to you and
16 your family.

17 JUDGE SMOAK: Thank y'all. Y'all have a good holiday.

18 CHAIRMAN RANKIN: Thank you.

19 (OFF THE RECORD.)

20 CHAIRMAN RANKIN: Judge, welcome, and thank you for
21 being here early. Rare is that ever said out of
22 my mouth about anything that I'm involved with.
23 So for the record, that is in the record now.
24 Judge, if you will, please raise your right hand.
25 THE HONORABLE DAVID G. GUYTON, being duly sworn,

1 testifies as follows:

2 CHAIRMAN RANKIN: All right. You've got a PDQ there
3 and a sworn statement. Are those ready to be put
4 into the record?

5 JUDGE GUYTON: They are.

6 CHAIRMAN RANKIN: All right. They will be so marked.
7 Judge, as you know, our effort here and the
8 process by which you are submitting yourself for
9 reelection, we are looking at the nine evaluative
10 criteria, which includes a ballot box survey, a
11 thorough study of the application materials,
12 confirmation of your compliance with the state
13 ethics law, a search of newspaper articles in
14 which your name appears, a study of past
15 screenings and a check for economic conflicts of
16 interest. There are no affidavits or complaints
17 being filed against you, and therefore, we are
18 going to entertain you, sir, with questions for
19 Ms. Starnes. And then at the close of that, if
20 there's anything you'd like to offer in addition,
21 we'll offer you the final, formal closing
22 statement.

23 (Exhibit Number 16 was marked for identification
24 purposes - (16 pages) Personal Data Questionnaire for
25 The Honorable David G. Guyton)

1 (Exhibit Number 17 was marked for identification
2 purposes - (7 pages) Sworn Statement of The Honorable
3 David G. Guyton.)

4 JUDGE GUYTON: Thank you.

5 CHAIRMAN RANKIN: So welcome, and Ms. Starnes.

6 MS. STARNES: Thank you, Mr. Chairman.

7 JUDGE GUYTON - EXAMINATION BY MS. STARNES:

8 **Q. Good to see you again, Judge Guyton.**

9 A. Good to see you.

10 **Q. Judge Guyton, after serving for roughly 15 years**
11 **on the Family Court bench, why do you want to**
12 **continue serving as a Family Court judge?**

13 A. I think with the experience level I have now, I
14 can certainly be very effective with the use of
15 our courtroom time, and I think I've been able to
16 develop a reputation for being a fair judge and
17 an efficient judge. And I'd also like to run
18 this last time to basically make sure that York
19 County is in good shape when it comes to our
20 Family Court system, and also I've been fortunate
21 enough to be the chair of the Family Court Judges
22 Advisory Committee, and Chief Justice Kittredge
23 just reappointed me in that capacity, so that has
24 me training the new judges each year for the new
25 judge orientation school each May. So we had

1 seven last year and six coming in, I think, this
2 year, so I want to make sure they're in a good
3 spot, too.

4 **Q. Thank you. Judge Guyton, what do you think your
5 reputation is among attorneys that practice
6 before you?**

7 **A.** I hope fair and impartial. I think they know
8 that I run a timely courtroom, so if the docket's
9 supposed to start at 9:30, I expect them to be
10 there and present, ready to start the court at
11 9:30, and again, I hope that they feel I make the
12 maximum use of the limited court time that we do
13 have.

14 **Q. Thank you. Judge Guyton, the Commission received
15 349 ballot box surveys regarding you, with 49
16 additional comments, most of which are extremely
17 positive. For example, such comments included:
18 Judge Guyton is an excellent judge. He is kind,
19 but firm. He works hard, and his decisions are
20 fair and understanding of the issues. A judge of
21 the strongest character and knowledge. He is an
22 asset to the judiciary in South Carolina. Judge
23 Guyton is an outstanding jurist, principled and
24 fair. He is a patriot, a diligent worker, and a
25 person of unparalleled ethics. Four out of the**

1 **49 comments expressed concerns about your**
2 **judicial temperament. What response would you**
3 **offer to these concerns?**

4 A. I would say that there are times when patience
5 can get pushed to the limit, sometimes by
6 counsel, very few, but there are a few, and then
7 sometimes it's hard to be patient with some of
8 the pro se, when I'm afraid they get used to
9 seeing the Judge Judy type TV shows, and they
10 come in without an attorney who's given them a
11 background maybe on the law or what to expect.
12 And sometimes you have to really make sure that
13 they understand that the judge has to be in
14 control of the courtroom, or things can get out
15 of control pretty easily.

16 **Q. Thank you.**

17 MS. STARNES: The Citizens Committee, the Piedmont
18 Citizens Committee, found Judge Guyton to be well
19 qualified in the evaluative criteria of ethical
20 fitness, professional and academic ability,
21 character, reputation, experience and judicial
22 temperament and qualified in the evaluative
23 criteria of constitutional qualifications,
24 physical health, and mental stability. The
25 Committee commented: Judge Guyton has served our

1 state with distinction for some time. He
2 continues to exhibit the professionalism,
3 humility, and diligence that make him a well
4 regarded Family Court judge.

5 Q. Now, just a few housekeeping issues for you.
6 Judge Guyton, since submitting your letter of
7 intent, have you contacted any members of the
8 Commission about your candidacy?

9 A. I have not.

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

14 A. Yes.

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. I have not.

20 Q. Have you asked any third parties to contact
21 members of the General Assembly on your behalf,
22 or are you aware of anyone attempting to do so?

23 A. I have not, and I'm not aware.

24 Q. Have you reviewed and do you understand the
25 Commission's guidelines on pledging in South

1 **Carolina Code section 2-19-70(E)?**

2 A. Yes.

3 **Q. Thank you.**

4 MS. STARNES: I would just note for the record that
5 any concerns raised during the investigation
6 regarding the candidate were incorporated into my
7 questioning today. Mr. Chairman, I have no
8 further questions.

9 CHAIRMAN RANKIN: All right. Questions by members of
10 the Commission? I want to just start by --
11 again, for the record, you and I were in law
12 school together, and I remember you fondly, both
13 from a personal standpoint and as a student as
14 well in terms of the seriousness that you showed
15 there in most every context. But your
16 willingness to do this and offer up now since
17 2010?

18 JUDGE GUYTON: 2010. It's been 14 years.

19 CHAIRMAN RANKIN: Yeah. And the comments by the
20 director of the children's leadership --

21 JUDGE GUYTON: At the law center.

22 CHAIRMAN RANKIN: At the law school and then your
23 Chief of Police, Watts, I believe -- and I think
24 he said -- I don't know if it was incessant, but
25 intense energy on behalf of making folks aware of

1 what happens with children and your interest in
2 that as a judge, not just waiting to hear from
3 folks, but proactively going out in the
4 community, whether law enforcement or whoever, to
5 try to be a tool for helping the fate of kids in
6 our society. So I commend you for that, and
7 again, the passion that you have to do it, the
8 overwhelming support that you enjoy by those who
9 didn't have to write their names is not lost on
10 the folks in this room and obviously your local
11 area, and the fact that you could run unopposed
12 for quite a while and continue to serve with
13 great distinction, to the pleasure of the Supreme
14 Court as well. So by all stripes, you are doing
15 better than the hall of fame, which if it's
16 baseball, it's a 300 batting average. I think
17 you're nearly about a thousand.

18 JUDGE GUYTON: You're very kind, very kind.

19 CHAIRMAN RANKIN: Senator Garrett.

20 SENATOR GARRETT: Thank you, Mr. Chairman.

21 JUDGE GUYTON - EXAMINATION BY SENATOR GARRETT:

22 **Q. Thank you for agreeing to reup. I saw some**
23 **military background. Thank you for your service**
24 **there. You have the demeanor. I haven't had a**
25 **chance or pleasure to be in front of you doing a**

1 **little domestic work, but you have that**
2 **appearance of being pretty strong in the**
3 **courtroom. Do you consider yourself that?**

4 A. I do, and I think going through the Marine Corps
5 to begin with and then the Army National Guard
6 all these years has certainly helped me maintain
7 a standard of discipline that I do try to bring
8 to the courtroom. This haircut is not just for
9 this proceeding. It stays this way, and Senator
10 Rankin can tell you it's been that way since
11 1985. But I think the leadership skills that we
12 get trained on and then get during our experience
13 with the Army and the Marine Corps first has
14 definitely helped me from a judicial standpoint
15 because it's all about not just having a tight
16 schedule and being effective with it, but how to
17 handle people and, you know, make sure that
18 people understand where you're coming from and
19 having a willingness to listen as well.

20 Q. **I like for lawyers to be on time. If I'm on the**
21 **other side and I'm there on time, I certainly**
22 **like the other side to be on time. And I've seen**
23 **the pro se litigants sometimes come in and in**
24 **clothing that frightens me, to be honest with**
25 **you. And so I don't know how you handle that.**

1 We have a responsibility, of course. They don't
2 have to have a lawyer. I had one client one time
3 come into the courtroom in a pair of shorts and I
4 thought Judge Charles was going to have a heart
5 attack. Needless to say, he admonished me and I
6 had no clue this gentleman had a problem with our
7 judge and he did it on purpose, but I didn't
8 know. Anyway, you never know what you might
9 experience in court one day. But thank you for
10 that. And going through all of your material, I
11 noticed that you had a few reversals, and I want
12 to ask you about that.

13 A. Certainly.

14 Q. What do you think is the biggest factor that
15 would cause you to be reversed? Do you have a
16 sense of what it is? Is it law? Is it facts, or
17 is there a commonality?

18 A. I would think probably, especially from a Family
19 Court standpoint, that it would be facts because
20 certainly I've been affirmed by the Court of
21 Appeals and then reversed by the Supreme Court.
22 And then I think also reversed by the Court of
23 Appeals and then affirmed by the Supreme Court.
24 And because the standard for Family Court is
25 really a de novo standard such that the appellate

1 courts can simply look at the record and make a
2 decision, I try to be good about making a good
3 record for them at this point and also now making
4 determinations of credibility for some of the
5 witnesses that are in front of me. But sometimes
6 a case looks different on paper than it does when
7 you're hearing and seeing people. And so
8 sometimes the court, the appellate courts say
9 that they defer to the judges who are in the
10 courtroom. I think the majority of time they
11 probably do, but every once in a while they don't
12 get the same feeling that we do by being in the
13 courtroom.

14 **Q. That's truly a good, good statement. And, you**
15 **know, you may want to pass that on to the to the**
16 **other Family Court judges who are coming on new.**
17 **We're having some new ones. So just, you know --**
18 **I just think it's good to pass that sage wisdom.**

19 **A.** I try to. And then Justice Lockemy was one of my
20 mentors through the National Guard. And every
21 year he would remind us of that. So I'm trying
22 to really pass that on to the new judges at
23 orientation school.

24 **Q. Well, thank you so much again for reupping and**
25 **congratulations on a job well done.**

1 A. Thank you. Thank you.

2 CHAIRMAN RANKIN: All right, Judge. Thank you again,
3 and you have the opportunity if you'd like to
4 make any closing remarks.

5 JUDGE GUYTON: Just thank y'all for what you do. I
6 know what you do is not easy, and you're
7 reviewing a lot of information in a short period
8 of time, but what you do is extremely important
9 because we do need to have, I think, the best of
10 the best, especially when it comes to Family
11 Court, with the importance of trying to find a
12 civil way as families sometimes fall apart or in
13 looking at juvenile cases which are getting more
14 and more difficult these days with kids and
15 weapons and then neglected kids, DSS abuse and
16 neglect cases. Some of those are getting tough,
17 but I really appreciate what you all do in trying
18 to make sure that we get the best in these
19 positions.

20 CHAIRMAN RANKIN: Very well. All right. And you work
21 with Senator Hayes, correct?

22 JUDGE GUYTON: He and I were law partners. I credit
23 him when I got off active duty with the Marine
24 Corps in '92 with he was a major in the Army
25 National Guard at the time and he said, we need

1 some guys with active duty experience. And so he
2 got me into the Guard, and then I worked with he
3 and Hugh Harrelson and became partners with them.

4 CHAIRMAN RANKIN: And then you've ran for and got
5 elected too correct?

6 JUDGE GUYTON: 2010.

7 CHAIRMAN RANKIN: Yeah, yeah. Well, and again, we all
8 think very highly of Wes Hayes, Senator Hayes,
9 both as a contributor to this state, but also as
10 an attorney as well. So, all right, Judge, that
11 will close this portion of the screening process.
12 And again, you know the drill, that the record is
13 not closed until the formal release of the record
14 of qualifications. Any violation of the spirit
15 or the letter of the law, the ethics law by you,
16 you understand would be considered very seriously
17 by us. And you know that we could call you back
18 in that unlikely event should that occur,
19 correct?

20 JUDGE GUYTON: Certainly.

21 CHAIRMAN RANKIN: Very well. All right.

22 JUDGE GUYTON: Thank you for getting me in early
23 today.

24 CHAIRMAN RANKIN: Well, thank you for being here
25 early, and pursuant to Senator Garrett's

1 admonition, on time is right on time. Earlier is
2 really on time. So safe travels back to Rock
3 Hill, and happy Thanksgiving to you and your
4 family.

5 JUDGE GUYTON: The same to y'all. Thank you.

6 (OFF THE RECORD)

7 CHAIRMAN RANKIN: Welcome, judge.

8 JUDGE NICHOLS-GRAHAM: Thank you.

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

10 THE HONORABLE JUDGE NICHOLS-GRAHAM, being duly
11 sworn, testifies as follows:

12 CHAIRMAN RANKIN: Very well. You've got a PDQ and the
13 sworn statement. Are those ready to go into the
14 record?

15 JUDGE NICHOLS-GRAHAM: Yes, sir.

16 CHAIRMAN RANKIN: Very well. Judge, you know this
17 process, our focus of the nine evaluative
18 criteria, which includes a ballot box survey, a
19 thorough study of your application materials, a
20 check for economic conflicts of interest, a
21 search of newspaper articles in which your name
22 appears, past screenings and your compliance with
23 the state ethics law. No affidavits have been
24 filed in opposition to your campaign for
25 reelection, and no one is here to testify for

1 you, or against you. You didn't bring any guests
2 in because you were here so early, and we thank
3 you so much for your nimbleness in getting here
4 sooner.

5 (Exhibit Number 18 was marked for identification
6 purposes - (19 pages) Personal Data Questionnaire for
7 The Honorable Kimaka "Kim" Nichols-Graham)

8 (Exhibit Number 19 was marked for identification
9 purposes - (5 pages) Sworn Statement of The Honorable
10 Kimaka "Kim" Nichols-Graham.)

11 JUDGE NICHOLS-GRAHAM: You're welcome. Thank you.

12 CHAIRMAN RANKIN: I will offer you an opportunity for
13 a closing statement if you like at the very end.
14 Mr. Hinson will ask some questions, as you know,
15 and then members of the Commission may as well,
16 and then we'll go from there.

17 JUDGE NICHOLS-GRAHAM: Okay.

18 CHAIRMAN RANKIN: Thank you very much. Mr. Hinson.

19 JUDGE NICHOLS-GRAHAM - EXAMINATION BY MR. HINSON:

20 **Q. Good afternoon, judge. How are you doing?**

21 A. I'm doing well. How are you?

22 **Q. Good, good. Judge, after serving four years on**
23 **the Family Court, why do you want to continue**
24 **serving as a Family Court judge?**

25 A. Because I believe that I continue -- I can

1 continue to make a difference and to help with
2 the administration of justice and that I have
3 been able to do a lot of good work.

4 **Q. Thank you. Judge, what do you think your
5 reputation is among attorneys that practice
6 before you?**

7 A. I believe that I have a reputation for being
8 fair, unbiased, for being diligent and allowing
9 everyone the opportunity to be heard.

10 **Q. Judge, the Commission received 357 ballot box
11 surveys regarding you with 13 additional
12 comments. The ballot box survey, for example,
13 contained the following positive comments: good
14 judicial temperament and knowledge of the law.
15 She has demonstrated tremendous growth. She is
16 professional and intelligent. Judge
17 Nichols-Graham is very courteous and has a great
18 judicial temperament. A small portion of the
19 respondents questioned your knowledge of the law,
20 particularly in complex cases. How would you
21 respond to that concern?**

22 A. I wish I knew which cases they were referring to.
23 I do believe that in complex cases one side is
24 going to be upset about the decision, and if it
25 is a close case, then they may question it. And

1 I would defer to the Appellate Court's assessment
2 of my ability, and my record on appeal is pretty
3 good. The Court of Appeals has not indicated
4 that there has been a problem with me
5 understanding complex issues, and they have
6 reviewed cases involving equitable distribution,
7 alimony, contested custody cases as well as
8 contested termination of criminal rights cases
9 and permanency planning hearings from the DSS
10 cases. And I have been upheld by the Court of
11 Appeals on those issues.

12 **Q. Thank you, Judge. A few questioned your**
13 **temperament. How would you respond to that**
14 **concern?**

15 A. I was surprised to hear that there was some
16 question about my temperament because I believe I
17 have a reputation for being a kind judge, and I
18 want everyone to feel comfortable in the
19 courtroom, whether or not they're attorneys,
20 attorneys and self-represented litigants. And
21 evidently, there are a few members of the Bar who
22 may have responded that they indicate they may
23 not feel comfortable with my temperament, and I
24 will take that under consideration. I will be
25 mindful of that going forward because my

1 intention is the opposite. Having the position
2 that I've taken, that I want everyone to be
3 comfortable in the courtroom when I'm presiding,
4 that unfortunately sometimes people mistake
5 kindness for weakness, but I still require that
6 everyone be respected and be respectful in the
7 courtroom, and I do go forward, and I am direct,
8 and I am concise. I will be mindful. I will
9 smile more, and I will do whatever I can to make
10 sure that even more members of the Bar in the
11 community feel as comfortable as I want them to
12 feel, which I want everyone to feel comfortable
13 in my courtroom.

14 Q. Thank you, Judge. Judge, you indicated in your
15 PDQ that in January of this year, you were sued
16 in your official capacity as a judge. The
17 petitioner received an unfavorable ruling in the
18 Family Court, and you, I guess, heard a motion to
19 reconsider. The Supreme Court unanimously
20 dismissed the writ of mandamus as well as any
21 other requests made. It's under seal, so
22 obviously we can't get into specifics. Can you
23 confirm that I have that correct, that the
24 Supreme Court threw it out and all of the, I
25 guess, requests that were made by the petitioner?

1 A. Yes, I can confirm that the Supreme Court did not
2 find that I had abused my discretion in any
3 capacity whatsoever, that the writ of mandamus
4 was denied, and all of the requests for relief by
5 the petitioner were denied. It was denied, and
6 then that case -- ironically, they did not appeal
7 for the actual -- any further, any further, and
8 so nothing else came of that matter.

9 **Q. Thank you, Judge.**

10 MR. HINSON: I would note that the Upstate Citizen
11 Committee found the judge qualified in the
12 evaluative criteria of constitutional
13 qualifications, physical health, and mental
14 stability. The Committee found her well
15 qualified in the evaluative criteria of ethical
16 fitness, professional and academic ability,
17 character, reputation, experience, and judicial
18 temperament.

19 **Q. And I just have a few housekeeping questions for**
20 **you. Since submitting your letter of intent,**
21 **have you contacted any members of the Commission**
22 **about your candidacy?**

23 A. No, I have not.

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

1 **Assembly regarding your screening?**

2 A. Yes.

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

7 A. No.

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

12 A. No.

13 **Q. Have you viewed and do you understand the**
14 **Commission's guidelines on pledging and South**
15 **Carolina Code 2-19-70(E)?**

16 A. Yes.

17 MR. HINSON: I would just note for the record that any
18 concerns raised during the investigation
19 regarding the judge were incorporated into the
20 questioning today, and with that, I have no
21 further questions.

22 CHAIRMAN RANKIN: All right. Thank you. Senator
23 Garrett.

24 SENATOR GARRETT: Thank you, Mr. Chairman. Thank you,
25 young lady. Appreciate you being here, Your

1 Honor.

2 JUDGE NICHOLS-GRAHAM - EXAMINATION BY SENATOR GARRETT:

3 Q. I've went through and read everything, and out of
4 349 you only had three. That's great. So very
5 few any negative statements and whatnot. So for
6 a Family Court judge who sits -- and I've been in
7 the Family Court, and it really gets heated
8 sometimes -- and for you to be able to keep the
9 peace and only have three is pretty remarkable.
10 There was one that I wanted to ask you about
11 because I guess if after 40 years of practice in
12 front of different judges, one thing that's
13 always important to me is consistency, and there
14 was one statement that you were not consistent.
15 You want to tell us about how you view that?
16 Were you a practicing lawyer before you got to
17 the bench?

18 A. Yes, sir, I was.

19 Q. So you know what I'm talking about. You know,
20 you go in front of one judge, and you kind of --
21 for instance, in Laurens County, we had one
22 judge, if you went in front of him and you had an
23 alimony case, you were going to win it. And if
24 you went to the other office, the other judge,
25 you would lose the alimony case. So we always

1 knew which judge we wanted to try to get our case
2 in front of because of the consistency, and so I
3 asked you about that and will just allow you can
4 comment on that.

5 A. Okay. I am consistent. I have a heightened
6 sense of the duty to protect the integrity of the
7 court, and I make sure that my decisions are
8 consistent from case to case and across the
9 cases. I am not sure what that response was
10 referring to. I wish I had additional
11 information because I see this process as an
12 opportunity to improve. I think that everyone
13 can improve from no matter what position they're
14 operating on. And so I wish I did have
15 additional information from the person who
16 provided that, but I am extremely consistent, and
17 I'm aware of the different areas of law and how
18 they come together and how they interact. So my
19 response is just the exact opposite. I am
20 extremely consistent in my decisions and how they
21 impact people.

22 Q. And you would agree that's an important ability
23 or character of a sitting Family Court judge is
24 to try to be consistent with rulings, and that's
25 just one. Again, that's just one little

1 statement out of all those. If you were
2 inconsistent, it would seem like there'd be a lot
3 more than one, okay? So I'm telling you, I don't
4 think much about it, but the point of consistency
5 to a practitioner and to the people and to the
6 court, in my estimation, is one of the most
7 important.

8 A. I agree. It is fundamental in protecting the
9 integrity of the court system.

10 Q. Thank you for doing such a good job. Thank you.

11 CHAIRMAN RANKIN: Ms. Blackley.

12 JUDGE NICHOLS-GRAHAM - EXAMINATION BY MS. BLACKLEY:

13 Q. Good afternoon.

14 A. Good afternoon.

15 Q. I don't think we've ever had the pleasure of
16 meeting, but I want to follow up on what was just
17 said. Consistency is important, but we also know
18 that no two cases or scenarios could be exactly
19 the same. So consistency could be misconstrued
20 based on who is in front of you, but I want to
21 applaud you for the work that you've done. And
22 out of all the comments that came in, you got
23 about three that may be of concern for some
24 folks, but not for me as a Commissioner here. We
25 get to see a myriad of comments on all

1 candidates, and they can go from one extreme to
2 the other, but please don't -- I don't want you
3 to walk away feeling any unpleasantries based on
4 the fact that, you know, we asked you about
5 those, but because it weighs heavily that there
6 were way more positive, especially -- we see this
7 especially with Family Court judges, but I also
8 wanted to make a comment on your reference
9 letters. You've got some great reference letters
10 from people that I know pretty decently, and so I
11 wanted to commend you on those. You know, Melia
12 Jefferson, I don't think they come any better
13 than her, and we're actually Liberty Fellows, the
14 same Liberty Fellows class, but I know her work
15 and her ethic as well as Mr. Sutton. So I
16 appreciate what you are doing for families in
17 your county and in your area, and I thank you for
18 offering yourself up again. We appreciate you
19 being here.

20 A. Thank you.

21 CHAIRMAN RANKIN: All right, other questions?

22 JUDGE NICHOLS-GRAHAM - EXAMINATION BY CHAIRMAN RANKIN:

23 Q. I want to ditto what Ms. Blackley just said in
24 terms of the both anonymous comments and the
25 overwhelming regard and -- the overwhelming

1 number of folks, rather, that hold you in very
2 high regard, and again, the negative as well, but
3 there are far, far fewer. Senator Garrett
4 referenced who had some issue. Again, no telling
5 what that issue is, but again, to the point of
6 the predominant view of your service thus far,
7 kudos to you from folks who have weighed in
8 anonymously and these letters of reference as
9 well. You're in a busy part of the world,
10 correct?

11 A. Yes.

12 Q. And so I wouldn't be doing your question and
13 answer session, justice without asking your
14 docket management and how you specifically either
15 bristle at what you're told to do by Columbia,
16 perhaps, or how you have created a system that
17 makes everyone feel like that they're being
18 heard, regardless of the limited amount of time
19 that you're given.

20 A. I do make sure everyone is given an opportunity
21 to be heard in each hearing, whether or not
22 they're represented by legal counsel. If they
23 are a party to this case, to any case, they have
24 an opportunity to be heard. I make sure that the
25 attorneys have an opportunity to make their legal

1 arguments, and I manage my docket by trying to
2 issue my rulings at the end of each hearing. I
3 do take some things under advisement for a brief
4 period of time. If I need to prepare the order
5 for various reasons, then I won't issue a
6 complete ruling right then at the end of the
7 hearing, or I will reserve my ruling for a small
8 amount of time. I do add more facts into my
9 orders for motion hearings because I want the
10 next judge to not to have to start from scratch.
11 And in Family Court, I think that's important
12 because the cases are not assigned to the same
13 judge for their duration. So I think it's
14 important for the next judge to know exactly what
15 my findings of fact were, even if they were
16 temporary, even if it was a temporary ruling
17 before the next motion hearing, so that the
18 family doesn't feel like they have to start all
19 over again every time they come to Family Court.
20 And so I do write more than I anticipated that I
21 would be writing as a Family Court judge because
22 I do draft a good bit of my orders, but I make
23 sure that I am timely in delivering my decisions,
24 and I make sure that my rulings are organized,
25 and I make sure that they understand why I

1 reached the decisions that I reached. I believe
2 I shared at some point in the process that none
3 of my decisions are arbitrary, and I want people
4 to understand why I reached the decisions that I
5 reached. And I want to help not just the next
6 family, but other members of the bench, so that
7 they don't have to start from scratch when they
8 receive a file, because we don't have a lot of
9 extra time built in our docket. And sometimes we
10 get affidavits before the most recent
11 administrative order. Sometimes we'd have a 30-
12 minute hearing, and we would get boxes of
13 information. And so I am mindful and efficient
14 in that way, in that my time is useful to me,
15 it's meaningful to the parent, and it's useful to
16 the next judge that touches the case file.

17 **Q. And that is an incredible gift to that litigant,**
18 **let alone to the judge who picks it up at a final**
19 **or perhaps another temporary or modification of a**
20 **prior order. There was one comment that suggested**
21 **your speed in getting orders out might not be to**
22 **their liking. And you've just explained that**
23 **perhaps, but do most -- or do you allow proposed**
24 **orders to be submitted by opposing parties?**

25 **A. Yes, I do, and I prefer that. But there are some**

1 times when my ruling is not captured in the
2 proposed order, and I feel that justice requires
3 me to draft the order myself. And it would be
4 easier and it would be faster to just accept the
5 proposed order and to write all over it, but if I
6 have the time, I will prepare the order myself if
7 my instructions have not been followed. And then
8 sometimes you need extra time in contested
9 custody cases and cases where we're dealing with
10 older teenagers. I have reserved jurisdiction
11 and extended the time on some cases to help with
12 reunification counseling, and I've provided
13 oversight to make sure that there was a
14 legitimate effort to follow out previous orders
15 in my order. And I understand that the attorney
16 who lost the argument against reunification would
17 feel that I took more time, because if I made a
18 quick decision, then the family would not have
19 been any reunification. If I had decided right
20 then immediately, if I hadn't extended the time
21 for the case, reserved jurisdiction and remained
22 involved and added them to my docket when I found
23 places in my docket to do like 30 day reviews for
24 that family, then the other attorney would have
25 felt like they won the case. So I agree, that

1 attorney would say I took too much time, but
2 justice required it.

3 Q. Very good. You have been in the hunt for service
4 to this state on the Family Court bench longer
5 than I have been on this Commission, but I
6 remember you years back, '16, '18, particularly
7 '18, and then you finally got it in 2020. What
8 surprise and difference now in 2024 with what
9 you've got now that you didn't expect that you
10 were going to get when you were first elected?
11 What's different now for you?

12 A. Well, there were few surprises, if any. I think
13 the -- I didn't realize how sensitive I am when
14 it comes to ethics. I didn't realize that
15 everyone shared my same understanding of the
16 court system and participating in the court
17 system. And I thought I was a qualified
18 candidate and a good lawyer, but I think I'm a
19 good judge. And now I think I have a better
20 understanding of what that means. I thought I
21 would be a good judge before I became a judge.
22 And now I understand that there is a difference.
23 There is a heightened sensitivity, that's not
24 normal, that's not average, and I think that's
25 what you want to see in your judges. You want

1 judges to have a heightened sensitivity for the
2 integrity of the court system and the judicial
3 process.

4 Q. Real quick, your preparation for this position,
5 indigent law, children advocacy. I'm curious,
6 not a long answer, but in terms of we've had
7 others ask this and other judges comment
8 voluntarily about the mental health issues with
9 our children. Can you speak to what you're
10 seeing and what suggestions you might have for
11 the handful of us that are in the House and the
12 Senate regarding anything uniquely related to
13 mental health challenges that you're seeing in
14 your court?

15 A. I think it's often that those issues will come up
16 in a case of some -- in some kind of way. Some
17 party will have an impairment or a challenge when
18 it comes to mental health. It gets quite
19 complicated when you have the parents as well as
20 the children sharing that same complication or
21 the same challenge. And I'm aware that there is
22 a push in some parts of the country for children
23 to do more self advocacy, and I have a history of
24 being a child advocate. However, I do not want
25 children to believe that whatever they say in a

1 hearing will determine the outcome. I believe
2 that's too heavy of a burden for a lot of them to
3 bear, and it's not fair for them to be put in a
4 situation where they believe what they say in a
5 courtroom is going to determine which parent
6 they're going to live with or whether or not
7 their parent is going to have a finding of abuse
8 and neglect. I think I'm sensitive and I'm
9 mindful of that. If it is beneficial to the
10 child and therapeutic to the child to participate
11 directly in the courtroom with their parent, then
12 that's in the best interest of the child. But
13 it's too easy for us to have children testifying
14 when we have other professionals that can provide
15 the evidence that we are asking the children to
16 provide for the adults. So I'm sensitive to
17 that, and I encourage people to use the rules of
18 evidence and the different ways to get evidence
19 in and to limit the number of times that we in
20 Family Court -- which is a civil court, it's
21 different than the criminal side -- rely on minor
22 children to bear those burdens because it does
23 affect mental health.

24 **Q. The last point about the child being the font of**
25 **whatever information versus the expert being**

1 called on, are you talking what is your -- you're
2 being sensitive to what, coaching by the parent
3 or credibility of the child who -- or are just
4 putting too heavy a burden on them even
5 participating or other -- what -- help me
6 understand what you're talking about.

7 A. I think this. When they want to be heard and
8 they need to be heard and it's therapeutic for
9 them to be heard, that is what is preferred. But
10 when there are other ways to receive that
11 evidence and the child does not want to be in
12 that situation, then it can -- I just think we
13 have to be careful. We have to be mindful. If
14 they want to blame anybody after the hearing, I
15 want them to blame me instead of themselves or
16 the other parent. I am accountable for decisions
17 that are made on those -- in those situations
18 that are unfortunate. I don't want the minor
19 child to be held accountable or to feel like it
20 was their fault if a decision does not go away a
21 certain way. And so I'm sensitive to that. And
22 I guess that -- but there are other issues that
23 mental health impacts in the court system. That's
24 just one of the issues that came to mind. That is
25 something that you probably would not have

1 anticipated from a judge who used to be a
2 children's advocate. I am now a judge, but I am
3 still, you know, protecting what's in the best
4 interest of a child.

5 CHAIRMAN RANKIN: Very well. All right, Judge. Any
6 other questions? Mr. Safran.

7 JUDGE NICHOLS-GRAHAM - EXAMINATION BY MR. SAFRAN:

8 Q. Just very briefly. I think what I'm hearing from
9 you is this, you don't want to lay the burden on
10 the child to say, it was me saying this or not
11 saying this that cost something for mom or cost
12 dad this right, that right. I mean, that's what
13 I'm hearing.

14 A. I want the adults to be the responsible
15 individuals, and I don't want the children to
16 feel like it was their fault.

17 Q. And let me switch gears with you. I think there
18 was some criticism as it related to the
19 timeliness of orders. And I understood you to
20 say that you at least afford the attorneys the
21 opportunity to at least draft the orders, and
22 then ultimately they're your orders. And what
23 I'm hearing is, if they're not really
24 satisfactory to bear your signature, you're going
25 to make them that way.

1 A. And that is an issue some of the time, yes.

2 Q. Okay. And I mean, because at the end of the day,
3 you want an order that fully expresses what you
4 want, and one, frankly, that if it's appealed,
5 that it's going to hold up on appeal, right?

6 A. Right. And I may want more facts, or I may have
7 instructed the certain things be placed in the
8 order that may not be an attorney's client's best
9 interest to be in the order. It has to be in the
10 order.

11 Q. Well, but I mean, I think the point is, is that,
12 you know, even if you are telling one party
13 versus another to say, I want you to draft it,
14 they ultimately are responsible to convey your
15 ruling, to basically put in there what your
16 feelings are, not necessarily leave out what's
17 not advantageous to them, correct?

18 A. Correct.

19 Q. So that's why I think I'm assuming you're going
20 to have to do some doctoring of the order later;
21 is that fair?

22 A. Yes, it is.

23 Q. We had some testimony earlier, I guess, about
24 some people who are fortunate enough in the
25 Family Court area to have a law clerk. Do you

1 think having a law clerk, even if it was a shared
2 law clerk with, say, another judge, would be
3 beneficial to you in terms of giving you more
4 time to maybe do the things that would afford
5 litigants maybe more opportunity to have longer
6 hearings or to basically be able to get these
7 orders done in a more timely fashion? I mean,
8 would that be helpful to you?

9 A. It is helpful. And when I have cases in
10 Greenville, we do have access to a law clerk
11 that's shared among the judges in Greenville, but
12 they don't sit in the courtroom with the judges.
13 I know we traditionally think of law clerks who
14 sit in the courtroom with the judges. I think it
15 would be even more beneficial for the law clerk
16 to sit in the courtroom with the judge, and so
17 that -- it would be a better use of time that
18 way, but it's definitely beneficial to share a
19 law clerk or to have access to any kind of law
20 clerk. And we have more -- I believe we have
21 more self-represented litigants. I haven't
22 looked at the data, but I know we have a good bit
23 of self-represented litigants in Family Court. I
24 don't know if it's more than it was, you know,
25 ten years ago, but I know there are a lot of self

1 represented litigants and people who lose legal
2 representation or relieve their attorney during
3 the course of a case, and they may be the
4 plaintiff, and they cannot prepare an order.
5 Now, if they have the means to consult with an
6 attorney, I have been known to tell them to
7 consult with an attorney to draft an order. If
8 it's clear that they have the means and they have
9 just chosen to represent themselves, then I have
10 been known to do that. But it is -- the use of a
11 law clerk is definitely beneficial in Family
12 Court.

13 **Q. Thank you.**

14 CHAIRMAN RANKIN: All right. Any other members of the
15 Commission? Judge, without that, and again, I'll
16 offer you the opportunity for any further
17 comments, closing remarks, you'd like to make.

18 JUDGE NICHOLS-GRAHAM: Just thank you for this
19 opportunity to serve the state, and I hope I
20 receive the opportunity to continue to serve the
21 state in this capacity. Thank you for your
22 service, and I appreciate this opportunity to
23 improve.

24 CHAIRMAN RANKIN: And you are well received by this
25 group, I'll assure you. Much more time in our

1 exchange. At every turn, you are conveying how
2 to improve and the difficulty in carrying this
3 job out, but doing it so well so far since 2020.
4 So kudos to you in the path and the reception of
5 how can we make it better. So with that, this
6 will conclude this portion of the screening
7 process. Let me remind you that any violation by
8 you of the spirit or the letter of the state
9 ethics law would be being very seriously
10 considered by us. You understand that the record
11 is not closed until the formal release of the
12 record of qualifications. In the unlikely event
13 you were to go astray of ethics law, you
14 understand we could call you back for
15 questionings in that regard, correct?

16 JUDGE NICHOLS-GRAHAM: Yes, I understand.

17 CHAIRMAN RANKIN: Judge, thank you, and thank you for
18 being early, and wish you a wonderful
19 Thanksgiving.

20 JUDGE NICHOLS-GRAHAM: Thank you. Thank you all.

21 (OFF THE RECORD)

22 CHAIRMAN RANKIN: Judge Madden, welcome.

23 JUDGE MADDEN: Thank you.

24 CHAIRMAN RANKIN: Judge, you have before you the PDQ
25 and the sworn statement. Are those ready to come

1 into the record?

2 JUDGE MADDEN: They are.

3 (Exhibit Number 20 was marked for identification
4 purposes - (19 pages) Personal Data Questionnaire for
5 The Honorable Timothy E. Madden.)

6 (Exhibit Number 21 was marked for identification
7 purposes - (7 pages) Sworn Statement of The Honorable
8 Timothy E. Madden.)

9 CHAIRMAN RANKIN: Okay. Judge, you know this process.

10 Our focus on the nine evaluative criteria as we
11 consider your candidacy for reelection to Family
12 Court. And you know that those focus on 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 law, a search of newspaper
17 articles in which your name appears, a search of
18 previous screenings and then a check for economic
19 conflicts of interest. No affidavit or complaint
20 has been filed in opposition to your reelection.
21 And we are five minutes early with you, and so I
22 would offer you five minutes to make any opening
23 statements, but strongly urge you not to make any
24 opening statements. And if you haven't said
25 something in the full exchange, I'll offer you

1 the opportunity for a closing statement.

2 JUDGE MADDEN: In furtherance of my acquisition of
3 good listening skills, I have heard you, and I
4 have nothing to say at this time, and I'm happy
5 to answer your questions.

6 CHAIRMAN RANKIN: We welcome you, and now we'll turn
7 it over to Ms. Crawford and then to members of
8 the Commission. Very well. Thank you. And you
9 did take an oath? Did I?

10 JUDGE MADDEN: Not yet.

11 CHAIRMAN RANKIN: Forgive me. Why don't we do that?

12 JUDGE MADDEN: Okay.

13 CHAIRMAN RANKIN: That right hand comes up, and you
14 say --

15 THE HONORABLE TIMOTHY E. MADDEN, being duly
16 sworn, testifies as follows:

17 CHAIRMAN RANKIN: Very well.

18 JUDGE MADDEN: Thank you.

19 CHAIRMAN RANKIN: Sorry. Thanks.

20 JUDGE MADDEN - EXAMINATION BY MS. CRAWFORD:

21 **Q. Good morning, Judge. Judge, you've now been on**
22 **the Family Court for about four years.**

23 A. That's right.

24 **Q. Is that correct? And why do you want to continue**
25 **service?**

1 A. There are four big reasons. One is to continue
2 to fulfill a commitment to public service, which
3 is very important to me and that I want to honor.
4 Two is to give back to this profession, the legal
5 community. And three is to help people in their
6 most troubled time in life to find reasonable
7 solutions that they have not been otherwise able
8 to find. And four is to help meaningfully
9 improve the Family Court experience for everyone
10 who participates.

11 **Q. And what do you think your reputation is among**
12 **attorneys that practice before you?**

13 A. I believe my reputation is that I am prepared,
14 punctual, hardworking, knowledgeable of the law,
15 knowledgeable of the rules of evidence,
16 knowledgeable of the rules of civil procedure, a
17 stickler for details, not easily convinced. That
18 is, I look for more than a superficial showing. I
19 hope that's my reputation. Maybe I said it the
20 way I wanted it to sound rather than the way it
21 is, but I hope that's my reputation.

22 **Q. We'll segue into the ballot box in a minute.**

23 A. Thank you.

24 **Q. What do you think your reputation is among court**
25 **personnel and staff?**

1 A. I believe that to be very good. I've had a good
2 working relationship with those who I have
3 employed through the state as my administrative
4 assistant or otherwise, those deputies in the
5 courtroom, one of whom wrote a letter as one of
6 my five letters -- is from a deputy up in York
7 County who I developed a friendship with outside
8 of the work in the courtroom. I had a very good
9 working relationship with the clerk of court and
10 the deputy clerk of court in Greenville over the
11 last year when I was chief administrative judge.
12 And with court reporters and other court
13 monitors, I don't recall any adverse interactions
14 with any of them.

15 Q. Thank you, Judge. Judge, the Commission received
16 465 ballot box surveys regarding you with 76
17 additional comments. It contained the following
18 positive comments. These are some examples. One
19 of the best legal minds in the state, excellent
20 judge, particularly for complex cases. He keeps
21 good control over his courtroom and requires
22 attorneys to be prepared for hearings and to
23 draft solid orders. Exceptional job as
24 administrative judge in Greenville County this
25 past year. He caught up the backlog during this

1 time, implemented a process to have hearings
2 heard within 30 days and streamlined scheduling.
3 Finally, unparalleled knowledge of family law.
4 However, 21 of these written comments expressed
5 concerns, and the majority of these concerns deal
6 with your temperament, focusing on your treatment
7 of attorneys and, in some instances, court staff.
8 Of note and specifically, many comments used
9 adjectives such as rude, arrogant, unpredictable.
10 How do you respond to this comment?

- 11 A. I'm surprised to hear that. I don't -- I'm
12 surprised to hear that, and you shared that with
13 me before today, and I certainly have taken that
14 into account in making sure that whatever I do
15 that may have been perceived as rude, arrogant,
16 or unpredictable, that I've attended to that.
17 But I am always punctual. And if someone is not
18 ready to go and I am hustling them along and
19 that's perceived as being rude, I apologize if
20 that's the perception they received, but I'm not
21 apologizing for being punctual. There are many
22 times when I have had hearings where I did not
23 believe that a lawyer presented sufficient
24 evidence to support what was being asked for.
25 And I would have asked additional questions and

1 may have said to the lawyer something along the
2 lines, I needed that level of detail, and that
3 could be perceived as being arrogant. I have no
4 idea where the comment about court staff came
5 from. In the entire time I've been on the bench,
6 I remember one time where I popped off at a
7 deputy because he brought a juvenile into the
8 courtroom in shackles. And I said, what is that
9 juvenile doing in shackles? Because the rule is
10 you don't bring them in in shackles. You have to
11 ask permission to put them in shackles. And the
12 deputy apologized, took the juvenile out, and
13 after the hearing, or actually when they brought
14 the juvenile back in while on the record, I
15 apologized to him. I said, I want to apologize.
16 I shouldn't have popped off like that. That's
17 the best way I can answer those.

18 **Q. Thank you, Judge. And while several or numerous**
19 **comments noted your intellect, knowledge of the**
20 **law, noted that it's unparalleled in the Family**
21 **Court area, there are several comments that**
22 **indicate that you lack experience and perhaps**
23 **poor judgment in some areas, notably juvenile**
24 **matters. What response would you offer to this**
25 **concern?**

1 A. Well, as I told this Committee five years ago, I
2 do lack experience in juvenile matters. I
3 certainly have a lot more of it today than I had
4 five years ago, and I have done all that I know
5 to do to capture that learning curve. I don't
6 really know where that comment comes from about
7 that not serving the juvenile community well. I
8 try to take extra time in juvenile hearings, but
9 as this Committee probably knows, juvenile
10 hearings really consist of two types of basic
11 hearings. One is a detention hearing, whether
12 that juvenile is going to stay -- go to Columbia
13 and stay or stay in Columbia until the case is
14 disposed of. And the other is the dispositional
15 hearing, which is an adjudication of guilt. In
16 the entire time I've been on the bench, I've had
17 one trial of a juvenile -- maybe two. Almost all
18 juvenile cases are either pled or dismissed. And
19 so the extent to which a Family Court judge is
20 spending time in juvenile cases is mostly spent
21 in taking guilty pleas and deciding whether or
22 not those juveniles stay in detention or in the
23 appropriate disposition of a charge, which you
24 always have three recommendations in the
25 courtroom, one from DJJ, whose job it is to help

1 rehabilitate these juveniles, one from the state
2 and one from the attorney representing the
3 juvenile. And so in dispositional hearings, I
4 carefully consider all of that information. Now,
5 I don't always follow it lock, stock, and barrel,
6 and that might be frustrating to some people
7 because I tend to craft my own solutions, which I
8 think meet the issue before.

9 **Q. Thank you, Judge. The comments and by way of**
10 **reputation, I've heard of two different types of**
11 **physical feedback you are renowned for giving**
12 **litigants or attorneys. One -- and we'll address**
13 **them separately. One is the do better stamp or**
14 **card. Can you elaborate on that and how often do**
15 **you actually do that, or is this an urban myth?**

16 **A.** It's become one. About three years ago, my
17 assistant heard me telling another judge or
18 another judge telling me, you know, you get into
19 these hearings and this happens and that happens,
20 and sometimes you just want to say to the
21 lawyers, do better, do better. And for Christmas
22 that year, she gave me a rubber stamp that says
23 do better. And so I have this rubber stamp. It
24 says do better in red letters, and I give it to
25 myself every day. That's kind of how I start my

1 day is I remember to do better. And then from
2 time to time, I've had hearings where I might
3 hand a lawyer back an order that's been submitted
4 that needed some work and stamp do better on that
5 lawyer's order. In the entirety of the time that
6 I've owned the stamp, I know that there are less
7 than ten times that I have given -- stamped it on
8 a document and handed it back to a lawyer or
9 given it to someone. I did stamp it on my
10 business card, which, by the way, also includes
11 my cell phone number, and I've given that to a
12 couple of people, but I have never done it in an
13 embarrassing way. So ten people have received a
14 do better admonishment, and they have all been
15 well deserved, in my opinion, based on whatever I
16 saw, either the written work product or the
17 product in the courtroom.

18 **Q. And the second physical type of feedback or**
19 **physical thing that you've been known to give**
20 **people is something called a challenge. Was it a**
21 **challenge coin that you instituted? Can you**
22 **explain what that is?**

23 **A.** Sure. I brought one because you asked me to.
24 I'll let Mr. Strom pass it around. So when I
25 went on the bench, there were judges who had

1 cultivated a tradition of giving adopted children
2 or children in adoption hearings stuffed animals.
3 And I am not a warm and fuzzy person, nor am I a
4 stuffed animal person, and that just didn't suit
5 my personality, but I did want to do something to
6 recognize and appreciate the significance of that
7 day for that family. And I knew that the
8 military had this concept called challenge coins.
9 I never served, but I took their concept, made it
10 a little bit bigger so it could be called a
11 medallion, had one made with the state seal on it
12 that you've seen and a little sketch on the back
13 about children and families and Family Court, and
14 every adoptive family receives one. And that's
15 been a fun thing for me. We now have about ten
16 other judges who are doing the same thing. We
17 all use the same medallion, and I think I'm on
18 about my fourth reorder of those. We do them at
19 our own expense. They're not terribly expensive,
20 but they look a lot more expensive than they are.
21 And that's been a thing that I have felt like has
22 added value to those adoption hearings.

23 **Q. Thank you, Judge. Judge, on to the Citizens**
24 **Committee report. I'd note that they found you**
25 **well qualified as to the evaluative criteria of**

1 ethical fitness, professional and academic
2 ability, character, reputation, and experience,
3 and qualified in the evaluative criteria of
4 constitutional qualifications, physical health,
5 mental stability and judicial temperament. The
6 Committee stated in summary: "We had a lengthy
7 and candid discussion with Judge Madden. The
8 Committee spoke with dozens of attorneys that
9 appear before him in advance of this interview."
10 The consensus from our interviews was that while
11 he is given the highest marks, one attorney
12 calling him the "most competent Family Court
13 judge in the state" from private Family Court
14 attorneys. There is a concern with his treatment
15 of institutional lawyers in his courtroom. His
16 zeal for excellence shows in a vastly improved
17 docket in Greenville County, and the Family Court
18 is well run and efficient. That same demand for
19 excellence creates tension for attorneys with a
20 significant number of clients. While every
21 attorney is held to the same standards, the
22 practicality of handling a massive caseload needs
23 to be acknowledged. He understands that he needs
24 to be aware that the agency attorneys are
25 burdened with a heavy docket. We discussed this

1 **in our interview. Would you like to give the**
2 **Commission your thoughts on this comment?**

3 A. Yeah, I'm happy to do so. You know, I look back
4 at my testimony before this Commission five years
5 ago, and one of the things that I told you then
6 that I was keenly aware of is the burden placed
7 on our agencies for the work that they do. And
8 specifically I'm talking about the Department of
9 Social Services because I know that they are all
10 overworked. I know that they are spread thin in
11 their resources, so I was surprised when the
12 Citizens Committee raised this issue. The way it
13 was raised with me in the Citizens Committee is
14 that I held the DSS lawyers to too high of a
15 standard, and I expected too much of them, and I
16 took issue with the Citizens Committee with that,
17 and I take issue with it today. If there is
18 anybody who walks in a Family Court, it ought to
19 be a lawyer who's charged with the responsibility
20 of protecting our abused and neglected children
21 who gets held to the highest possible standard.
22 And I have done that with DSS lawyers, and I have
23 been insistent that DSS move their cases along,
24 and I have certainly now been criticized for
25 that. I know in many counties when I started,

1 and they had not had DSS day with me, it was
2 customary that lots of people were in the
3 courtroom, that it was very loud and noisy and
4 disorganized, and I immediately stopped that. In
5 my mind, that was not the way to get things done,
6 and when cases were set at a certain time, I
7 insisted that they be called by that point in
8 time. So I kept them to a docket, and if
9 somebody didn't get served, I told the lawyer
10 they were responsible for not getting that person
11 served, and that was one of the criticisms that I
12 received from the Citizen Committee, that I
13 couldn't hold the DSS lawyer responsible for
14 something that a paralegal was supposed to do. I
15 take issue with that. A lawyer is responsible
16 for the work of his or her staff, whether you
17 work for the state of South Carolina or you work
18 for Mr. Garrett's law firm. It doesn't matter,
19 and so those are the kinds of things that I've
20 done, and I don't apologize for the work for
21 lawyers with DSS believing that they are now
22 being held accountable and held to a high
23 standard, and I intend to continue to do that.
24 Now, one of the things I did after that Citizens
25 Committee is I started trying to make sure that I

1 was in the right frame of mind as every hearing
2 started. So now, as soon as a hearing is
3 concluded, I will leave the bench, and I wait
4 until they have the next hearing ready before I
5 walk back in because what I found for me is that
6 that creates a whole different impression for me
7 of the hearing and for them of me. It calls that
8 hearing to order just like every hearing ought to
9 be called to order. It sets the tone, it creates
10 a little bit of calm, and it moves us on. So
11 while I don't agree with the comments that were
12 made, I did not ignore them, and I have tried to
13 improve and do better.

14 **Q. Thank you, Judge. A couple housekeeping issues**
15 **on my end, and then the Commission members will**
16 **ask you some questions. Since submitting your**
17 **letter of intent, have you contacted any members**
18 **of this Commission?**

19 A. No.

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

23 A. Yes.

24 **Q. Since submitting your letter of intent, have you**
25 **sought or received the pledge of any legislator,**

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

3 A. No.

4 Q. Have you asked any third parties to contact
5 members of the General Assembly on your behalf?

6 A. No.

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

9 A. No.

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

13 A. I have and I do.

14 MS. CRAWFORD: Mr. Chairman, I would note for the
15 record that any concerns raised during the
16 investigation regarding the candidate were
17 incorporated into the questions I raised today.

18 CHAIRMAN RANKIN: All right. Members of the
19 Commission, questions?

20 JUDGE MADDEN - EXAMINATION BY CHAIRMAN RANKIN:

21 Q. Judge Madden, I know you from our days at the
22 State Infrastructure Bank. We were on the first
23 board.

24 A. Yes, sir.

25 Q. And that seems like 80 years ago. And I grew to

1 appreciate who you were and the way you dealt
2 with people back then. I remember, and I've
3 known you ever since, admired you. We share the
4 same recognition of folks that you would want to
5 have the letters of reference written on behalf
6 of you as you do. I don't know them as well, but
7 it does pain me six years ago or four years ago -
8 - was it four --

9 A. It was five to this month.

10 Q. -- five. And it pains me probably no less than
11 you to hear anything but positive and for me to
12 read anything less than positive. Without a
13 doubt, you're in a highly-trafficked circuit up
14 there. Y'all have how many Family Court judges
15 in Greenville that are resident and/or are
16 generally assigned though at large?

17 A. We have seven who live in Greenville County,
18 three of whom are at large, but we hold between
19 four and five terms of court every week.

20 Q. We have had judges perhaps from less trafficked
21 areas who have gotten no negative comments. I am
22 sensitive to folks gaming a judge who might be a
23 snap, crackle, and pop judge who they just don't
24 like the results of or like the treatment of
25 being held to a standard that you were held to or

1 I was held to or others maybe older. So it pains
2 me to hear this. It pains me to talk about it.
3 In terms of that, what we call kind of the sweet
4 spot of the light touch, they overwhelmingly say
5 that you are the brightest guy, one of the
6 brightest judges, the most accomplished lawyers
7 out there, and I know that. You can't get any
8 more creds or credibility as being one of the
9 brightest Family Court litigators that our
10 state's ever known. Transitioning to becoming
11 the nicest or the most fair or perhaps the
12 working well with the little man and the big man
13 or the little woman and the little or the big
14 woman -- again, pick however -- either you're
15 being gamed a little, and they're fewer than
16 positive without a doubt, but it's more than just
17 three or four. So to the folks that will watch
18 this and that know you to be the type judge that
19 you've told us that you want to be, as Tom
20 Traxler wrote in 2019 about you, when he defined
21 robitus -- great lengths he goes to describe what
22 we all know to be that guy or that gal, speak to
23 the point that you are not committing the sin of
24 robitus. Speak to that as best you can if you
25 understand the theme of my question.

1 A. Sure. You know, when I think about robitus, I
2 think of those experiences you and I had and
3 others of our generation or older who have had in
4 front of judges who literally gave you a dressing
5 down in the presence of your client or who took
6 you to task or who twisted your arm until it
7 broke to try to get you to settle a case, who
8 talked more than he or she listened. Those are
9 the kinds of things that I remember and think
10 about that I 100 percent have avoided doing. And
11 I believe that if you talk to these people who
12 have made any of these comments, they will tell
13 you to a person that I listen more than I talk,
14 that I don't embarrass anyone in front of a
15 client, and that to the extent that I am doing
16 things that is a more systematic approach to
17 improve the Family Court experience, that it is
18 just that, that it is indifferent as to the
19 person or the place, and it's not about me and my
20 proclivities one way or the other, but it's about
21 improving that atmosphere and making it a
22 respected institution where people, 50 percent of
23 the married people, end up. And so it's the one
24 court that we all know somebody has probably gone
25 through or going to go through, and it's my job

1 to make sure, as I see it, that that institution
2 has the highest possible level of respect. And
3 so none of this, in whatever way it's coming back
4 to you, is derived from an atmosphere where I'm
5 taking a lawyer to the woodshed, as I might have
6 been taken in front of certain judges, but more
7 about -- I believe, more about me asking an extra
8 question or two or insisting on compliance with a
9 statute when it hadn't been complied with. I
10 made the DSS lawyers in Lexington County furious
11 because I dismissed several of their cases. I
12 dismissed them because they were two years old
13 and they hadn't served somebody. And I said,
14 you've got to do better than that. We cannot --
15 go re-file them. That's without prejudice. I'm
16 not harming a child. I've been to -- and Senator
17 Rankin, I have been to 30 counties. So in the
18 first three years on the bench, I spent very
19 little time in Greenville County. And so I had
20 the opportunity to enjoy time in lots of places,
21 and lots of places in South Carolina do things
22 their own way. And sometimes when a judge from
23 out of town comes in and does things the way that
24 judge does them, it's perceived to be something
25 other than what I wanted it to be, which is

1 adherence to the rules of law, rules of evidence,
2 the rules of civil procedure. I also -- I take
3 some respite in the fact that I don't think
4 anybody said decisions were not fair, that the
5 outcome was not reasonable. And that's my
6 reaction.

7 Q. And again, no different than I would expect. And
8 so, again, my theme here, analogy of the sweet
9 spot, we have corporately struggled with the
10 taskmaster who pays more attention to the clock
11 or perhaps the form versus the substance and the
12 humanity that goes on more in a Family Court. As
13 you recognize and have already stated, that
14 suggests perhaps that they've got to run this
15 factory. They've got to get these cases done.
16 You inherited a backlog. You've been
17 complimented for creating a system that has
18 effectively, I guess, erased that backlog. But
19 to the person who says that you are not
20 courteous, rather they say you're discourteous or
21 that you are perhaps more -- again, theme and
22 granted the exception of the comments rather than
23 the whole, but if they're believing that or
24 telling us that it is more mechanical than human,
25 that would be my takeaway from that. Speak to

1 that and disabuse me or the world or, again,
2 whoever, that that is what's happening in your
3 courtroom.

4 A. Well, I don't want there to be any confusion. As
5 much as I'm punctual and as much as I want to
6 move a docket, I don't do that to the
7 disadvantage of the litigants who are spending
8 their time in the Family Court. And I cut no one
9 off and I give everyone their full opportunity to
10 be heard. And even when lawyers have done things
11 that would be completely offensive to all of you,
12 I have not held their client responsible for
13 those failings. For example, the lawyer who
14 failed to show up for a hearing for 35 minutes
15 after it was scheduled to start left with a
16 decision in favor of that lawyer's client. Now,
17 there are times in my life where if that had
18 happened, that client would have been penalized
19 for the tardiness of his or her lawyer. So I
20 have tried to be very conscious of who's really
21 in the game and making sure that the outcome of
22 the game is directed toward helping those people
23 and not so worried about the lawyers. The
24 lawyers who are being held accountable are being
25 held accountable for things that they should know

1 how to do and should do better, not to try to
2 make them into something that they're not.

3 Q. One comment hits that. I know attorneys who
4 believe he is too strict, but he makes everyone
5 in the courtroom follow laws and rules without
6 exception. I don't believe he's strict. Rather,
7 he follows and upholds our laws and rules. I
8 appreciate that. So, again, this is not the
9 majority. It is more than just a couple of
10 outliers, and that I think for our purposes or
11 mine at this point in terms of getting you to
12 answer your critics. Again, anonymous though
13 they may be, that's part of our job here. I want
14 to stop and invite anybody else if they've got
15 questions.

16 CHAIRMAN RANKIN: Mr. Safran.

17 MR. SAFRAN: Thanks, Mr. Chairman.

18 JUDGE MADDEN - EXAMINATION BY MR. SAFRAN:

19 Q. Judge Madden, I think you and I kind of came up
20 about the same time, and I hear you. I mean, I
21 think coming through that period, there were many
22 a judge that did not suffer fools at all, and
23 they let you know it. And unfortunately, I think
24 maybe people have become more thin skinned. I
25 mean, I've noticed that, frankly, people go in

1 now, and they might think it's okay to come in
2 unprepared. They may think that it's okay to
3 kind of fumble around and to not really be up to
4 par for what they're there for. And I'm assuming
5 that's -- if we're talking about some of these
6 responses, those are the instances where they're
7 probably occurring. Is that a fair statement?

8 A. I would assume so. That is my impression as
9 well.

10 Q. Well, and let me ask you this. I mean, do you
11 think some of the lawyers are intimidated --

12 A. Yes.

13 Q. -- just because of what you've got on the table?

14 A. Yes.

15 Q. And do you think it's fair for them to feel that
16 way if they are not used to meeting the standard
17 that maybe we all think ought to be where the Bar
18 is?

19 A. Yes.

20 Q. Okay. And, I mean, so you're sensitive to that,
21 at least in the sense that you're not holding it
22 against the clients just because the lawyers may
23 not be up to snuff that day.

24 A. Exactly.

25 Q. Now, let me ask you. I see here that you've kind

1 of moved things in a way which we all admire.
2 You know, you get these backlogs, and that's the
3 excuse for basically why things don't get done
4 the way they should in Family Court. I mean,
5 have you heard that too?

6 A. Once or twice.

7 Q. All right. So let me ask this. I was intrigued
8 by the local rules, and I have sat in here as
9 somebody who hadn't been in Family Court as a
10 practitioner in many years by choice, but I still
11 remember, and I hear some things because I'm not
12 up to date on all of it that scare me. And such
13 as going to a hearing, in a temporary hearing,
14 where we all know that the tone is going to be
15 set for that case substantially on that day, that
16 in many instances what's going to end up is
17 what's happening on that day, and we're basically
18 short of time because they're only giving you,
19 what, 15 minutes many times for these things. Is
20 that normally the case?

21 A. Most of the time.

22 Q. And yet, for instance, like one party doesn't
23 know what the other one's going to say in an
24 affidavit until they effectively walk in the
25 room. Is there something that can be done to

1 remedy that, at least give you a few days' notice
2 so that you can come in there and spend the time
3 arguing as the attorney to hit the stuff that you
4 are sitting there scrambling to figure out when
5 you walk in the door? I mean, can't that be
6 remedied by a local rule, possibly?

7 A. Well, Mr. Safran, you've said local rule twice.
8 We can't have any local rules, but what we can do
9 is try to manage our docket in a way that in that
10 particular county, when that chief administrative
11 judge is in charge, that everybody knows how much
12 time to request or how the docket's going to get
13 managed. But there is a rule, Rule 21, of the
14 Family Court rules, that specifically addresses
15 temporary hearings and specifically says how much
16 time you give for notice and what has to be
17 served and when. And your question is timely
18 because just last week I was participating in the
19 Family Law Council meeting with Judge Buchanan.
20 Judge Buchanan and I have been working on a
21 redraft of Rule 21, which would change it to
22 allow more time for notice of that hearing, which
23 would require, if adopted, the service of
24 affidavits in advance and do things that would
25 make temporary hearings more like motion practice

1 in Circuit Court. And so there are many who
2 believe that that should happen and that there is
3 room for improvement, that there is a do better
4 opportunity with temporary hearings. I am among
5 them and am trying to do what I can to improve
6 that. But with respect to the motions practice,
7 particularly as it exists today, one of the
8 things that we did in Greenville County is that
9 we set those motions for temporary relief at 9
10 o'clock and set three at a time. So we triple
11 booked them. And what that does is it makes
12 people sit in the hallway and talk and exchange
13 their information and give them the opportunity
14 to not be quite so attacked. Now, if you're
15 first up and you haven't worked it out, you don't
16 get that opportunity to talk. But it's those
17 little things that I remember from practice that
18 needing that opportunity to have that
19 conversation that I think have been beneficial in
20 helping reduce the number of hearing -- contested
21 hearings, and have made the outcomes better for
22 everybody involved.

23 **Q. And I show my ignorance by using the word local**
24 **rules.**

25 **A.** That's okay. I just want to make sure that --

1 Q. No, because that's what I --

2 A. I wouldn't want to get charged with creating a
3 local rule.

4 Q. No, no, no. But I mean I'm picking up basically
5 from the comments, and I guess there are certain
6 things that as the administrative judge that
7 maybe policies that you might massage a little
8 bit that might be more in line with trying to get
9 the things done you want, okay?

10 A. Right.

11 Q. But I guess my concern has been throughout that
12 it seems like there's got to be a better way to
13 run the railroad. And that effectively when we
14 look at what's at stake, we look at the high
15 charged emotions in these particular hearings, I
16 mean that's where Family Court is. That's what
17 it's all about. It just strikes me sitting here,
18 and I mean six years ago we went through this the
19 same way, that it seems like as much as we've got
20 to follow -- the standard is this is how much
21 time you get, but it seems like sometimes we're
22 basically putting form over substance, and that
23 essentially what's going on is that we are
24 denying at the outset, when things are probably
25 going to have the most impact, the time, the

1 opportunity to be able to make a meaningful
2 presentation as opposed to letting it happen.
3 And then you're way behind the eight ball by the
4 time you come back for that final hearing. And
5 so to that extent, I get the sense that you're
6 trying to basically improve the system.

7 A. One hundred percent, one hundred percent.

8 Q. And here's the thing. And look, I don't mince
9 words about anything. We all remember going in
10 front of judges who were very, very capable, but
11 at the same time maybe impressed us like it was
12 Andy Griffith, okay. I mean, we have had those.
13 And that's kind of the best of all worlds, but
14 not everybody's Andy Griffith. And so I guess
15 the question that the chairman was kind of
16 driving at that we all ask, we have in the time
17 I've been here, and this will be my last hurrah
18 this year, kind of had situations, and I'm not
19 looking to call this one that, where some people
20 gave the impression that going in front of a
21 certain judge was a harrowing experience, that it
22 was that they felt terrorized. Now, I don't get
23 that necessarily from what I'm reading here, but,
24 you know -- and I'm not going to ask you at your
25 stage of life and career to basically change your

1 personality because it ain't happening, okay. I
2 get that, but what, if anything, is there that
3 could potentially occur where maybe they don't
4 feel quite as intimidated, where maybe they don't
5 feel necessarily that, hey, he's talking down to
6 me? And, I mean, look, I'm first to say, if
7 they're not ready, if they're not prepared,
8 unfortunately sometimes it's not remediable,
9 okay. I get it, but, I mean, what's your thought
10 on that?

11 A. Well, I think time helps with that. The more we
12 get used to the way a judge handles his or her
13 courtroom, the less that you have adverse
14 reactions versus a new judge who comes in on day
15 one and has changed not the standard but has
16 changed the approach. And so I think that helps.
17 I think that helps with judges. The longer a
18 judge is on the bench, I don't think a judge gets
19 worse with age. I think they get more accepting,
20 unfortunately, that it's not always going to be
21 the way that you want it to be or would expect it
22 to be. And, you know, feedback every few years
23 like this is certainly valuable. I mean, as I
24 think I told Ms. Crawford and I know I've told
25 others, I believe that -- and I think this has

1 been the pending legislation -- I think a midterm
2 survey of judges is helpful because we don't
3 receive criticism. Even those who have responded
4 anonymously with the adverse comments that have
5 been mentioned here are never going to say that
6 to my face. And so we need some method by which
7 to get that feedback so that we can all be a
8 little introspective and learn from it.

9 **Q.** Let me say this. I applaud the idea that we all
10 ought to be held to as high a standard as can be
11 sustained, okay. You came from that. I try to
12 subscribe to that, hopefully more often than not.
13 But, you know, I don't believe that we ought to
14 be, "dumbing down" anything. I don't think we
15 lower the standard just to make people happy. I
16 mean, and I think that is certainly --

17 **A.** You and I agree on that point.

18 **Q.** Yeah, I agree. And I think the point is this. I
19 also feel very strongly that when you look at a
20 situation like DSS, the power they have to
21 basically change lives, that it can't just be
22 they run the show, that you've got to have
23 somebody there who actually is the ringmaster,
24 and you as the judge have to be to say, you guys
25 are going to have to do these things because I've

1 got to make sure the power is checked to some
2 extent, that this is not just going to be
3 rampant. And unfortunately I think other judges
4 have probably let them run the show and that
5 basically they don't hold them to that standard.
6 So I have no criticism whatsoever over that
7 because I know just how much DSS can change
8 things on a whim, and I think you've seen it too,
9 and I think you've responded appropriately to it.
10 But, you know, just pretty much I think you've
11 given me the answers. I don't think this is ever
12 going to be any kind of an attack on your
13 intellect, on your ability or your fairness. And
14 at the end of the day, those are the things that
15 really matter. I just think that we have to more
16 or less express it to you just in the hopes that
17 maybe over time, you know, things do soften a
18 little bit. I mean we see, for instance, before
19 you came in, Judge Smoak. I'm sure you're
20 familiar with him over time.

21 A. I am.

22 Q. I've known him since law school. He's as good a
23 guy as you'll ever meet, but, you know, that's
24 his style, okay. That's not your style, but I
25 hope maybe somewhere in between, you know, you'll

1 find something down the road. Thank you for
2 returning. Thank you for some candor here that I
3 think was necessary.

4 A. Thank you.

5 CHAIRMAN RANKIN: All right. Other members of the
6 Commission? Ms. Blackley.

7 JUDGE MADDEN - EXAMINATION BY MS. BLACKLEY:

8 Q. Good afternoon, Judge.

9 A. Good afternoon.

10 Q. Good to see you. I often like to -- when I see
11 something that I find a little disturbing, I like
12 to ask so someone can defend themselves. I do
13 think that I agree with everything that Mr.
14 Safran has said and what our chairman has said.
15 But I wanted to ask you in particular about one
16 comment, and I won't read the whole thing, but
17 there was an example given about an assault and
18 battery that was on video where a defendant was
19 clearly the primary aggressor and the victim was
20 hit from behind while walking down the hall. And
21 it indicates that you called it a school fight
22 and dismissed the case. And they're basically
23 saying that you don't follow the law when it's
24 clearly written in criminal code in juvenile
25 cases and that you have a tendency to dismiss

1 juvenile cases. I would love for you to tell us
2 about that. I know that -- I mean, we don't have
3 to go into confidential details --

4 A. No, no.

5 Q. -- but I would love for you to be able to respond
6 to that.

7 A. Yeah, I'm happy to. I can tell you exactly where
8 those comments are coming from. They're coming
9 from York County, where I've spent a fair amount
10 of time. I want to say, secondly, there was no
11 video played in my courtroom of an assault where
12 a child was hit from behind. I've never seen
13 that, but I have made the comment that in light
14 of the facts, that no juvenile delinquency
15 adjudication is going to be made because this is
16 a school disciplinary matter. And I've done that
17 probably five times in that same circuit from
18 that same school district where they immediately
19 call law enforcement for every fight on
20 schoolhouse grounds. Two of those cases involved
21 relatively small in stature children who were
22 being bullied and retaliated, one of whom was
23 being bullied for his sexual orientation. The
24 other was being bullied for something else, but
25 both of them had had enough, and they popped off

1 and hit somebody. And I took all of those facts
2 into account, and they had no prior history, and
3 I said, did the school discipline these children?
4 And they said they did, and I said that I'm
5 dismissing this case, which I as a Family Court
6 judge have the prerogative to do, and that's what
7 I did. And those were the only times that I have
8 ever dismissed cases, and at the same time, I've
9 never had a juvenile come in front of me who had
10 a gun charge that didn't get detained until his
11 charge was adjudicated. And I have never been
12 light in imposing rehabilitative measures for a
13 juvenile who's been involved in a violent crime
14 or a gun charge or things like that. Does that
15 address your question?

16 **Q. Definitely. I wanted you to have the opportunity**
17 **to respond to that.**

18 **A. Thank you.**

19 **Q. And, you know, when I first started reading these**
20 **comments, I was like, whoa, that's not what I**
21 **remember when you were running. But I mean,**
22 **there has been time to build up opinions and**
23 **ideas and thoughts of folks, and I've been on the**
24 **receiving end of being maybe a little too firm**
25 **or, I guess, opinionated, but, you know, my thing**

1 is let's follow the rules, and we're going to be
2 held to that same standard. You know, I do want
3 to also give you the opportunity -- because what
4 was concerning probably most is that supposedly
5 some court officials felt like you've been rude
6 to them or maybe treated unkind. I know you
7 touched on it, but would you like to say anything
8 else about that?

9 A. I really don't know where that's coming from. I
10 have -- as I said, I've been to 30 counties, and
11 I have enjoyed a very good working relationship
12 with bailiffs and deputies and court reporters.
13 And, I mean, I've received gifts from court
14 reporters for Christmas that I held court with a
15 year or two before. I mean, so I really don't
16 know where that's coming from. I'm sorry. I
17 would be happy to defend it, but I am respectful
18 of the jobs they have to do. I am always
19 attentive to security concerns. You know, the
20 clerk of court who comes in on DSS, you know,
21 Child Support Enforcement Day, I may challenge
22 them a little bit to show that the order was
23 actually personally served on the person before I
24 lock somebody up for failure to pay child
25 support, but other than that, I don't know where

1 that's coming from.

2 Q. Well, sometimes firmness can be taken as rudeness
3 or whatever, and I understand all of that, and I
4 would challenge when I was clerk that we would be
5 able to answer those questions for a judge. And
6 I can tell you most support staff in the court
7 system like judges who can get things done and we
8 can get cases moved, which is probably the most
9 important thing. So I just wanted you to have
10 the opportunity because that one right there was
11 kind of disturbing to me, and I wanted you to
12 have the opportunity to respond, and I wish you
13 all the best.

14 A. Thank you. You know, of every adverse comment,
15 that one concerned me the most because I couldn't
16 figure out where it came from.

17 CHAIRMAN RANKIN: Senator Garrett.

18 JUDGE MADDEN - EXAMINATION BY SENATOR GARRETT:

19 Q. Thank you for your movement towards re-election.
20 I happen to like friendly, fair, but firm judges.
21 I think that should be a tradition. That should
22 be a standard. And sometimes I think there's a
23 confusion between moving in a fast pace and
24 helping somebody out, you know, to help them out
25 and make them feel good. I actually think that

1 it's just the other way around. I think the
2 discipline, following the rules, understanding
3 the rules, being consistent actually helps the
4 substance. It raises the bar, ultimately, taking
5 care of the people that we're assigned to take
6 care of. So some of these negative statements --
7 I was just trained a lot different, similar to
8 Mr. Safran there. We had some real tough judges
9 that we came after, and they couldn't get by with
10 what they did to us back in the day, especially
11 our female counterparts. I mean, you just
12 couldn't do that, what they did back in the day,
13 but it made us stronger, it made us better for
14 the most part. Now, there were some absolutely
15 ridiculous judges. I mean, there's always that.
16 And then there's the pristine judge who's just
17 got the ability to be perfectly -- you know, like
18 Judge Smoak. I mean, here he is after all those
19 years, 29 years, not the first negative comment.
20 I mean, that's a standard on this side, but I
21 also think there's a standard on the other side,
22 and that standard is to be friendly, fair, but
23 firm. And so if these young lawyers that come in
24 are not prepared, as Andy said, you don't
25 tolerate fools well. Not only for them, but

1 worse is for their clients because if they're not
2 prepared and they're not ready, the client could
3 suffer if the judge doesn't do what's in the best
4 interest of the child, and oftentimes that helps
5 one client or the other, depending on what it is
6 you do. So I just wanted to say that. And then
7 let's talk about DSS or some of the institutional
8 lawyers. The standards that I've seen in the
9 courtroom over the last 20 years is that the
10 standards seem to have dropped, to your point.
11 Have you served that order? You want me to hold
12 him in contempt? Fine. When did you serve him
13 with the order? And either they don't have it --
14 and then they're scrambling to try to get it --
15 they should have known that the judge is going to
16 ask for that. It's contempt. You've got to
17 prove that you've got an order served on that
18 person before you can do it. And oftentimes
19 these people are pro se litigants. They don't
20 have a lawyer. So how are you asked to hold
21 somebody in contempt, literally put them in jail,
22 fine them, make them do public service, without a
23 jury, and they haven't even demonstrated the most
24 fundamental of service or process of the order.
25 I get it. I get it. And a lot of times it seems

1 these institutional lawyers -- and again, we have
2 some great ones, don't misunderstand. I think
3 Robert Cone is one of the better ones that we got
4 to interview here earlier. But my point is, if
5 they're not prepared, if they haven't dotted the
6 Is and crossed the Ts, how does that help the
7 administration of justice?

8 A. I agree with everything you've said. And, you
9 know, one of the things that I heard somewhere in
10 the Citizens Committee was, who are you, Judge
11 Madden, to tell the lawyers to do it better or to
12 criticize them for not doing it well? Well, if I
13 don't, then who's going to do that? Just as we
14 don't get feedback except through this process, I
15 think it's fundamental in the role of a judge to
16 help improve that system and elevate that system
17 and to make sure that due process is followed and
18 the rule of law is followed and to help correct
19 those wrongs, not in an embarrassing way, not in
20 a way that's draconian, but in a way that doesn't
21 penalize the case in front of you and makes it
22 better for the one that comes next.

23 Q. And this thing about do better, that kind of
24 bothers me a little bit. To be honest, that's a
25 little harsh. And if it's true that you actually

1 gave it to a deputy and asked a deputy to deliver
2 it to the lawyer, that worries me a little more.
3 It would seem, again, as we're talking about
4 evolution in our practice, we could be friendly,
5 fair, but firm and not necessarily have a deputy
6 then know -- because you know how the deputies
7 are, they're going to go (whispering), you don't
8 know what the judge did, what did he do, he gave
9 old so and so one of his red cards, you know, one
10 of his not do that. So all I'm suggesting is it
11 may be a better practice --

12 A. I receive that and understand it, and the context
13 is missing. As I told Ms. Crawford, less than
14 ten in the history, which has become an urban
15 legend now, but all given with a smile, all with
16 a conversation, none on the record. But look, I
17 think if there are thin-skinned people who that
18 is that offensive to, that they've taken the time
19 to send in this comment, then that's an awareness
20 of the population that's working in front of me
21 that I need to take to heart.

22 Q. Right.

23 A. And so if I give any now. I won't give one to
24 you, Senator Garrett, if you come to us.

25 Q. That's good. I mean, if you give it to me

1 **privately, that's perfectly fine.**

2 A. I did, however, give a stamp to Speaker Smith. I
3 told him he might need to administer that
4 periodically, so if he starts giving them out,
5 you can blame me for that.

6 CHAIRMAN RANKIN: In fact, I think he's got a
7 medallion about the size of yours that he gives
8 to these House members, and none on display
9 today.

10 SENATOR GARRETT: I'm going to be prepared, Judge, if
11 I come in your courtroom. You're not going to
12 have to worry about giving me one.

13 JUDGE MADDEN: Thank you.

14 SENATOR GARRETT: Thank you, Mr. Chairman.

15 CHAIRMAN RANKIN: Representative Jordan.

16 JUDGE MADDEN - EXAMINATION BY REPRESENTATIVE JORDAN:

17 **Q. So you're responsible for the stamp I got?**

18 A. If you got one from the speaker that says do
19 better, yes, sir.

20 **Q. I've got a lot of questions then as we go. I do**
21 **have a couple. I won't belabor some of the**
22 **points. I'm very glad to hear you say that you**
23 **value the input. One of the things in the**
24 **upcoming new legislation was giving y'all**
25 **information on a more frequent basis so folks in**

1 your position that want and value that input have
2 access to it at an earlier time. I do want to
3 pull you back to one of the comments. And I
4 heard your answer to Mr. Safran's question about
5 the local rules, but there was one comment that
6 addressed this concept of -- you've answered the
7 question in that local rules don't exist, of
8 course, as we all know, but that some of your
9 local rules create an increased cost for
10 litigants. I don't know if you saw that comment
11 or are familiar with that comment.

12 A. I don't know what that is. Oh, I do know what
13 that is. I do know what that is. I know the
14 concept behind that comment that was mentioned.
15 Would you like for me to an- --

16 Q. I would. I mean, certainly we would agree. You
17 know, you've seen many, many cases that you've
18 handled, but now as a judge as well, and some
19 folks come to Family Court with a lot of
20 resources and some come in where they just spent
21 their last \$2,500 on a lawyer to try and help
22 them navigate a process that is completely
23 foreign to them. And so I do want to hear you
24 address this concept of costs and not creating
25 unnecessary costs.

1 A. Yeah, I'm very sensitive to that. Having
2 represented people at every phase of the economic
3 spectrum for 31 years, I'm very sensitive to
4 that. Where that comment came from is when I
5 inherited the role as Chief Judge for
6 administrative purposes in Greenville last year,
7 our backlog was drowning us, and it was mostly
8 for cases where the lawyers had requested a day
9 or longer for a final hearing. And we had cases
10 where the hearing request had been on the
11 scheduling clerk's desk for two years and had not
12 been scheduled. And so as you all have been
13 criticized for backlogs in the judicial system,
14 can you imagine a family whose life had been held
15 in balance for that long? Well, our Chief
16 Justice at the time had issued an order that
17 allowed for what we call ABC docketing. And so
18 in Family Court, you know, everything is day
19 certain. You don't have a rolling roster like
20 you do in Circuit Court. And the Chief Justice
21 had issued and said all cases requesting a
22 hearing for a day or longer will be scheduled in
23 an ABC priority. That is three cases set for the
24 exact same day, the exact same time. You're A
25 status, if you go forward when you're in A

1 status, then the B and C get continued
2 automatically, and when they come back, they come
3 back as an A status. I expanded that to D and E,
4 okay. And in order to get rid of some of these
5 backlogs, I just went from three to five, and it
6 worked. And it worked for a number of reasons,
7 but not the least of which is lawyers, as we all
8 know, are creatures of deadlines. We do things
9 when there's a deadline in front of us and when
10 we have to respond to that deadline. So by
11 scheduling those cases for trial, many of them
12 settled that otherwise weren't going to be
13 scheduled until 2025 or 2026. And I'm happy
14 today to tell you that we took 500 of those cases
15 to a final decision in less than 11 months, and
16 as of today, there's one left to be tried. And
17 anybody who got continued, only got continued
18 once and came back as an A case the second time.
19 So is it an inconvenience because they had to
20 prepare twice, sometimes. Is it an additional
21 expense because you had to prepare twice, maybe.
22 I hated it when I was a lawyer. I hated being
23 the B case because I was going to be ready to go.
24 But that's where that's coming from is that they
25 felt like they had to get ready if they were the

1 E case when they might not go, but the reality
2 was the E cases were getting tried more often
3 than the A and the B and the C. The other area
4 that it could have come into play is a
5 disciplined approach to the 365 day
6 administrative order. The Chief Justice issued
7 an order, and this has been in place for years,
8 that said all Family Court cases except for DSS
9 abuse and neglect cases must be disposed of
10 within 365 days of the date of filing unless, for
11 good cause, that's extended by the administrative
12 judge. Well, I took a very disciplined approach
13 to that because we had gotten a big backlog of
14 those that hadn't been done and cleaned that up.
15 Some people complained about that because their
16 case wasn't over with. Then they need to refile
17 and pay another \$150 filing fee or \$175 filing
18 fee and start over. And I understand that, but I
19 think when you're talking about less than ten
20 percent of all the cases that are filed in a
21 given year and adherence to a mandate from the
22 Chief Justice, I had to pick a lane. And so I
23 made sure that we adhered to that rule and got
24 caught up.

25 **Q. Thank you for that clarification.**

1 A. Sure.

2 CHAIRMAN RANKIN: Representative Caskey.

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

4 VICE CHAIRMAN CASKEY: Judge, good afternoon. Good to
5 see you, sir.

6 JUDGE MADDEN: Good afternoon. Thank you.

7 VICE CHAIRMAN CASKEY: I've listened with great
8 interest to the various colloquies that you've
9 had with my colleagues here today, and I'll just
10 offer a perspective with respect to this whole
11 issue of directness with lawyers. I think I'm
12 perhaps too insensitive to these sorts of things.
13 I think that if someone is properly chastised for
14 failure to meet professional standards, that is
15 an appropriate thing to do, provided it is done
16 in the appropriate context, typically in private.
17 And the do better thing, I think, is a fantastic
18 tool to have in one's quiver when used
19 appropriately. It seems to me that pro se
20 litigants wouldn't be the right audience for
21 that, but a licensed lawyer would be, in
22 particular, where applied directly from you and
23 privately. I'll continue to support that as you
24 do that, Judge, though I would just caution you
25 to make sure you're right. Make sure you

1 continue to challenge yourself to do better
2 because if one day somebody brings one of those
3 motions or other papers in here and they've got
4 it stamped with do better and they met the
5 standard, then you'll have questions to answer
6 for that. But barring that, I think lawyers
7 ought to be held to the highest of standards.
8 That's what our professional oath calls us to do,
9 and if our judges aren't going to tell our
10 lawyers that we need to do that, then who will?
11 So, that's all I have. Thank you, sir.

12 JUDGE MADDEN: Thank you.

13 JUDGE MADDEN - EXAMINATION BY CHAIRMAN RANKIN:

14 Q. Judge, I want to tack to the 500 down to one. In
15 11 months, I think you said that backlog of A
16 through --

17 A. E.

18 Q. -- has worked. To the degree that there's a
19 perception that cases that need to be heard
20 sooner can't still be or can't yet be heard
21 sooner, is there some suggestion that you have
22 otherwise? And I don't know what that type case
23 would be.

24 A. I don't think I have a blanket rule or suggestion
25 for you that could take the form of a statute,

1 but every administrative judge has the authority
2 over the docket. And so if a lawyer or lawyers
3 in the case have a mess that needs to get heard
4 and it needs to get heard sooner rather than
5 later, those lawyers can take that issue before
6 the administrative judge and say, we've got to
7 have a hearing. And I know this case is only
8 three months old, but it's been brewing for 13
9 years, but we've got to have a hearing. And
10 there's a way that the administrative judge can
11 assert his or her discretion and set that case on
12 a priority basis. So that's the best answer I
13 can give you to that. I get motions every day
14 for something to be heard on an expedited basis
15 or an emergency basis, and unfortunately the use
16 of that term gets diluted because your version of
17 an expedited need or an emergency need might not
18 be the same as someone else's, and that's always
19 a challenge. But when there are cases where the
20 welfare of children are hanging out there, where
21 children are abused or neglected and those cases
22 are not getting heard, that's a real problem.
23 And lawyers involved in those cases need to be
24 bringing those to the attention of the judge
25 who's in charge of the docket so they can be

1 attended to.

2 Q. You have left -- again, I hearken back to our
3 exchange years ago -- a successful practice.
4 Again, as my comments at the outset, you were
5 recognized as one of the top lawyers in the
6 state, without a doubt. Five-ish years later,
7 other than these anonymous comments and the
8 questions of Ms. Crawford and the members of this
9 Commission, is it what you thought it would be,
10 and how are you enjoying it?

11 A. I'm enjoying it very much. It's been an honor
12 and a privilege to serve. I get asked that
13 question periodically about, are you glad you did
14 it? What do you think? And my response
15 initially was, this is great, I'm enjoying it, I
16 don't miss the practice of law. And as I got
17 into it, my response changed to say this. I knew
18 that there were things about practicing law that
19 I would not miss, but I thought there were things
20 that I would miss, and today, I don't miss
21 anything, what I thought I would miss or what I
22 didn't think I would miss. And I enjoy every
23 day, where in practicing law, I could have never
24 said that. But I enjoy waking up every day and
25 going to work. And that, to me, is the calling

1 of the public service aspect of this. And that,
2 to me, is what's going to make me do better
3 because I enjoy what I'm doing, and I want to do
4 it well. And that tells me I'm in the right
5 place in my life to use my talents for what
6 they're intended for.

7 Q. The tough, tough, tough cases that you've had to
8 rule on, where again, the families, but more
9 acutely, the children's future and development
10 after your decision hangs in the balance, aside
11 from the law, aside from the facts presented to
12 you, in terms of your conveying to a family,
13 they're your charge, effectively, to do better by
14 their children from that day forward. How do you
15 handle that? How do you convey your almost the
16 Solomon like wisdom in oil on water type
17 messages, you hope to be the last time they come
18 before you.

19 A. Yeah.

20 Q. What do you employ to convey your hope as a judge
21 that they do better?

22 A. You know -- so I'd say two ways. There are
23 plenty of hearings which I will conclude and give
24 a little bit of a talk, not a ruling, but a talk,
25 some observations. But not a lot because I never

1 liked judges who thought they were preachers, and
2 I'm not a good preacher. I'm an observer and
3 finder of fact and concluder of law in making a
4 decision, and so I don't want litigants to think
5 I'm preaching to them, and particularly at the
6 end of a trial where they're owing their lawyer
7 \$30,000 and hating everybody in the courtroom and
8 just want to go home. So I might say a little
9 bit there. More often I might send a signal at a
10 temporary hearing, like I did this morning, for
11 example, before I drove down when I had a 17 year
12 old young lady who just had a baby that was 25
13 days old who was asking for an order of
14 protection against her 18 year old boyfriend and
15 the father of that child because he hit her three
16 months into her pregnancy, and she now wanted an
17 order of protection. And regardless of the
18 outcome of that hearing, what I said to them is,
19 you've got a long way to go. You know, you two
20 are going -- you're parents, you're young, you're
21 immature, and you have a long way to go for the
22 rest of this child's life, and you have got to
23 figure out the path that keeps you out of this
24 room and somewhere else for the benefit of this
25 child. So I might say something like that. But

1 the other thing I do is in the orders I spend a
2 lot of time after a long contested hearing
3 working on the language of the order because I
4 know I'm writing it for really two people, the
5 Appellate Court and those parents. And the
6 lawyers don't give a hoot what it says because
7 they're moving on to the next case unless it says
8 something bad about the lawyer, which I never do
9 in an order. But in those orders, when a parent
10 has done something right or done it the right
11 way, I'll make sure to say that, but not every
12 parent gets a trophy. So if the parent has done
13 things the wrong way, I don't throw them under
14 the bus, but I might say poor choices were made
15 by this father on this occasion when he did these
16 things, and that adversely impacted this child
17 this way. So that if there's one playbook they
18 can go back to or one piece of paper they can go
19 back to learn from, that's it.

20 **Q. Very well.**

21 A. I'm trying not to be a preacher. I'm just
22 calling it as I saw it.

23 CHAIRMAN RANKIN: Without any other questions, hands
24 raised, I'll offer you, again -- when we started
25 just a few minutes ago at 1:38 -- an opportunity

1 to make a closing comment if you like.

2 JUDGE MADDEN: No. I am sensitive to your time. I
3 appreciate the opportunity to respond to these
4 issues. I'm happy that they were a very small
5 minority of the responses that you received, and
6 I am going to take all of it to heart and I'll do
7 better.

8 CHAIRMAN RANKIN: Well, and, Judge, you are doing
9 exceedingly well, not that you need to do better
10 by any metric other than the minority of
11 comments, but continue to do exceedingly well,
12 and as you can and you do and see and have just
13 said to raise your own Bar. We can't ask
14 anything more of you as you continue to do the
15 work of the people, a thankless and far less
16 financially rewarding choice that you've made
17 that we all appreciate your doing.

18 JUDGE MADDEN: Thank you very much.

19 CHAIRMAN RANKIN: With that, Judge, that will conclude
20 this portion of the screening process. You know
21 the drill. We are very much sticklers for the
22 letter and spirit of the ethics law. Any
23 violation by you or the appearance of any
24 propriety by you would be deemed very serious by
25 us. We would call you back in that unlikely

1 event of that circumstance. You do know that, do
2 you not, sir?

3 JUDGE MADDEN: I do know that. Thank you.

4 CHAIRMAN RANKIN: Very well, and your coin is on its
5 way, rolling its way down the hill back to your
6 pocket.

7 JUDGE MADDEN: I certainly don't want Ms. Crawford to
8 keep that. That might violate the rules. I'd
9 have to amend my financial disclosure. Thank you.

10 (OFF THE RECORD)

11 CHAIRMAN RANKIN: Welcome back. Judge.

12 JUDGE MCGEE: Senator, thank you.

13 CHAIRMAN RANKIN: Good morning or good afternoon,
14 rather.

15 CHAIRMAN RANKIN: And Judge McGee, thank you so much
16 for your patience. It is a little after your
17 appointed hour at 2:00. And so we want to make
18 quick work of questions and answers and give you
19 every opportunity to say what you'd like for the
20 Commission to hear.

21 JUDGE MCGEE: Thank you, sir.

22 CHAIRMAN RANKIN: First, let's reaffirm the oath, if
23 you will.

24 THE HONORABLE JAMES G. MCGEE, III, being duly
25 sworn, testifies as follows:

1 CHAIRMAN RANKIN: The two documents, are they ready to
2 be entered into the record?

3 JUDGE MCGEE: I have no objection.

4 (Exhibit Number 22 was marked for identification
5 purposes - (14 pages) Personal Data Questionnaire for
6 The Honorable James G. McGee, III.)

7 (Exhibit Number 23 was marked for identification
8 purposes - (6 pages) Sworn Statement of The Honorable
9 James G. McGee, III.)

10 CHAIRMAN RANKIN: All right. And, Judge, you know the
11 process well, our screening process, focusing on
12 the nine evaluative criteria, which include a
13 ballot box survey, a thorough study of the
14 application materials, verification of compliance
15 with state ethics laws, a search of newspaper
16 articles in which your name appears, a study of
17 previous screening and a check for economic
18 conflicts of interest. No one has objected to
19 your reelection. No affidavits filed in
20 opposition to your campaign. We will turn it
21 over to Breedon John for questions and then
22 members of the Commission, as they may have.
23 Welcome, Judge McGee.

24 JUDGE MCGEE: Thank you, Mr. Chairman.

25 JUDGE MCGEE - EXAMINATION BY MR. JOHN:

1 Q. Judge McGee, nice to see you.

2 A. Yes, sir. Nice to see you again as well.

3 Q. After serving about 11 years on the Family Court,
4 why do you wish to continue?

5 A. I'm really liking what I'm doing. You know, I
6 feel like I'm getting good at it, you know,
7 getting better at it. When I first started, you
8 know -- it's a way to serve the people of South
9 Carolina, and I like it a lot. It's just
10 something I really enjoy. I won't say a calling.
11 That's kind of a big, heavy word. It has a lot
12 of religious connotations, but I do almost feel
13 like that.

14 Q. What do you think your reputation is among
15 attorneys that practice before you?

16 A. I hope that it's that I'm fair to them, that I
17 listen to them, and that, you know, I don't try
18 to embarrass them in front of their clients.
19 That's the other thing. That's one thing I said
20 when I became a judge. I said I want to be the
21 kind of judge that I would want to appear before
22 if I were a litigant or an attorney. That's been
23 my goal, and I hope I've achieved that.

24 Q. And how about your reputation with court
25 personnel?

1 A. I would hope that that would be very good as
2 well. I try to treat everyone with respect that
3 I've come into contact with. That was kind of
4 the way I was brought up.

5 Q. Yes, sir, yes, sir. Thank you. The Commission
6 received 370 ballot box surveys regarding you.
7 There were 43 additional comments. The majority
8 were positive, the vast majority. Respondents
9 noted that you're a very practical and
10 intelligent and excellent judge with great
11 judicial temperament and that you treat all in
12 your court with kindness and fairness. There
13 were a couple comments that I suppose could be
14 considered negative, although they're very
15 similar to some of the compliments you received,
16 mostly that you can be too nice.

17 A. Right.

18 Q. Could you share your thoughts on kind of your
19 style in the courtroom and appropriate demeanor?

20 A. That's probably my grandmama's fault. She taught
21 me to be nice to everybody. You know, that's,
22 again, if I'm walking -- especially a self
23 represented litigant -- if I'm walking into the
24 courtroom, it might be the first blush I have
25 with anything legal. And this person sitting up

1 there with his black robe on, I want them to feel
2 comfortable in what they're doing and have some
3 confidence in the court procedure. So some of
4 that may be a little bit of ingratiating. You
5 know, hey, how are you doing, Mr. Smith? You
6 know, hope you're doing well, but the other side
7 may want me to put him in jail and think I'm
8 being too nice to him. That's probably where a
9 lot of -- it's just really just in my makeup and
10 demeanor on or off the bench.

11 **Q. Sure. Yes, sir. And as mentioned, there were**
12 **only a couple comments there.**

13 MR. JOHN: The Pee Dee Citizens Committee found Judge
14 McGee qualified in the areas of constitutional
15 qualifications, physical health, mental
16 stability, well qualified in the remaining areas,
17 ethical fitness, professional and academic
18 ability, character, reputation, experience and
19 judicial temperament.

20 **Q. And just a couple items here, Judge McGee. Since**
21 **you submitted your letter of intent, have you**
22 **contacted any members of the Commission regarding**
23 **your candidacy?**

24 A. No, sir.

25 **Q. Are you familiar with Section 2-19-70, including**

1 limitations on contacting members of the General
2 Assembly?

3 A. I am.

4 Q. Since you submitted your letter of intent, have
5 you sought or received a pledge of any
6 legislator?

7 A. I have not.

8 Q. Do you know of any third party attempting to do
9 so on your behalf?

10 A. No, sir.

11 Q. Have you reviewed and understand the Commission's
12 guidelines on pledging and Section 2-19-70(E)?

13 A. Yes, sir.

14 MR. JOHN: And I would just note that any concerns
15 raised during the investigation regarding the
16 candidate were incorporated into the questions
17 today.

18 CHAIRMAN RANKIN: All right. Questions by members of
19 the Commission? Representative Jordan.

20 REPRESENTATIVE JORDAN: Very briefly, Mr. Chairman.

21 Judge, don't stop being nice, please. My only
22 bone to pick is I will never get to be the nicest
23 person to ever represent District 63.

24 JUDGE MCGEE: Oh, you've got that, Representative.

25 No. You're very kind. Thank you.

1 REPRESENTATIVE JORDAN: But when I read that, the too
2 nice, I think I've seen it all now.

3 JUDGE MCGEE: That's like a backhanded compliment kind
4 of, right?

5 REPRESENTATIVE JORDAN: It speaks -- I think we've
6 talked a lot about it here, the things that you
7 see in Family Court and the struggles you have to
8 help people. Some people are going through some
9 of the most difficult things that they're ever
10 going to face in their lives. And to handle them
11 with the care and the niceness is truly a
12 remarkable thing.

13 JUDGE MCGEE: Thank you. Thank you, Representative
14 Jordan.

15 REPRESENTATIVE JORDAN: No such thing as too nice.

16 JUDGE MCGEE: Okay. You and my grandma would be right
17 up there on an agreement on that one, I promise
18 you.

19 CHAIRMAN RANKIN: Mr. Safran.

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

21 JUDGE MCGEE - EXAMINATION BY MR. SAFRAN:

22 Q. Yeah, we had Mr. Ruffner in here yesterday --

23 A. Yes.

24 Q. -- and he said that he had held on for 12 years
25 an email that you had sent him and that you had

1 been true to your word. And let me tell you,
2 that is, to me, as important as anything else,
3 that you don't forget where you came from.

4 A. That's right.

5 Q. That you want to be the kind of judge that you
6 wanted to appear in front of. And, you know, you
7 have lived up to that in every way. And that is
8 just an outstanding accomplishment because you
9 and I have both seen plenty that said it but
10 never held up.

11 A. I know it. I've been in front of some when I was
12 practicing law.

13 Q. And that's it. You know, I mean, sometimes that
14 robe wears very heavy, but let me ask this. We
15 had Judge Smoak up here today, and we just could
16 not help in the same way with you to just be in
17 awe of just how people felt about him. So tell
18 us, what's the secret sauce?

19 A. You know, thank you, Mr. Safran. You know, I
20 think my whole life is kind of like that. I hope
21 so. And this comes from my upbringing. I lived
22 very close to my grandma. My mom and dad were
23 great, don't get me wrong, but my grandmother
24 lived just a few blocks over. So I would see her
25 all the time. One thing she taught me very early

1 and repeated it, treat other people the way you
2 want to be treated all the time. I got that
3 drilled in my head, and I've always tried to do
4 that. And I think it's made life a lot easier,
5 as a matter of fact, to do that, to have respect
6 for everybody.

7 Q. Let me ask this, and I'm going to be quick. You,
8 from what I see, allow lawyers to be lawyers when
9 they are appearing in front of you.

10 A. Yes, sir.

11 Q. You recognize why they're there. You recognize
12 that their clients are paying them hard earned
13 money to be there, and that you let them play a
14 role in these hearings. Is that pretty straight
15 up?

16 A. Yes, I do.

17 Q. I mean, does it hurt you in terms of time? Does
18 it hurt you in terms of turning cases over?

19 A. No.

20 Q. So, I mean, the people that basically say, I
21 don't let them talk, I basically just let them
22 sit there while I read the affidavits and more or
23 less just kind of look at them like they're
24 children just to pat them on the head. There's
25 no difference in what you're able to accomplish

1 by basically letting them function the way
2 they're supposed to function.

3 A. No, sir. And, as a matter of fact, I think it's
4 important for the client to know that what they
5 want heard was heard by me. And if I don't let
6 it be heard, then they don't think I got the
7 whole picture. So, not only do they need to see
8 the lawyer saying it, they need to see me taking
9 in it as well.

10 Q. Well, and, Judge, am I fair in saying this, that
11 when you go into this -- we keep hearing the word
12 court of equity -- that you're not looking for a
13 winner or loser. You're looking for everybody to
14 hopefully come out of this process as good as
15 they possibly can be, even though the
16 circumstances are pretty bad.

17 A. I agree.

18 Q. And, I mean, so, again, this is not about winning
19 and losing. This is about basically trying to do
20 something to turn a bad situation into the best
21 salvageable thing that can happen.

22 A. And also make them understand -- I think the best
23 compliment I've ever gotten on the bench was,
24 Judge, I don't like the way you ruled, but I
25 understand why you did it. And that, to me, is

1 like getting an A plus on a term paper.

2 **Q. That's it. Says it all.**

3 A. Yeah.

4 **Q. Thank you very much.**

5 A. Yes, sir.

6 JUDGE MCGEE - EXAMINATION BY CHAIRMAN RANKIN:

7 **Q. Judge, real quick question. And Luther, or Fred**
8 **Carter --**

9 A. Yes, sir.

10 **Q. -- cannot write better about you in terms of your**
11 **ability and your skills and your honor and**
12 **discretion. What role do you play at Francis**
13 **Marion?**

14 A. I was their general counsel at one time, part
15 time, while I was running my law practice. I
16 taught political science there for about three or
17 four semesters. And then I helped them out some
18 on the legislative end, the budgeting and things
19 like that, I would come up here on behalf of the
20 university and talk about some of the things that
21 we were doing at that time.

22 **Q. And that ended when you became a judge?**

23 A. Yes, sir, yes, sir. Yes, sir, it did.

24 **Q. All right.**

25 A. But Fred's still a good friend of mine.

1 Q. Super.

2 A. He's great.

3 Q. Super guy.

4 A. He's been great for the university, no question.

5 Q. Real quick. You obviously enjoy it to the degree
6 that you're being too nice is exemplary. You've
7 been doing it for a minute.

8 A. Yes, sir.

9 Q. And the drive and the passion to continue to want
10 to do it --

11 A. Yeah, absolutely.

12 Q. -- speak to that again. Where's that coming
13 from?

14 A. I don't -- you know, people -- when I started
15 practicing law, I gravitated towards family law.
16 People said, why do you like it? I said, I don't
17 know why I like it, but I do. I just do, and I
18 think it's more having an impact on people, and
19 I've got children and things like that, and I'm
20 trying to smooth down families as I go and make
21 sure these kids are taken care of. And I feel
22 like I do have some impact doing that. It's
23 really written on my heart is all I can say. I
24 couldn't tell you why other than I feel an urge
25 to be the way that I am, and I couldn't explain

1 it.

2 **Q.** Well, and we've heard folks use the term calling.
3 And so you've certainly defined that as a
4 calling, both by the letters of reference and the
5 folks that have taken the time to write
6 anonymously about how well you're doing. So I
7 appreciate your zeal, your passion, and your
8 willingness to continue doing it on behalf of
9 folks.

10 **A.** I thank y'all, for all the Commission members,
11 for taking your time out. I sat on this board
12 for a year, I think. And you've got to sit
13 through all day. I appreciate what you all do.
14 It's very important in this process. So thank
15 you very much for your time as well.

16 **CHAIRMAN RANKIN:** Well, very good. If there are no
17 other questions, Judge, we're going to close this
18 portion of the screening. And you know, again,
19 how it works. The record is not closed until the
20 final release of the record of qualifications.
21 Because of our adherence to both the letter and
22 spirit of the ethics law, and yours particularly,
23 you understand, in the unlikely event of your
24 breaching that or the appearance of impropriety -
25 -

1 JUDGE MCGEE: Yes, sir.

2 CHAIRMAN RANKIN: -- you understand we could call you
3 back for further questions.

4 JUDGE MCGEE: Yes, sir.

5 CHAIRMAN RANKIN: Very well. Judge, happy trails back
6 to the Pee Dee, and happy Thanksgiving to you and
7 your family.

8 JUDGE MCGEE: Thank y'all again. Good to see you.
9 Thank you.

10 (OFF THE RECORD)

11 CHAIRMAN RANKIN: All right, Judge.

12 JUDGE MCGEE: Senator.

13 CHAIRMAN RANKIN: Welcome, welcome. Thank you for
14 being right on time and for forgiving us for not
15 being right on time, but we're trying to do
16 better here --

17 JUDGE MCGEE: It's no problem.

18 CHAIRMAN RANKIN: -- with the calendar. Thanks again
19 for being early. If you will, raise your right
20 hand.

21 THE HONORABLE RANDALL E. MCGEE, being duly sworn,
22 testifies as follows:

23 CHAIRMAN RANKIN: Very well. You have before you that
24 PDQ and sworn statement. Are those ready to be
25 entered into the record?

1 JUDGE MCGEE: Yes, sir. These are what I have. No
2 problems.

3 (Exhibit Number 24 was marked for identification
4 purposes - (14 pages) Personal Data Questionnaire for
5 The Honorable Randall E. McGee)

6 (Exhibit Number 25 was marked for identification
7 purposes - (5 pages) Sworn Statement of The Honorable
8 Randall E. McGee.)

9 CHAIRMAN RANKIN: Very good. Our investigation of
10 your candidacy, you know that we focus on the
11 nine evaluative criteria, which includes a ballot
12 box survey, a thorough study of the application
13 materials, verification of your compliance with
14 the state ethics laws, a search of newspaper
15 articles in which your name appears, a study of
16 previous screenings and check for economic
17 conflicts of interest. No violations or
18 accusations or complaints being filed against
19 you. No affidavits. No witnesses to testify for
20 you or against you. We will turn it over to Mr.
21 Cohl for questions, and then if you would like,
22 at the very end, offer you the opportunity to
23 make a closing statement.

24 JUDGE MCGEE: Yes, sir. Thank you, Senator.

25 MR. COHL: Thank you, Mr. Chairman

1 JUDGE MCGEE - EXAMINATION BY MR. COHL:

2 Q. Good afternoon, Judge McGee. What do you think
3 your reputation is among attorneys that practice
4 before you and the court personnel that work with
5 you?

6 A. I think I have a good reputation. I do my level
7 best every day to treat everyone with the utmost
8 respect, work with the folks in the various
9 counties in which I go to. I refer to myself as
10 a traveling judge. I'm from little tiny Calhoun
11 County. We only have court three days a month
12 there, so every week I'm somewhere other than my
13 home county. So being in different courthouses
14 in different counties, you have to learn to be
15 flexible because everybody does it different.
16 And so I do my level best to try to treat
17 everybody with courtesy and respect while I do
18 the job, and I would think that my reputation
19 backs that up. I hope so.

20 Q. Thank you, Judge McGee. The Commission received
21 350 ballot box surveys regarding you with 48
22 providing additional comments. The ballot box
23 survey, for example, contained the following
24 positive comments: Judge McGee demonstrates
25 kindness and compassion while also upholding the

1 law and the rules of court. He's highly
2 intelligent and has a very strong work ethic. He
3 is very considerate to attorneys, litigants, and
4 witnesses involved in each case. He listens
5 carefully and rules from sound reasoning. He
6 runs his court efficiently, but always takes the
7 time to speak directly to juveniles, foster
8 children, and pro se parties with compassion.
9 None of the written comments expressed a concern.

10 MR. COHL: I would note that the Lowcountry Citizens
11 Committee found Judge McGee to be qualified in
12 the evaluative criteria of constitutional
13 qualifications, physical health and mental
14 stability and well qualified in the evaluative
15 criteria of ethical fitness, professional and
16 academic ability, character, reputation,
17 experience and judicial temperament. The
18 Committee stated in summary: conscientious,
19 committed, great temperament, compassionate, very
20 likable, fair, excellent judge.

21 Q. Now, Judge McGee, just a few brief housekeeping
22 issues. Since submitting your letter of intent,
23 have you contacted any members of the Commission
24 about your candidacy?

25 A. I have not.

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

4 A. I am.

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

9 A. I have not.

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 have not, and unaware of anyone doing that.

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

18 A. I have been, and I'm aware of those.

19 Q. Thank you, Judge McGee.

20 MR. COHL: I would note for the record that any
21 concerns raised during the investigation
22 regarding the candidate were incorporated into
23 the questioning today. Mr. Chairman, I have no
24 further questions.

25 CHAIRMAN RANKIN: All right. Questions by members of

1 the Commission? Mr. Senator Sabb.

2 SENATOR SABB: Mr. Chairman. I really don't have any
3 questions, but I just kind of want to share
4 something. Judge, you were elected which year?

5 JUDGE MCGEE: 2013.

6 SENATOR SABB: Yeah. And at the time, were you the
7 only judge from Calhoun County?

8 JUDGE MCGEE: I was the only judge from Calhoun
9 County. Now we have Heath Taylor as our Circuit
10 Court judge from Calhoun County too, but I was
11 the only one from Calhoun County.

12 SENATOR SABB: And Harry Ott was your House of
13 Representatives member?

14 JUDGE MCGEE: That's correct.

15 SENATOR SABB: Yeah.

16 JUDGE MCGEE: Russell's dad, and Russell will be over
17 here very soon.

18 SENATOR SABB: Yeah, we look forward to working with
19 him for sure. So wasn't your race extremely
20 close?

21 JUDGE MCGEE: Senator, it was very close, and I won by
22 one vote.

23 SENATOR SABB: Would it surprise you to know that that
24 was an extremely difficult race for the body?
25 The person that was running against you was from

1 Horry County and just a wonderful young lady.
2 And did you know that we had really good counters
3 in the House at the time? Of course, Harry Ott
4 was counting for you. And Harry Ott came to me,
5 and he says, Ronnie, I know we've got two
6 excellent candidates in the area, but you're from
7 rural South Carolina, and on the farm, when we
8 had these kind of situations, we wanted to make
9 sure that rural South Carolina had judges. And
10 he says, Horry has judges, but Calhoun does not.
11 Don't you think Calhoun County deserves a good
12 judge? And I proudly cast the deciding vote on
13 your behalf and have never been prouder of that
14 decision because all of the rural areas do need
15 resident judges. And that is the first time I've
16 ever shared that story or that exchange, but in
17 reading your ballot boxes and all of those kinds
18 of things, it's just a reminder that what we do
19 is significant. And just happy that I was a part
20 of giving the folks of Calhoun County and the
21 great state of South Carolina what it needed in
22 your election.

23 JUDGE MCGEE: Senator, thank you for those comments,
24 and that was a very stressful day up at the
25 Statehouse. And, of course, my opponent -- she

1 was elected Family Court judge just a few months
2 later upon the retirement of a judge in her
3 circuit.

4 SENATOR SABB: Did you know that there's another story
5 that I want to share just because you said that?

6 JUDGE MCGEE: But I really appreciate the help that
7 you gave me. And I was the only -- the six, at
8 that point, that was the first time we had at
9 large judges for Family Court. There were six
10 created, and out of the six, I was the only one
11 elected from a rural area, and I'm very proud of
12 that. I'm very proud of that. Thank you,
13 Senator.

14 SENATOR SABB: With good reason, but I've got to share
15 the rest of the story. That's what Paul Harvey
16 used to talk about. So did you know that the
17 young lady that was in the hotly contested race
18 with you was aware of the fact that I was the
19 only holdout? And she had wonderful friends who
20 were friends of mine, and it was one of the most
21 difficult decisions that I had to make as a
22 legislator when it came to judge races. And did
23 you know that she knew, when you won by one, who
24 cast the winning vote?

25 JUDGE MCGEE: I'm sure she did.

1 SENATOR SABB: And what was really special about her -
2 - and this I remember really well also -- when I
3 came out to congratulate folks, she met me with
4 an incredible smile and said, man, I couldn't get
5 you on this one. And she says, but look, I know
6 it was a tough decision for you. Thank you for
7 being so kind to me in the conversations that we
8 had. And in that moment, I knew that she would
9 become a judge, and I knew that she would also be
10 a good jurist. And because we've had some folk
11 who have been on the losing end, and the way that
12 their personality changes, you quickly realize
13 that that person was really not cut out for this
14 job, but I knew. And when she ran, she had no
15 opposition. Nobody ran against her.

16 CHAIRMAN RANKIN: And the rest of the story was the
17 first person asked to be her counter was Senator
18 Sabb. Not true, not true.

19 JUDGE MCGEE: I will say, after I got elected that
20 day, I walked back over to the Blatt building and
21 thanked all the people that supported me. Then I
22 came back over here, thanked all the people that
23 supported me. And Senator Rankin, you didn't
24 support me because you're from the beach,
25 understandable, but you saw me in the hallway,

1 and you brought me into your office, and you
2 shook my hand, and you said, Randy, we're glad to
3 have you, and congratulations, and that meant a
4 lot to me that you did that.

5 SENATOR RANKIN: Well, I was channeling Ronnie Sabb,
6 no doubt. And Lisa, Melissa Emory --

7 JUDGE MCGEE: That's right.

8 CHAIRMAN RANKIN: Now Buchanan --

9 JUDGE MCGEE: That's right.

10 CHAIRMAN RANKIN: -- who has distinguished herself
11 just as Senator Sabb has forecast.

12 JUDGE MCGEE: No question about it.

13 CHAIRMAN RANKIN: And more acutely, as have you.

14 JUDGE MCGEE: Thank you.

15 CHAIRMAN RANKIN: And so this is your day, your
16 moment, in terms of our recognition of what
17 you've accomplished thus far. And of note to us,
18 not one negative comment about you by your
19 friends or your foes who anonymously can say good
20 or bad. There are a few of y'all who have
21 enjoyed that this cycle, which is extraordinary
22 on your part.

23 JUDGE MCGEE: Very humbled by that. What we do every
24 day, the issues we deal with, the difficulty of
25 them, adversarial process, somebody's walking out

1 of the courtroom dissatisfied most of the time
2 with a ruling because it's an adversarial
3 process, and to think that I'm lucky enough,
4 fortunate enough, that no one has complained and
5 said something negative, I'm very humbled.

6 CHAIRMAN RANKIN: Last point, and additionally, it is
7 not often that the Citizens Committee takes the
8 time to write a note or write words of, again,
9 challenging, upbraiding gently, or praising. And
10 as Mr. Cohl has identified with you, they took
11 the time to go the extra step, which obviously
12 suggests that you are going the extra step at
13 every turn in your role as a Family Court judge.

14 JUDGE MCGEE: I promise you I'm trying to do the best
15 I can every day.

16 CHAIRMAN RANKIN: With that, unless there are further
17 questions, we want to thank you again for your
18 continued service and your willingness to
19 continue doing this and serving the most needy of
20 our state, who, as we know, the children don't
21 pick that they're going to court if it's in the
22 context of a divorce. And so thank you for doing
23 it so well, so lightly. And so I would suggest
24 in a very biblically appropriate way in that you
25 are doing it like Solomon.

1 JUDGE MCGEE: That means a lot, Mr. Chairman. Thank
2 you.

3 CHAIRMAN RANKIN: Very well. In the realm of closing
4 this out, unless there are further questions,
5 and, again, I did offer you the opportunity to
6 make a closing statement if you'd like.

7 JUDGE MCGEE: I appreciate the opportunity to serve,
8 and I'd love to continue to do it. And I thank
9 you for giving me the chance to do that.

10 CHAIRMAN RANKIN: Very well. This will conclude this
11 portion of the screening. You know that the
12 record is not closed until the formal release of
13 the record of qualifications. Ethics laws of our
14 state we adhere to. We expect you to adhere to
15 both the spirit and the letter. Any violation by
16 you or the appearance of impropriety, you know
17 that we could call you back for questions about
18 that. In that unlikely event, you do know that,
19 correct?

20 JUDGE MCGEE: Yes, sir. Very good.

21 CHAIRMAN RANKIN: Happy trails, and happy Thanksgiving
22 to you and your family.

23 JUDGE MCGEE Happy Thanksgiving. Thank you all for
24 having me.

25 (OFF THE RECORD)

1 CHAIRMAN RANKIN: Welcome, Judge.

2 JUDGE PHILLIPS: Good afternoon. Thank you.

3 CHAIRMAN RANKIN: Thank you. First, let me ask you to
4 raise your right hand.

5
6 THE HONORABLE DAVID EARL PHILLIPS, being duly
7 sworn, testifies as follows:

8 CHAIRMAN RANKIN: You've got two documents. Are those
9 ready to be entered into the record?

10 JUDGE PHILLIPS: Yes, sir.

11 (Exhibit Number 26 was marked for identification
12 purposes - (17 pages) Personal Data Questionnaire for
13 The Honorable David Earl Phillips)

14 (Exhibit Number 27 was marked for identification
15 purposes - (6 pages) Sworn Statement of The Honorable
16 David Earl Phillips.)

17 CHAIRMAN RANKIN: All right. You've got a guest with
18 you, I see, but I can't really see, we can't
19 really see. If you'd like to introduce your
20 guest.

21 JUDGE PHILLIPS: This is my wife and best friend,
22 Marianne Phillips.

23 CHAIRMAN RANKIN: Welcome, Ms. Phillips.

24 MS. PHILLIPS: Thank you.

25 CHAIRMAN RANKIN: Thank you for being here, and my

1 apologies, Judge, for the delayed start time. We
2 will do as quickly as we can to get you back on
3 the road, but thank you for your patience.

4 JUDGE PHILLIPS: Thank you all for your time.

5 CHAIRMAN RANKIN: You understand our role here in
6 terms of vetting your candidacy for reelection
7 focuses on those nine evaluative criteria, which
8 includes a ballot box survey, a thorough study of
9 your application materials, confirmation of your
10 compliance with the state ethics law, a search of
11 newspaper articles in which your name appears, a
12 study of past screenings and a check for economic
13 conflicts of interest. No complaints have been
14 filed or affidavits in opposition to your
15 continued service. No one or witnesses to
16 testify against you. In the interest of speed
17 here for making up the time to you, we'll turn it
18 over to Staff Counsel Walpole and then members of
19 the Commission, and then I'll offer you the
20 opportunity to make a closing statement if you'd
21 like.

22 JUDGE PHILLIPS: Thank you.

23 CHAIRMAN RANKIN: Mr. Walpole.

24 MR. WALPOLE: Thank you, Mr. Chairman, members of the
25 Commission.

1 JUDGE PHILLIPS - EXAMINATION BY MR. WALPOLE:

2 **Q. Judge Phillips, good to see you again.**

3 A. Good to see you.

4 **Q. After serving 11 years on the Family Court, why**
5 **do you want to continue serving as a Family Court**
6 **judge?**

7 A. I believe that I'm still making a difference in
8 the lives of the people who come before me,
9 especially, I think, with the children that we
10 see so often, the matters that affect them so
11 directly. I feel like I'm helping them. I feel
12 like I've helped a lot of people over the course
13 of the last 11 and a half years. I feel that
14 that's rewarding to me. I enjoy it, and I love
15 my job, and I just appreciate the confidence that
16 you all have placed in me and allowed me to do
17 this job for such a long period of time.

18 **Q. Thank you. Judge, what do you think your**
19 **reputation is among attorneys who practice before**
20 **you?**

21 A. I think I've been pretty consistent and firm and
22 also fair over the years. I think that's
23 something that I stated that I would do when I
24 first was a candidate for judicial office, and I
25 believe I have been that. I have fulfilled what

1 I have promised that I would do, and that would
2 be firm and fair and very consistent in my
3 rulings.

4 **Q. Same question, but as it pertains to court
5 personnel.**

6 A. Court personnel, well, I look at them as family
7 most everywhere I go. Even if I'm not there very
8 often, I treat them with respect and dignity.
9 They have hard jobs as well. They make what we
10 do possible, and so I appreciate very much the
11 people that I work with.

12 **Q. Thank you. Judge Phillips, the Commission
13 received 242 ballot box surveys regarding you
14 with 23 additional comments. The ballot box
15 surveys, for example, contain the following
16 positive comments: Judge Phillips is the epitome
17 of kindness. He has unimpeachable integrity and
18 works hard. We are lucky to have him on the
19 bench. Judge Phillips has phenomenal judicial
20 temperament. It is always a pleasure to appear
21 before Judge Phillips. He gives prompt and well
22 reasoned rulings, and he allows you to try your
23 case. And lastly, for many years now, the
24 Committee has emphasized judicial temperament in
25 the screening process. Judge Phillips may be the**

1 gold standard in that category. None of the
2 written comments expressed concerns. Judge
3 Phillips, of note, a specialized question for you
4 today. Of note, a majority of the comments
5 received commended your judicial temperament.

6 A. How do you believe your judicial philosophy has
7 made your temperament distinctive?

8 Q. I try to treat people the way I would want to be
9 treated if I were in their shoes. I believe
10 there's a place for firmness in what we do. I
11 think sometimes we have to assert ourselves more
12 in the courtroom. It's not always the easiest to
13 do that, but when people come before me, I just
14 try to be consistent, and every once in a while
15 you have to take a breath when somebody comes in
16 and it gets heated, but that is my philosophy. I
17 try to start with kindness as much as I can.

18 A. appreciate it. Thank you.

19 MR. WALPOLE: I would note that the Upstate Citizens
20 Committee found Judge Phillips qualified in the
21 evaluative criteria of constitutional
22 qualifications, physical health and mental
23 stability. The Committee found him well
24 qualified in the evaluative criteria of ethical
25 fitness, professional and academic ability,

1 character, reputation, experience and judicial
2 temperament.

3 Q. So Judge, just a few housekeeping issues. Judge,
4 since submitting your letter of intent, have you
5 contacted any members of the Commission about
6 your candidacy?

7 A. No, sir.

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

11 A. I am, yes, sir.

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

16 A. No, sir.

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. I am not.

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, sir.

1 MR. WALPOLE: 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. Thank
5 you, Judge Phillips. Mr. Chairman, I have no
6 further questions.

7 CHAIRMAN RANKIN: Members of the Commission? Senator
8 Garrett.

9 JUDGE PHILLIPS - EXAMINATION BY SENATOR GARRETT:

10 **Q. Were you born in Williamston?**

11 A. I was born in Easley, South Carolina, but I've
12 lived in the Powdersville area of Anderson County
13 all my life. Well, I've moved a little closer. I
14 guess -- I don't know if you know where
15 Piercetown is.

16 **Q. I do.**

17 A. It's a little closer to Anderson than
18 Powdersville.

19 **Q. I was born in Williamston, so I know a little bit
20 about that.**

21 A. Yes, sir.

22 **Q. It's Mike Gambrell's area over there.**

23 A. Well, Senator Gambrell is one of my favorite
24 people.

25 **Q. He's good people. He was my roommate.**

1 A. Yes, sir.

2 Q. I'm impressed by your record. I just want you to
3 know that. Thank you, and you're a great judge --

4 A. Thank you.

5 Q. -- and more judges should emulate your record. I
6 mean, when you can go in and do the hard things
7 you do and have no negative comments, that's
8 tremendous. I mean, it's dog eat dog,
9 unfortunately, and that first hearing and that
10 temporary hearing usually is pretty rough, and
11 how you can maneuver that and not have any
12 negative comments beyond that -- I mean, I just
13 don't know how you do it.

14 A. I give all the glory to God for that because it's
15 very hard, and it is tough, and we do make
16 difficult decisions. We rule against people
17 every day. I mean, just about. And if we rule
18 for somebody, we're impliedly ruling against
19 someone, so I'm very thankful for the responses
20 that I've received and the review of my
21 candidates.

22 Q. And I've got you in the right place. Thank you.

23 A. Thank you.

24 CHAIRMAN RANKIN: All right. Mr. Safran.

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

1 MR. SAFRAN: You just said a few things that really
2 kind of, I think, sum it up. These comments say
3 you let the lawyers try their cases, and I think
4 when you were here last time, you and I talked
5 about that. And I think you, more so than most,
6 were saying, you know what, I recognize their
7 role. I want to let them participate. They're
8 there for a reason, and, you know, I don't look
9 at the clock. I look at what has to be done to
10 get the case adjudicated in a fair way, and that
11 seemingly has not changed. The other thing is
12 you just touched on something. A lot of people
13 are very discouraged by the Family Court, but yet
14 here you are as somebody who -- as you said,
15 somebody's going to walk away less than happy,
16 but yet we don't have anybody coming and
17 questioning your integrity, your competence, your
18 honesty. It can work, and you're a classic
19 example of it. I was impressed last time. I'm
20 even more so now, and very appreciative that
21 you're continuing to do the job.

22 JUDGE PHILLIPS: Thank you, Mr. Safran.

23 CHAIRMAN RANKIN: All right. Any further accolades?
24 Judge Phillips, I'll tell you, your record and
25 the ballot box surveys and the letter of

1 references, the Bar, the Citizens Committee, all
2 -- Ms. Phillips can't say nicer things about
3 your husband and his role, Judge, and your role
4 as a judge and how lightly you're wearing the
5 robe and how fairly you're treating folks and how
6 apparently you're getting it done day in and day
7 out. So we appreciate your record, and we
8 appreciate your willingness to continue growing
9 and serving our state and our most needy, most
10 oftentimes children who don't get to pick, that
11 they're in your presence. So thank you for
12 wearing the robe lightly and serving so well.

13 JUDGE PHILLIPS: Thank you, Mr. Chairman, and thank
14 the Commission for everything that you all do to
15 screen our judicial candidates. I know that's a
16 lot of hard work.

17 CHAIRMAN RANKIN: Very well. Without further comments
18 or questions, Judge, again, you know the process.
19 The record is not closed until the formal release
20 of the record of qualifications. In the event of
21 a violation by you of the appearance of
22 impropriety of the letter or the spirit of the
23 ethics law, you understand that we can call you
24 back. In that unlikely event, for further
25 questions, I need a verbal affirmation of that

1 for the record.

2 JUDGE PHILLIPS: I so affirm.

3 CHAIRMAN RANKIN: Very well. Judge, you all have a
4 great trip back, and a happy Thanksgiving to
5 y'all.

6 JUDGE PHILLIPS: Thank you. You too. Happy
7 Thanksgiving, everyone.

8 CHAIRMAN RANKIN: Thank you very much.

9 (OFF THE RECORD)

10 VICE CHAIRMAN CASKEY: All right, good afternoon. If
11 you would, please ma'am, raise your right hand.

12 KRISTIAN CROSS, being duly sworn, testifies as
13 follows:

14 VICE CHAIRMAN CASKEY: Thank you. If you would,
15 please state your full name for the record.

16 MS. CROSS: Kristian Melissa Cross.

17 VICE CHAIRMAN CASKEY: Ms. Cross, there should be some
18 documents in front of you. If you would please
19 take a second to look at those. All right. Are
20 there any updates or changes that need to be made
21 to those?

22 MS. CROSS: There are not. I had an amendment to my
23 PDQ, but it looks like they've received that and
24 have it.

25 VICE CHAIRMAN CASKEY: Excellent. Do you have any

1 objection to us including that in the record?

2 MS. CROSS: No objection.

3 (Exhibit Number 28 was marked for identification
4 purposes - (15 pages) Personal Data Questionnaire for
5 Kristian Cross.)

6 (Exhibit Number 29 was marked for identification
7 purposes - (1 page) Amendment to Personal Data
8 Questionnaire for Kristian Cross.)

9 (Exhibit Number 30 was marked for identification
10 purposes - (4 pages) Sworn Statement of Kristian
11 Cross.)

12 VICE CHAIRMAN CASKEY: Thank you, ma'am. And you are
13 a candidate for Administrative Law Court Seat 2,
14 is that right?

15 MS. CROSS: That is correct.

16 VICE CHAIRMAN CASKEY: While staff gathers that, let
17 me just go ahead and review a couple of things.
18 The Judicial Merit Selection Commission has
19 thoroughly evaluated your application and
20 qualifications for the bench. Our inquiry is
21 focused on the nine evaluative criteria and has
22 included a thorough study of your application
23 materials, a ballot box survey, verification of
24 your compliance with state ethics laws, a search
25 of newspaper and other media articles in which

1 your name appears, a study of any previous
2 screenings, a check for economic conflicts of
3 interest, and all of which has led us to the
4 point at which no affidavits have been filed in
5 opposition to your election, and there are no
6 witnesses to testify today. I do notice, though,
7 that you have at least been followed by one
8 person. I can't see behind you, but if you'd
9 like to introduce him to us, we'd be happy to
10 meet him.

11 MS. CROSS: Yes, thank you very much. This is my
12 husband, Justin Gerwe.

13 VICE CHAIRMAN CASKEY: Nice to see you, sir. Thank
14 you for being here. All right. Ms. Cross, if
15 you have any brief opening statement, we would be
16 happy to hear from you. Otherwise, I would
17 recognize staff counsel to begin with some
18 questions.

19 MS. CROSS: I don't have an opening statement, just
20 wanted to thank you all for your service and for
21 your time here today. Thank you.

22 VICE CHAIRMAN CASKEY: Thank you for your flexibility
23 with respect to time. I know we're slightly
24 behind schedule, but appreciate it nonetheless.
25 Ms. Crater.

1 MS. CROSS - EXAMINATION BY MS. CRATER:

2 **Q. Good afternoon.**

3 A. Good afternoon.

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

11 **Q. Ms. Cross, why do you now want to serve as an**
12 **Administrative Law Court judge, and how do you**
13 **feel your legal and professional experience thus**
14 **far will assist you to be an effective judge?**

15 A. Thank you so much for that question. I have been
16 practicing for almost 20 years. I'm in my 18th
17 year of practice, and the majority of my practice
18 has been in administrative law. I started out
19 after law school. I started working at Nexsen
20 Pruitt, which is now Maynard Nexsen, practicing
21 in their antitrust group, doing large commercial
22 litigation, and through that, I realized that was
23 not really where my passion for litigation was
24 going to lead me throughout my career. And I had
25 the benefit of being at such a large firm to be

1 able to experience various areas of the law in
2 different practice groups, and at that time, I
3 was working in employment law. I did some work
4 with our regulatory group, and I did some work
5 with our -- with PBA, and when I discovered the
6 area of administrative law, I really felt -- I
7 really felt like I found my home in the law, and
8 from there, I started practicing workers'
9 compensation. Being at such a large firm at
10 Maynard Nexsen, I knew I was a litigator, and I
11 didn't have the opportunity to really flex my
12 litigation wings there, and so I knew I wanted to
13 do administrative law. I felt like workers'
14 compensation would be a wonderful area for me to
15 be able to gain that experience in litigation, to
16 take depositions, to prepare for my hearings
17 using the Administrative Procedures Act, and to
18 make sure that I was able to have the type of
19 litigation career that I wanted to, and to be
20 very active in court. And so I began doing
21 workers' compensation and have been very active
22 in that field for the rest of my career, and I've
23 also had the opportunity to appear in the
24 Administrative Law Court as well, doing different
25 cases such as liquor license disputes and things

1 of that nature. So I have been doing
2 administrative law pretty much my entire career.
3 This is my home. This is where I feel
4 comfortable in the area of the law that I really
5 enjoy.

6 **Q. Are there any areas of the law for which you**
7 **would need additional preparation in order to**
8 **serve as an Administrative Law Court judge, and**
9 **how would you handle that additional preparation?**

10 A. Yes, thank you. In the Administrative Law Court,
11 there is a vast subject matter for the
12 Administrative Law Court, and so I'm very
13 comfortable with the Administrative Procedures
14 Act, which is, of course, the basis of the law
15 and the rules that would go into handling cases
16 for the Administrative Law Court. Because of the
17 vast subject matter jurisdiction of that court,
18 there are certain areas such as the Department of
19 Revenue, where I would have to study more and
20 look at things, but I take each case -- I would
21 take each case the same way I handle cases now.
22 When I am preparing for a hearing, the first
23 thing I always do is I open my rule book, even
24 though I know the rules, I practice it every day,
25 and I'm in an Administrative Hearing quite often,

1 but that is the first thing that I do. I look at
2 the rules, I look at the rules of evidence in
3 order to make sure that I'm properly prepared,
4 and so I would continue doing that if I were
5 blessed with being able to be an Administrative
6 Law Court judge.

7 **Q. Can you please explain the types of cases that**
8 **you've handled before the Administrative Law**
9 **Court, and what experiences specifically qualify**
10 **you for the Administrative Law Court?**

11 A. Yes. As I mentioned before, I've handled some
12 PBA cases, so this was when I was at Maynard
13 Nexson, and that was almost 20 years ago, so
14 before the Affordable Health Care Act. A lot of
15 the cases that I handled were dealing with
16 preexisting conditions, and so we represented the
17 agency at that time, and so we were -- there
18 would be contested litigants who would have their
19 cases, their health insurance, denied for certain
20 things that they were needed to get, their
21 medication or certain procedures they were
22 having, and it would be denied for, like I said,
23 a preexisting condition. So I handled those
24 cases in front of the Administrative Law Court,
25 and most recently, I handled cases involving

1 liquor license disputes.

2 **Q. What is your vision for the Administrative Law**
3 **Court, and what changes would you advocate, and**
4 **why?**

5 A. Judge Anderson has been a long serving chief
6 admin over at the Administrative Law Court and
7 has done an amazing job. I wouldn't presume to
8 make any changes to what he has done because if
9 it's not broke, don't fix it. He's done an
10 amazing job. The docket runs very smoothly. He
11 does an amazing job of assigning the cases to
12 each judge, and he has just done a phenomenal job
13 of running that court, and so it would be an
14 honor to continue the work that he's doing and to
15 help him do that work, if I was able.

16 **Q. In what instances is it appropriate for the**
17 **judiciary to work in cooperation with other**
18 **branches of the government, and in what areas**
19 **must the judiciary stand apart from the other**
20 **branches?**

21 A. I very much respect the separation of powers. I
22 feel it is fundamental to our democracy, and so I
23 definitely respect the separation of powers and
24 the work that each branch of government does
25 under its obligations underneath the

1 Constitution. There are, of course, times -- and
2 the Administrative Law Court is a perfect example
3 of that -- the Administrative Law Court is an
4 agency, a state agency under the executive
5 branch, and so it was developed in order to
6 assist the citizens of our state. And so when
7 our citizens need the three branches of
8 government to work together, I think that is a
9 wonderful opportunity for the branches of
10 government to work together, as I said, to form
11 the Administrative Law Court, which is what they
12 did -- a great example of that -- and forming it
13 under the executive branch and using it as an
14 opportunity to allow South Carolina residents,
15 and any individual who has a grievance with a
16 state agency, to have a forum in which they can
17 have their grievances heard. And so I think
18 that's a great example of how our three branches
19 of government work.

20 **Q. Thank you. Ms. Cross, the Commission received**
21 **147 ballot box surveys regarding you with 15**
22 **additional comments. The ballot box survey, for**
23 **example, contained the following positive**
24 **comments: kind, intelligent, thoughtful, capable**
25 **attorney and would be an asset to the bench, as**

1 well as well qualified to serve on the
2 Administrative Law Court. She is a formidable
3 adversary who is always prepared with well
4 reasoned and thoughtful arguments. She has a
5 strong work ethic and kind demeanor that will
6 serve her well on the bench. The Commission
7 received no negative comments.

8 MS. CRATER: I would note that the Midlands Citizens
9 Committee reported Ms. Cross to be qualified in
10 the evaluative criteria of constitutional
11 qualifications, physical health and mental
12 stability and well qualified in the evaluative
13 criteria of ethical fitness, professional and
14 academic ability, character, reputation,
15 experience and judicial temperament. The
16 Committee noted: well qualified, no need for
17 comments.

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

23 A. No, I have not.

24 Q. Have you asked any third parties to contact
25 members of the General Assembly on your behalf,

1 or are you aware of anyone attempting to
2 intervene in this process on your behalf?

3 A. I am not aware, and I have not asked.

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

7 A. No, I have not.

8 Q. And do you understand that you are prohibited
9 from seeking a pledge or commitment directly or
10 indirectly until 48 hours after the formal
11 release of the Commission's report, and are you
12 aware of the penalties for violating the pledging
13 rules?

14 A. I am aware.

15 MS. CRATER: I would just note for the record that any
16 concerns raised during the investigation
17 regarding the candidate were incorporated into
18 the questioning of the candidate today. And Mr.
19 Chairman, I have no further questions.

20 VICE CHAIRMAN CASKEY: Thank you, ma'am. Do any
21 members of the Commission have questions or
22 comments for Ms. Cross?

23 MS. CROSS - EXAMINATION BY VICE CHAIRMAN CASKEY:

24 Q. Ms. Cross, let me ask you. If you would, please,
25 talk a little bit more about your experiences

1 **insofar as they qualify you to sit on the**
2 **Administrative Law Court.**

3 A. Yes, thank you very much. As I mentioned, I've
4 been practicing in administrative law for almost
5 20 years. The majority of that has been in
6 workers' compensation, but workers' compensation
7 is very similar to the Administrative Law Court
8 in that it is a state agency that is formed
9 underneath the executive branch and follows the
10 Administrative Procedures Act. So I am very well
11 versed in the Administrative Procedures Act, and
12 I have also been in front of the Administrative
13 Law Court, as I mentioned, handling PBA cases and
14 liquor license dispute cases.

15 **Q. Thank you. I'm sorry. As we were talking, I was**
16 **scrolling through your PDQ because I didn't**
17 **highlight my question from earlier. So I am**
18 **nervously talking while I look so that we don't**
19 **have any silent time on our hands.**

20 SENATOR SABB: Mr. Chairman, why don't you do --

21 VICE CHAIRMAN CASKEY: Senator Sabb.

22 SENATOR SABB: I'd be honored to occupy a little space
23 for you.

24 MS. CROSS - EXAMINATION BY SENATOR SABB:

25 **Q. Thank you, ma'am. And I was curious. I was**

1 reading just a little bit, and I apologize for
2 not having had a chance to look through it before
3 now. So you started with Maynard Nexsen?

4 A. I did.

5 Q. And did primarily workers comp for them?

6 A. When I was at Maynard Nexsen, I started in their
7 antitrust team. So I was doing the large
8 litigation for commercial large litigation,
9 working with Marguerite Willis and her team,
10 doing that first. And then after -- when I first
11 started, there was a very large case, the largest
12 case in firm history to that point. And so they
13 recruited me to help them with that litigation.
14 And when that was over, I handled some --
15 actually, there was another election dispute, if
16 you all remember from, like I said, about 20
17 years ago, Frank Willis, who was the mayor of
18 Florence, lost the election by one vote.

19 Q. Yeah.

20 A. And we helped with that election dispute. And
21 then after that, I kind of veered it towards
22 administrative law then. Did some employment law
23 work and then ended up -- after about two and a
24 half years, almost three years, then I went over
25 to Collins and Lacy, and that's where I started

1 my workers comp work.

2 Q. Yeah, yeah. I have just an extraordinary amount
3 of respect for Marguerite and all the great work
4 that she's done over the years. And obviously
5 have a whole lot of respect for her late husband
6 as well. I'm from Williamsburg County, so right
7 next door to Florence. And so once that election
8 took place, we made it clear to everybody that
9 your vote matters, right?

10 A. Yes, absolutely.

11 Q. It was literally a one vote difference. But I'm
12 somewhat familiar with your career and
13 reputation. And I know all of us have a story
14 that predates our entrance into law school and
15 all of that, but just really extremely proud of
16 how you've asserted yourself and navigated
17 through the difficulties of the practice of law
18 and the idea of not having your own shingle, but
19 having to navigate through these large firms and
20 all of those things and all of the challenges
21 that comes with them. And so it's really good to
22 see a young lawyer like you who is as
23 accomplished as you are and having considered the
24 idea of going through a different path rather
25 than just being a lawyer for 40 or 50 years like

1 me, but deciding to offer yourself in this line
2 of service. And so really delighted to see it
3 and just want to wish you the best.

4 A. Thank you very much.

5 VICE CHAIRMAN CASKEY: Other members of the
6 Commission? Senator Garrett.

7 SENATOR GARRETT: Yes, thank you, Mr. Chairman.

8 MS. CROSS - EXAMINATION BY SENATOR GARRETT:

9 Q. Excellent resume.

10 A. Thank you.

11 Q. Tremendous. I was actually on the floor of the
12 Senate with Deon, and we were trying to figure
13 out the administrative law. And he and I neither
14 one have practiced a lot of it. And I was
15 saying, well, the void for vagueness, that was
16 one of them. Let's see, there was five. Help
17 me. There was five. One was a violation of law,
18 one was that the order was ambiguous.

19 A. Yes.

20 Q. One was it was void for vagueness.

21 A. Yes.

22 Q. There's two more. Help me.

23 A. Yes. If it's arbitrary and if it's a violation
24 of the Constitution.

25 Q. Good, thank you.

1 A. Yes, absolutely.

2 Q. Anyway, he and I were on the floor of the Senate
3 and we had to remember them, so we were
4 struggling. But when you were going to do this,
5 I said, you know, well, she can educate me. So
6 thank you.

7 A. Absolutely.

8 Q. No, I think that's great. That's a great team
9 over there.

10 A. It is.

11 Q. Judge Anderson, we have chapel with him on
12 Thursday mornings. It's always a pleasure. He
13 wrote the book. I don't know if you know about
14 The Lord's Prayer.

15 A. Yes.

16 Q. I don't know if you had a chance to read that
17 one, but it's a very interesting book. Anyway, I
18 just I'm excited to see you moving up. A friend
19 of mine from Lander got over there and got a
20 judge in. So I look forward to it. I hope -- I
21 don't I don't do very much there, but I have done
22 a liquor case.

23 A. Yes.

24 REPRESENTATIVE RUTHERFORD: Is that a case of liquor?

25 Q. Is that a case of liquor, no. A case about a

1 liquor license a long time ago. And then there
2 was also -- we were able to keep a landfill out
3 of South Greenwood. They were trying to put a
4 landfill there, and we were able to defeat that.
5 So that's about my only experience in
6 Administrative Law Court, but thank you.

7 A. Thank you very much.

8 VICE CHAIRMAN CASKEY: Any other members of the
9 Commission, anything? Mr. Rutherford.

10 MS. CROSS - EXAMINATION BY REPRESENTATIVE RUTHERFORD:

11 Q. Speaking of votes and things that matter, you
12 went to law school at USC?

13 A. I did.

14 Q. And you went to college in the Upstate?

15 A. Yes, at Clemson.

16 Q. Oh, yeah. So there's a -- it's difficult, it's
17 difficult. So there's a game on Saturday.

18 A. Yes.

19 Q. So who are you pulling for?

20 A. I danced at Clemson. I was a Rally Cat, so I am
21 a Clemson fan. I will cheer for the Gamecocks as
22 long as they are not playing Clemson, but if they
23 play Clemson, my blood is orange.

24 VICE CHAIRMAN CASKEY: So I found the comment I wanted
25 to ask you about, but instead of highlighting

1 that, I admire your resoluteness in fandom,
2 however misguided it may be. Just a few comments
3 that I do think you ought to hear because they
4 come through the ballot box, which you obviously
5 haven't seen all of, but I think you deserve to
6 hear some of the feedback on the reputation that
7 you've earned as a lawyer. She is a formidable
8 adversary who is always prepared with well
9 reasoned and thoughtful arguments. She has
10 strong work ethic and kind demeanor. Ms. Cross
11 is well organized, vast knowledge of not just
12 workers compensation, but a variety of
13 administrative law. Known her to be hardworking,
14 approachable, friendly, and smart. Confident we
15 could count on her to be well reasoned,
16 deliberate, thoughtful, fair, and impartial, and
17 yada, yada, yada. But you should be quite proud
18 of the reputation you've earned so far in your
19 legal career and wherever it may take you. I
20 would encourage you to keep it up because it
21 reflects well not only on you, but on our
22 profession as a whole. And so I'll offer you
23 that as you go forward.

24 MS. CROSS: Thank you.

25 VICE CHAIRMAN CASKEY: Okay. Seeing no other comments

1 or questions from members of the Commission -- I
2 don't have my glasses on, so I'm not seeing
3 anything -- but nonetheless, seeing nothing else,
4 that will conclude this portion of our screening
5 process. I certainly appreciate you being here.
6 I do need to take this moment to remind you that
7 pursuant to the Commission's evaluative criteria,
8 we take this whole process very seriously. We
9 expect candidates to follow the letter as well as
10 the spirit of our ethics laws, and we would view
11 any impropriety or appearance of impropriety as
12 very serious and potentially deserving of heavy
13 weight in our deliberations. And on that note,
14 as you know, the record will remain open until
15 the final release of our qualifications report.
16 We would have the ability to call you back at
17 such time if that need were to arise. Do you
18 understand all of that, please state --

19 MS. CROSS: I do.

20 VICE CHAIRMAN CASKEY: All right, great. With that
21 then, this hearing will be concluded, and thank
22 you very much for being here. Thank you to you
23 both and wish you safe travels as you head home
24 and hopefully enjoy a very happy Thanksgiving
25 holiday.

1 MS. CROSS: Thank you. You all as well. Thank you.

2 (OFF THE RECORD)

3 VICE CHAIRMAN CASKEY: All right. Good afternoon. We
4 will resume with the next hearing. Before us we
5 have Judge Bryan Jeffries. Mr. Jeffries, good to
6 see you, sir. Judge, if you would, please raise
7 your right hand.

8 THE HONORABLE BRYAN S. JEFFRIES, being duly
9 sworn, testifies as follows:

10 VICE CHAIRMAN CASKEY: Thank you, If you would,
11 please state your full name for the record.

12 JUDGE JEFFRIES: Bryan Scott Jeffries.

13 VICE CHAIRMAN CASKEY: And, Judge, there should be
14 some documents in front of you there. If you
15 would, please take a moment to review those.

16 JUDGE JEFFRIES: Very familiar with this packet.

17 VICE CHAIRMAN CASKEY: Those should be the personal
18 data questionnaire and the sworn statement that
19 you've submitted. Are there any corrections or
20 updates that need to be made to those?

21 JUDGE JEFFRIES: There are not.

22 VICE CHAIRMAN CASKEY: Thank you, sir. Do you have
23 any objection to us including those in the
24 record?

25 JUDGE JEFFRIES: I do not.

1 (Exhibit Number 31 was marked for identification
2 purposes - (14 pages) Personal Data Questionnaire for
3 The Honorable Bryan S. Jeffries)

4 (Exhibit Number 32 was marked for identification
5 purposes - (5 pages) Sworn Statement of The Honorable
6 Bryan S. Jeffries.)

7 VICE CHAIRMAN CASKEY: All right. Thank you. While
8 staff takes care of that, I noticed that you were
9 followed into the room by someone or someones. I
10 can't see behind you, but I wanted to afford you
11 the opportunity to introduce her to the
12 Commission, if you'd like.

13 JUDGE JEFFRIES: Absolutely. This is my wife,
14 Lakeisha Jeffries. We've been married for 22
15 years. We have two beautiful children, Olivia
16 and Daniel, aged 21 and 18 -- 17, somewhere in
17 the middle.

18 VICE CHAIRMAN CASKEY: Outstanding. Well, thank you
19 for being here, Mr. Jeffries. We know this is
20 quite the ordeal and certainly appreciate your
21 flexibility with timing. I mean, we're slightly
22 behind schedule, I think. All right. The
23 Judicial Merit Selection Commission has
24 thoroughly investigated your qualifications for
25 the bench. Our investigation has focused on the

1 nine evaluative criteria and has included a
2 thorough study of your application materials, a
3 ballot box survey, verification of your
4 compliance with state ethics laws, a search for
5 newspaper and other media articles in which your
6 name appears, a study of any previous screenings
7 and a check for conflicts of economic interest.
8 We've received no affidavits in opposition to
9 your candidacy, and there are no witnesses
10 present to testify. If you would like to make a
11 brief opening statement, we'd be happy to hear
12 from you. Otherwise, I would recognize staff
13 counsel for a series of questions.

14 JUDGE JEFFRIES: I would just say thank you for your
15 time, attention, and consideration. I know it's
16 been a long couple weeks. Thank you all for your
17 time.

18 VICE CHAIRMAN CASKEY: Thank you, sir. Ms. Benson.

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

1 JUDGE JEFFRIES - EXAMINATION BY MS. BENSON:

2 Q. Judge Jeffries, why do you now want to serve as
3 an administrative law judge, and how do you feel
4 that your legal and professional experience thus
5 far will assist you in being an effective judge?

6 A. Well, let me say first, I love my job. I am the
7 Chief Administrative Judge for the City of
8 Columbia. Columbia is the city I grew up in, the
9 city that raised me. So to be the chief
10 administrative judge in Columbia, it means a lot
11 to me just by virtue of the number of cases that
12 come through our court. It's a huge
13 responsibility that I take very seriously. My
14 wife will tell you, I ride hard for the Metro, as
15 I call it, Columbia. But at the same time, I
16 have that same affection for the state of South
17 Carolina. The flagship university here has
18 provided me an undergraduate and graduate
19 professional degree at almost no cost to me. It
20 gave me an opportunity to be a student athlete at
21 the collegiate level for a brief period of time,
22 which was my childhood dream. I met my wife at
23 the University of South Carolina, which was the
24 best thing that ever happened to me. I say all
25 that to say I have a deep affection for our

1 state, and if I could serve our state at the
2 state level as a judge, it would truly be in
3 honor.

4 **Q. Thank you. Judge, are there any areas of the law**
5 **for which you'd need additional preparation in**
6 **order to serve as an Administrative Law Court**
7 **judge, and how would you handle gaining that**
8 **additional experience?**

9 A. I have a very, what I believe to be, unique
10 experience in the law, having been an
11 administrative hearing officer for an agency, the
12 South Carolina Department of Health and Human
13 Services, for ten years. I feel like I have a
14 very good understanding of being an adjudicator,
15 hearing administrative cases. The South Carolina
16 Department of Health and Human Services and the
17 Medicaid program in general obviously encompasses
18 a lot of different areas. I heard a lot of
19 different types of cases as a hearing officer,
20 all under the umbrella of Medicaid. We had
21 disability cases I heard, heard provider
22 payments, nursing home level of care, so it gave
23 me an opportunity to see a lot of different areas
24 of administrative law. Again, I did it for ten
25 years, and during that period, about halfway

1 through, is when I ran for the Administrative Law
2 Court the first time because I felt like I would
3 be uniquely suited to it. I still believe that,
4 and now having gained six years of experience as
5 a judge at the municipal court level, I think
6 that in combination makes me a uniquely qualified
7 candidate. So I'm hoping that you all and the
8 General Assembly feel the same way.

9 **Q. Thank you, judge. Judge, what's your vision for**
10 **the Administrative Law Court, and what changes**
11 **would you advocate and why?**

12 A. My experience with the court, and in speaking to
13 judges up there, it runs as well as most of the
14 courts in our state, if not better. I think our
15 chief judge up there does a great job in
16 distributing cases and ultimately moving cases,
17 so I don't know from the outside, looking in,
18 what major improvements would be needed. I would
19 certainly be proud to be part of the team to push
20 that court forward as we proceed throughout into
21 the next century, the next decade, the next year,
22 whatever, in order to make that court the best it
23 could be.

24 **Q. Thank you, judge. Judge, in what instances is it**
25 **appropriate for the judiciary to work in**

1 cooperation with other branches of government,
2 and in what areas must the judiciary stand apart
3 from the other branches?

4 A. I would say working in conjunction with the other
5 branches of government at all times that don't
6 require any kind of obfuscation of the separation
7 of powers. So as long as that's in place, so
8 long as it's recognized and respected, that's not
9 an issue. In all other areas, I think all
10 agencies and all branches of government should
11 work in concert for the betterment of the people
12 in general.

13 Q. Thank you. Judge Jeffries, the Commission
14 received 194 ballot box surveys regarding you,
15 with 17 having additional comments. Many of
16 those comments were quite positive, saying you
17 were fair, courteous, intelligent, highly
18 qualified, perhaps even overqualified, for this
19 position. Only one of the written comments
20 expressed concerns that you had caved to outside
21 pressure when seeking the position of the
22 municipal court judge. What response would you
23 offer to this concern?

24 A. Could you repeat that last part?

25 Q. That you had caved to outside pressure when

1 **seeking the position of municipal court judge.**

2 A. To be honest, I feel like the positive comments,
3 the praise, make me a lot more uncomfortable just
4 because that's my personality. I'm not certain
5 what the reporter, so to speak, is referring to
6 as far as outside sources. I believe my
7 reputation is one that I'm very independent as a
8 judge on the bench, that I don't do favors, that
9 I recognize every individual that comes before me
10 as someone deserving my utmost respect and
11 attention, and I hope the people that leave my
12 court feel like they got that, and I feel like
13 they do, and I will continue to do that.

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

19 A. I have not.

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

24 A. I have not, and I am not aware of anyone doing
25 that on my behalf.

1 Q. Since submitting your letter of intent to run for
2 this seat, have you contacted any members of the
3 Commission about your candidacy?

4 A. I have not.

5 Q. Do you understand that you are prohibited from
6 seeking a pledge or commitment directly or
7 indirectly until 48 hours after the formal
8 release of the Commission's report, and are you
9 aware of the penalties for violating the pledging
10 rules?

11 A. I absolutely do, and I absolutely am aware of the
12 penalties.

13 Q. Thank you.

14 MS. BENSON: I would note for the record that the
15 Midlands Citizens Committee found Judge Jeffries
16 to be qualified in the evaluative criteria of
17 constitutional qualifications, physical health
18 and mental stability and well qualified in the
19 remaining evaluative criteria of ethical fitness,
20 professional and academic ability, character,
21 reputation, experience and judicial temperament.
22 The Committee noted: well qualified, no comment
23 necessary. I would just note for the record that
24 any concerns raised during the investigation
25 regarding the candidate were incorporated into

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

3 VICE CHAIRMAN CASKEY: Thank you, ma'am. Do members
4 of the Commission have any comments or questions
5 for Judge Jeffries?

6 JUDGE JEFFRIES - EXAMINATION BY VICE CHAIRMAN CASKEY:

7 Q. Judge, while the members may be thinking, or not,
8 I don't know, but we'll give them that
9 opportunity, I wanted to ask you about one
10 particular aspect of your career in which you
11 were a contract hearing officer for the
12 Department of Health and Human Services. Can you
13 tell me a little bit about that work? I just
14 don't know much about what a contract hearing
15 officer does.

16 A. Absolutely, and it refers back to what I was
17 saying about hearing Medicaid cases. Obviously,
18 our Health and Human Services Department handled
19 all the Medicaid cases, Medicaid appeals from the
20 agency. So when someone would appeal an agency
21 decision on whatever level and whatever area of
22 Medicaid services, then that appeal would come to
23 the Division of Appeals and Hearings. So I did
24 that for ten years hearing several different
25 areas of Medicaid appeals. Again, primarily,

1 they were disability cases, provider payments,
2 nursing home level of care. So it was very
3 instrumental in me considering running for this
4 post, so the fact that you pointed out that
5 experience, I think, is significant.

6 Q. Well, I appreciate you providing some, at least
7 for me, some edification about that because it
8 strikes me that your career has spanned such
9 breadth that I'm drawn to one of the comments
10 here in your ballot box survey which began:
11 Judge Jeffries is overqualified for this
12 position. He is smart, fair, courteous, and
13 would be a fantastic judge, which in my
14 experiences with you is right there where I would
15 say had I written this. Okay.

16 VICE CHAIRMAN CASKEY: Any -- Senator -- Ms. McIver.

17 MS. MCIVER: Thank you very much. Hello, Mr.
18 Jeffries.

19 JUDGE JEFFRIES: Good evening.

20 MS. MCIVER: Good to see you. Mr. Jeffries and I
21 were in the same law school class and when we
22 were in law school I know he certainly enjoyed a
23 very positive reputation, and I have enjoyed
24 watching his career over the years. And I see in
25 the letters of reference here one from a fellow

1 classmate who it appears was on the other side of
2 you on some cases, Josh Kendrick.

3 JUDGE JEFFRIES: That's correct.

4 MS. MCIVER: And one of the things that he talks to is
5 the civility that Mr. Jeffries showed, not only
6 to him, but to others when he had an opportunity
7 to really wield power. I wanted to read just an
8 excerpt from that letter into the record. Mr.
9 Jeffries' overall ethical fitness and character
10 are outstanding. As a prosecutor, he wielded
11 immense power over people's lives. He never
12 abused that power. He possessed the unique
13 ability to be both fair to defendants and
14 steadfast in protecting the people of South
15 Carolina. He was willing to dismiss cases that
16 were weak or did not meet the standards required
17 for prosecution. At the same time, he was also
18 willing to see a case through to the end when it
19 was required. I was treated no better or worse
20 than any other lawyer despite our long
21 friendship. I was also never treated unfairly.
22 So his letter -- most of these letters are fairly
23 short -- his goes on for pages with similar
24 comments throughout the letter as well as some of
25 the other letters that you received. So I just

1 wanted to point that out for the benefit of the
2 Commission and to thank you for offering to serve
3 in this way.

4 JUDGE JEFFRIES: Thank you very much.

5 VICE CHAIRMAN CASKEY: The Senator from Williamsburg.

6 SENATOR SABB: Thank you, Mr. Chairman.

7

8 JUDGE JEFFRIES - EXAMINATION BY SENATOR SABB:

9 Q. I too wanted to just express how impressed I am
10 just on your presentation. I've just got an
11 appreciation for folk. A member of our
12 Commission was sharing with me earlier today how
13 he picks up on the body language and various
14 things that people do. I'm probably not at that
15 individual's level in terms of being able to
16 assess and adopt and all of those other good
17 things, but clearly you have the kind of
18 demeanor, I think, that put people at ease. And
19 I think that's a gift when it comes to being a
20 judge. I am curious about when you mentioned
21 that you got an opportunity at the flagship
22 university through athletics. I'm curious which
23 sport?

24 A. Can we take a poll on a guess?

25 Q. It's got to be basketball or football.

1 A. People typically ask me about basketball just
2 because of my height, but I played football. I'm
3 on the record, and I'm under oath. I was on the
4 team for a couple of years at the University of
5 South Carolina on the football team.

6 Q. Well, that's quite an accomplishment. And I
7 guess today is my storytelling days, but I was a
8 high school All American basketball player, but
9 did not make the team when I went out. That was
10 just unfortunate. There were 40 freshmen that
11 went out for the team. It was the first time the
12 coach said that he recruited from various
13 schools, and all of the people he recruited came.
14 So it was just one of those unlucky things for
15 me, but I was a star in the intramurals.

16 A. As was I. It helps to be 6'6", and at that time
17 probably 320 pounds, distributed it a lot
18 differently than it is now. If nothing else they
19 could throw me out there as a tackling dummy and
20 run drills with me on the scout team, which is
21 what I did, but it was a thrill of a lifetime.
22 It really was.

23 Q. Well, I think being a team player builds
24 character in addition to all kinds of other
25 things. And so I'm just really proud of how

1 you're progressing, and just keep up the good
2 work.

3 A. Thank you.

4 VICE CHAIRMAN CASKEY: The Senator from Lexington.

5 SENATOR GARRETT: Thank you, Mr. Chairman.

6 JUDGE JEFFRIES - EXAMINATION BY SENATOR GARRETT:

7 Q. Thank you for serving or offering to serve. You
8 were a municipal judge, is that right?

9 A. That is correct.

10 Q. I used to be a municipal judge many, many years
11 ago, and I'm interested in how the municipal
12 courts, especially in a large city, how are they
13 faring? In other words, how long is it before if
14 I want a jury trial, a DUI jury trial -- how long
15 would it take me from today to get on your docket
16 for trial?

17 A. Well, the fact that you mentioned the DUI, those
18 are the ones that tend to languish the longest.
19 And I also serve in the city of Cayce, and I'm a
20 West Columbia resident, so I'm familiar with the
21 courts in Cayce, the courts in Lexington and
22 Richland. And in our court in the City of
23 Columbia, a DUI case, it's going to come up for
24 the first hearing, so to speak, within 30 days.
25 And then once it goes on the jury trial roster --

1 and it's improved a lot in the last several
2 years, and I give credit to my predecessor mostly
3 for that because I've only been in the post now
4 for a couple months -- but I would say the
5 turnaround is eight to ten months before those
6 cases come up for trial.

7 **Q. That's still good, though.**

8 A. It could be better.

9 **Q. I mean, we've got some places it takes two years**
10 **before you can get to a jury trial on a DUI case.**

11 A. We've been there.

12 **Q. I'm glad to hear that y'all are moving the**
13 **dockets, so to speak. And that is tremendous**
14 **experience, because you hear all kinds of**
15 **ordinance violations. You hear a little bit of**
16 **everything, so thank you for bringing that**
17 **experience to the Administrative Law Court,**
18 **should you be selected. Thank you very much.**

19 A. Thank you.

20 VICE CHAIRMAN CASKEY: Any other members of the
21 Commission? All right. Seeing none, then,
22 Judge, I will just highlight one thing that I
23 don't know to what degree it stood out to you,
24 but when Ms. Benson was reviewing the comments
25 from the Citizens Committee, they noted no

1 comment necessary, which spoke to your
2 qualifications. That is not an ordinary practice
3 for the Citizens Committee to offer some comment,
4 and so I think you should take that as a positive
5 sign. That all having been said, this brings
6 this portion of the screening process to a
7 conclusion. I certainly appreciate your time,
8 your service to the state so far, and, again,
9 your flexibility with respect to scheduling
10 today. I do need to take this opportunity to
11 remind you, though, that pursuant to the
12 Commission's evaluative criteria, the Commission
13 expects candidates to follow the letter as well
14 as the spirit of the law and that we will view
15 any violation or appearance of impropriety with
16 respect to violations of our ethics laws as very
17 serious and potentially deserving of heavy weight
18 in our screening deliberations. So on that note,
19 as you know, the record will remain open until
20 the release of the final qualifications report,
21 and should the need arise, we would have the
22 ability to call you back for further questioning.
23 Do you understand all that?

24 JUDGE JEFFRIES: I do.

25 VICE CHAIRMAN CASKEY: Thank you, sir. That will

1 conclude this part of the screening process.

2 Thank you again for being here. All our best to
3 you and your wife as you hopefully are able to
4 enjoy a very happy Thanksgiving holiday.

5 JUDGE JEFFRIES: Thank you. Happy Thanksgiving to all
6 of you.

7 VICE CHAIRMAN CASKEY: Thank you.

8 JUDGE JEFFRIES: Thank you.

9 (OFF THE RECORD)

10 VICE CHAIRMAN CASKEY: Good afternoon. Mr. Johnson.

11 If you would, please raise your right hand.

12 SAMUEL L. JOHNSON, being duly sworn, testifies as
13 follows:

14 VICE CHAIRMAN CASKEY: All right, thank you, sir.

15 There should be some documents in front of you, a
16 personal data questionnaire, and a sworn
17 statement that you've submitted, Please take a
18 moment to review those.

19 MR. JOHNSON: All right.

20 VICE CHAIRMAN CASKEY: All right. Are there any
21 updates or changes that need to be made to those?

22 MR. JOHNSON: Those appear to be an accurate
23 reflection.

24 VICE CHAIRMAN CASKEY: Do you have any objection to
25 our including those in the record?

1 MR. JOHNSON: No, sir.

2 (Exhibit Number 33 was marked for identification
3 purposes - (18 pages) Personal Data Questionnaire for
4 Samuel L. Johnson)

5 (Exhibit Number 34 was marked for identification
6 purposes - (7 pages) Sworn Statement of Samuel L.
7 Johnson.)

8

9 VICE CHAIRMAN CASKEY: All right, thank you, sir.

10 This would be the point where we ordinarily would
11 give you a moment to recognize your wife or any
12 other guests who joined you, but we will take it
13 from your comments earlier, she was unable to
14 make it due to her obligations to take care of
15 your kids, which is certainly more entertaining
16 than what we've seen, present company excluded,
17 of course. Certain young children can provide a
18 lot of excitement, more excitement than we
19 ordinarily would have. All right. The Judicial
20 Merit Selection Commission has thoroughly
21 investigated your qualifications for the bench.
22 Our inquiry has focused on the nine evaluative
23 criteria and has included a thorough study of
24 your application materials, a ballot box survey,
25 verification of your compliance with state ethics

1 laws, a search of newspaper and other media
2 articles in which your name appears, a study of
3 any previous screenings and a check for economic
4 conflicts of interest. We've received no
5 affidavits in opposition to your election, and no
6 witnesses are present to testify. If you would
7 like to offer a brief opening statement, we'd be
8 happy to hear from you. Otherwise, I would
9 recognize staff counsel for some questions.

10 MR. JOHNSON: I just want to thank y'all for the
11 service y'all do for the state and doing these
12 interviews. I know it's Thanksgiving, but I know
13 y'all don't get a lot of thanks for doing this,
14 but I do appreciate y'all taking the time and
15 giving me an audience.

16 VICE CHAIRMAN CASKEY: All right. Thank you, sir. At
17 this point, then, I'd recognize Mr. Hinson for
18 some questions.

19 MR. JOHNSON - EXAMINATION BY MR. HINSON:

20 **Q. Good afternoon, Mr. Johnson.**

21 A. Yes, sir.

22 MR. HINSON: Mr. Chairman, I note for the record that
23 based on the testimony contained in the
24 candidate's PDQ, which has been included in the
25 record with the candidate's consent, Mr. Johnson

1 meets the constitutional and or statutory
2 requirements for this position regarding age,
3 residence and years of practice.

4 **Q. Mr. Johnson, why do you now want to serve as an**
5 **administrative law judge, and how do you feel**
6 **your legal and professional experience thus far**
7 **will assist you to be an effective judge?**

8 A. Well, the Administrative Law Court means a lot to
9 me. It's a special place. Part of my background
10 and legal experience has actually been working
11 directly for the court, probably a little over
12 five years. And I think my experience outside
13 the court has also helped prepare me as an
14 administrative law judge. I've worked in several
15 different state agencies, the Department of
16 Employment and Workforce as a hearing officer, as
17 well as my current employment at Office of Motor
18 Vehicle Hearings. I'm also a hearing officer,
19 and it was not in the documents because it really
20 wasn't asked, but actually my first introduction
21 to administrative law in the real world, so to
22 speak, was during my first summer in law school
23 as a law clerk for the Department of Consumer
24 Affairs. And I've just had an interest in
25 administrative law really since my second year in

1 law school, and I think my experience so far has
2 helped prepare me for the types of cases that
3 would come before the court.

4 **Q. Mr. Johnson, are there any areas of the law for**
5 **which you would need additional preparation in**
6 **order to serve as an Administrative Law Court**
7 **judge, and how would you handle that additional**
8 **preparation?**

9 A. No, sir, I don't believe so. I've been exposed
10 to most, if not all, of the types of cases that
11 the Administrative Law Court would handle.

12 **Q. Mr. Johnson, please explain the type of cases**
13 **that you've handled before the Administrative Law**
14 **Court and what experiences specifically qualify**
15 **you for the Administrative Law Court.**

16 A. Well, as I said, I've not appeared directly
17 before the court in presenting a case, but the
18 types of cases that I have rendered judgments in
19 that come before the court would be with the
20 Department of Employment and Workforce and the
21 Office of Motor Vehicle Hearings. They go up on
22 appeal as opposed to a contested case.

23 **Q. Mr. Johnson, what is your vision for the**
24 **Administrative Law Court, and what changes would**
25 **you advocate for and why?**

1 A. Well, one of my visions for the Administrative
2 Law Court is expansion. I mean, I don't know if
3 it's my place to say about pending legislation,
4 but I think handling public service Commission
5 cases would be appropriate for our court. We
6 already deal with cases involving power companies
7 in other respects, specifically income tax cases,
8 and having dealt with CON regulations. I think
9 we're well equipped to handle such cases. I'd
10 like to see -- from a personal level, I'd like to
11 see some more interaction with, specifically
12 England, with the Administrative Law Courts in
13 England, sort of have a dialogue to compare how
14 Administrative Law Court is handled here versus
15 in other countries. And I say England because I
16 know specifically they have one. I wasn't able
17 to visit with a judge when I was over there, but
18 I think it would be valuable just to see the
19 different approaches to administrative law and
20 see if there's any ideas that might be helpful in
21 our area and might be helpful to them. So it
22 would be an interesting dialogue, I believe.

23 **Q. Mr. Johnson, in what instances is it appropriate**
24 **for the judiciary to work in cooperation with**
25 **other branches of government, and in what areas**

1 **must the judiciary stand apart from other**
2 **branches?**

3 A. Well, certainly I think that when it comes to --
4 well, I just gave an example, with legislation
5 that might affect the jurisdiction of the court,
6 I think that it's valuable to have input from the
7 court. I think that's the -- I mean, the General
8 Assembly only has a limited view of the day to
9 day workload at the Administrative Law Court and
10 the types of cases, and I think the
11 Administrative Law Court is in the best position
12 to, or any court, is in the best position to give
13 guidance to the General Assembly as far as
14 matters affecting its jurisdiction. I do think
15 that one way in which the courts should not cross
16 the line over into legislation is in interpreting
17 statutory or regulatory law in a way that
18 contravenes the intent of the General Assembly.
19 I don't believe that courts should be in the
20 position of legislating. Rather, as it's always
21 been, my understanding, the courts are to
22 interpret the law, to say what the law is, to
23 borrow from Marbury vs. Madison. But I certainly
24 believe that it's healthy for the branches to
25 interact, specifically in areas that govern the

1 administration and jurisdiction of the court and
2 the types of cases that the court hears.

3 Q. Mr. Johnson, the Commission received 80 ballot
4 box surveys regarding you with 22 additional
5 comments. The ballot box survey, for example,
6 contained the following positive comments: Mr.
7 Johnson is a great hearing officer who makes
8 sound, logical, legal decisions. He is
9 knowledgeable of the law and is kind hearted and
10 helpful to his team. Another stated that Mr.
11 Johnson is an extremely bright, hardworking
12 attorney. He has tremendous knowledge of
13 administrative law. He is fair and ethical and
14 treats everyone with respect. A few comments
15 raise concerns about your level of experience.
16 How would you address that concern?

17 A. Well, I'm not sure exactly what they're referring
18 to. I remember one specific comment was that the
19 OMBH had good experience with that, but there's a
20 lot more areas than that in the Administrative
21 Law Court. I would point out that the
22 Administrative Law Court, I believe, has about 20
23 different state agencies from which cases are
24 heard. I don't think there are many people who
25 would have more than three, maybe four agencies

1 for which they might have had work experience,
2 certainly not 20. So I don't think it's possible
3 for any candidate to have experience in every
4 area of the Administrative Law Court. I will say
5 that I think in my situation, as I said, I've had
6 experience in working within agencies outside the
7 court itself, the Department of Employment
8 Workforce, Officer Motor Vehicle Hearings, and,
9 again, as a law clerk for the Department of
10 Consumer Affairs. But in addition to that, I
11 think I bring a unique experience of actually
12 having worked for the court itself, which
13 inherently gave me experience working in cases in
14 just about all, if not all, of the agencies that
15 do appear before the court. So that would be my
16 response.

17 **Q. And one other concern raised was regarding your**
18 **temperament. How would you respond to those**
19 **concerns?**

20 A. A bit vague. I'm not really sure what they mean
21 by temperament, but I've always tried to maintain
22 not quite a laid back approach, but certainly not
23 to be overly strict, but I think I conduct my
24 hearings in a straightforward manner. I might be
25 in a little bit of a hurry if we're falling

1 behind in schedule. I might not have time to
2 chat like I try to do when we have a little bit
3 of time, waiting on parties to arrive, for
4 instance, who have informed me that they're going
5 to be arriving a little bit late. But I've tried
6 to be even tempered. I recognize that as a
7 valuable attribute of a judge, and that's
8 something that I've admired in all the judges
9 that I've known that have exercised that
10 temperament.

11 **Q. Thank you for that, Mr. Johnson. Mr. Johnson,**
12 **you note in your PDQ that you were sued in 2005**
13 **that arose out of a car accident.**

14 A. Yes, sir.

15 **Q. Can you explain the nature and disposition of**
16 **that lawsuit?**

17 A. Sure. It was a cold, rainy night in November. I
18 actually had a deductive logic exam the next
19 morning, which I don't know if that contributed
20 to my attention being elsewhere, but the car in
21 front of me had stopped, and I wasn't paying
22 attention. I accidentally ran into the back of
23 them. That has been resolved between the
24 parties. It never went to trial.

25 **Q. Thank you. Mr. Johnson, you indicated in your**

1 **sworn statement that you were a member of Canes**
2 **Mill Club in Sumter, South Carolina.**

3 A. Yes, sir.

4 **Q. Can you describe for the Commission the purpose**
5 **of the club and the nature of its membership?**

6 A. The purpose of the club is to enjoy the outdoors.
7 I have been a member about a year. It's a club
8 that's been around for almost 100 years. It is
9 one that the membership is limited to men, but I
10 will say that half the attendees at our meetings
11 are women. They enjoy it. I know my mom enjoys
12 it. They're not forbidden from using the grounds
13 or anything like that. That's where my sister
14 grew up, fishing out there with my dad. I plan
15 to take my daughter out there when she's a little
16 bit older. The reason why I joined it is because
17 the place has very, very much a sentimental value
18 to me. My grandfather taught me how to fish out
19 there. My dad's a member, and he and I fished
20 out there. My uncle's a member. Actually, my
21 family has celebrated Thanksgiving either day of
22 or day after out there every year since I've been
23 born. My understanding from my mom is that her
24 side of the family has celebrated Thanksgiving
25 out there for probably about 20 years even before

1 I was born, so we're talking about 60 years of
2 tradition. The place means a lot to me.

3 **Q. Thank you.**

4 MR. HINSON: I would note that the Midlands Citizens
5 Committee found Mr. Johnson qualified in the
6 evaluative criteria of constitutional
7 qualifications, physical health and mental
8 stability. The Committee found him well
9 qualified in the evaluative criteria of ethical
10 fitness, professional and academic ability,
11 character, reputation, experience and judicial
12 temperament. The Committee stated in summary
13 that Mr. Johnson is well qualified, especially
14 with his previous experience in the ALC.

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

20 A. No, sir.

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

25 A. No, sir.

1 Q. Since submitting your letter of intent to run for
2 this seat, have you contacted any members of the
3 Commission about your candidacy?

4 A. I'll say no. I will say that I attempted to
5 reach out to Senator Garrett. However, I will
6 quickly add that that was before we received
7 notice that he was now a member of the
8 Commission, and I have not followed up since
9 then. Nothing personal, but I understand the
10 rules.

11 Q. Thank you. Mr. Johnson, do you understand that
12 you are prohibited from seeking a pledge or
13 commitment directly or indirectly until 48 hours
14 after formal release of the Commission's report,
15 and are you aware of the penalties for violating
16 the pledging rules?

17 A. Yes, sir.

18 MR. HINSON: Mr. Chairman, I would note for the record
19 that any concerns raised during the investigation
20 regarding Mr. Johnson were raised in the
21 questioning today. And with that, I have no
22 further questions.

23 VICE CHAIRMAN CASKEY: Thank you, sir. Mr. Safran.

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

25 MR. JOHNSON - EXAMINATION BY MR. SAFRAN:

1 Q. Let me make sure I understand just a couple of
2 things.

3 A. Sure.

4 Q. Basically, when you worked for Judge Anderson and
5 Judge Linski, I think you were basically their
6 law clerk?

7 A. Yes, sir.

8 Q. Okay. And so, I mean, I'm assuming you --

9 A. And Judge Funderburk.

10 Q. And I saw Funderburk, I guess, for a little
11 shorter window?

12 A. Yes, sir.

13 Q. Okay. And I don't know Judge Linski, but I
14 certainly know Judge Anderson and Judge
15 Funderburk. Great guys. And you can't help but
16 learn from Judge Anderson. I mean, it's just
17 almost -- you can't avoid it.

18 A. He's an intellect, to be sure.

19 Q. Let me -- and you worked for Judge Young, who was
20 great. And basically, I think that what I'm just
21 trying to kind of hone in is that you certainly
22 have that staff experience. You basically had
23 the law clerk experience and effectively, you've
24 had some hearing officer experience.

25 A. Yes, sir.

1 Q. All right. And most recent hearing officer
2 experience. I'm pretty, I guess, aware of what
3 you do for motor vehicles. I mean, it's kind of
4 a gamut of things, but, I mean, is that basically
5 full time?

6 A. Oh, it is full time, yes, sir.

7 Q. Right. I mean, but that's what you do. And
8 those appeals from there, do they go to the ALJs?

9

10 A. Yes, sir, they do as appeals.

11 Q. All right. I mean, was there ever any desire to
12 get into private practice at all?

13 A. My heart's always been to public service. That's
14 why, even in law school, my summer jobs were with
15 public agencies, but I will say that,
16 particularly with Judge Young, I learned an
17 appreciation for the private sector. When I
18 first started working for him, for instance, I
19 was -- I hated all these continuances,
20 continuances, continuances, continuances. And I
21 want to move on with the cases, get them moving,
22 you know, and he told me something that's always
23 stuck with me, and that is don't act like a
24 lawyer who's only got one case. And I have --
25 that has stuck with me, and I've tried to be a

1 lot more understanding with the schedules that
2 people in private practice, attorneys in private
3 practice have. And they are balancing a bunch of
4 different schedules in a bunch of different
5 courts across the state. And I try to
6 accommodate that. And I think anybody who's
7 practiced before me would agree that I try to be
8 flexible.

9 Q. Well, I think -- we had Judge Madden in here
10 earlier, and in so many words, he kind of pointed
11 to the fact that when you've got a number of
12 files, you basically have to gravitate generally
13 to the hottest fire, and that's how that works.

14 A. Yes, sir.

15 Q. But, you know, I just wanted to make sure
16 because, again, you know, I think there was
17 another gentleman who was very bright who I think
18 was a clerk over there for many years, may still
19 be there who was here a few years ago. And, you
20 know, I believe in this. If I'm going to ask him
21 the question, I ask you the question.

22 A. Sure.

23 Q. Kind of feed everybody out of the same spoon.
24 You know, it's just at times I get a little
25 concerned about the idea of somebody who

1 effectively has been a career law clerk -- and,
2 granted, yours has been spiced with having the
3 hearing officer background -- you know, stepping
4 into a judgeship. I mean, and just being frank
5 about it.

6 A. Sure.

7 Q. But, I mean, do you see any reason for concern
8 along those lines?

9 A. No, sir. In fact, it might be helpful to give a
10 little bit more detail about what I do as a
11 hearing officer, particularly with OMBH.

12 Q. Sure.

13 A. It's very different, I think. So, first of all,
14 like a judge, I'm making evidentiary rulings.
15 That's a significant difference from being a law
16 clerk. I'm the one having to make the
17 evidentiary decisions. I'm the one ruling on
18 motions. I'm the one issuing orders in my name,
19 writing and issuing orders in my name. But aside
20 from that, a large part of what I do when I'm not
21 doing implied consent cases is I'm doing hearings
22 with largely pro se individuals. And DMV in all
23 but physical disqualification cases appear by way
24 of certified document. What that means is,
25 therefore, that I end up being essentially the

1 lawyer and the judge. And so I have to ask
2 questions. I have to ask all the questions. And
3 it could end up being cross examination. If they
4 provide testimony, I need followup questions, or
5 if they've got their own witnesses, and sometimes
6 they do. And so I'm in the business of having to
7 build the record myself in a lot of the cases
8 that aren't implied consent cases where you've
9 got attorneys involved. And so in that respect,
10 I think there's a little bit more of a litigation
11 role than might otherwise not be really apparent
12 from just being a hearing officer.

13 **Q. Well, so in effect, what you're telling me is**
14 **you're litigating and adjudicating to some**
15 **extent?**

16 **A.** That's the position I'm put in. They are allowed
17 to do that by statute, by the way. It's not that
18 they're shirking their duties.

19 **Q. Don't doubt it. Don't doubt it. I'm sure I'd**
20 **hear otherwise if basically that wasn't the case.**
21 **But thank you very much for offering. I**
22 **appreciate your comments.**

23 VICE CHAIRMAN CASKEY: Mr. Safran, I'll tell you, as
24 somebody against whom Mr. Johnson has made
25 findings and against rulings, it's considerably

1 different than a law clerk has experienced. Any
2 other members of the Commission have questions or
3 comments? Seeing none, then, Mr. Johnson, I'll
4 just add it has been my experience with you that
5 all of the comments, the glowing comments that
6 Mr. Hinson recited to you earlier, were rightly
7 said and shared. I've flagged a few more to
8 share with you, though, because I don't want you
9 to rely on just me for that. Samuel Johnson is
10 professional, nice, extremely intelligent.
11 Opinions are well researched, well reasoned, well
12 written. I find him to be very knowledgeable,
13 fair, thorough, highly intelligent, efficient,
14 professional, well liked. So I certainly would
15 like to say, it's not just me, but other members
16 of the Bar who have appeared with you or before
17 you, who have come to know you by the reputation
18 that you've earned, say very glowing things about
19 you, and that is an affirmation that you should
20 not take lightly.

21 MR. JOHNSON: I don't. Thank you, Mr. Chairman.

22 VICE CHAIRMAN CASKEY: I want to give you one last
23 opportunity, if there's anything else you'd like
24 to say.

25 MR. JOHNSON: Well, at the risk of alienating

1 potential Clemson fans --

2 VICE CHAIRMAN CASKEY: Please do, please do, sir.

3 MR. JOHNSON: I'll just leave it there.

4 VICE CHAIRMAN CASKEY: All right. Let me help you get
5 out of here, Mr. Johnson. This will conclude
6 this portion of our screening process. I do need
7 to take this opportunity to remind you that
8 pursuant to the Commission's evaluative criteria,
9 we take the letter and the spirit of the law very
10 seriously and view violations or the appearance
11 of impropriety as serious and potentially
12 deserving of very heavy weight in our screening
13 deliberations. And on that note, as you know,
14 the record will remain open until the release of
15 our final qualifications report, and should the
16 need arise, we would have the ability to call you
17 back again if that need were to arise. Do you
18 understand all of that?

19 MR. JOHNSON: Yes, sir, I do.

20 VICE CHAIRMAN CASKEY: All right. Thank you very
21 much. I appreciate your service to the state.
22 Thank you for your flexibility in being here. I
23 wish you and your family a very Happy
24 Thanksgiving, and hope to see you again soon.

25 MR. JOHNSON: I wish y'all the same. Thank you.

1 VICE CHAIRMAN: Thank you, sir.

2 (OFF THE RECORD)

3 VICE CHAIRMAN CASKEY: The pending motion of Mr.
4 Safran and seconded by Senator Garrett is for the
5 Commission to go into an Executive Session and
6 receive a legal briefing. All in favor signify
7 by saying aye.

8 (Ayes are heard.)

9 VICE CHAIRMAN CASKEY: All opposed, nay. The ayes
10 have it. We will go into an Executive Session
11 and receive a legal briefing. Thank you.

12 EXECUTIVE SESSION

13 VICE CHAIRMAN CASKEY: All right, good afternoon. We
14 will go back on the record to proceed with the
15 hearings remaining on our calendar for today. We
16 are now coming out of the Executive Session. For
17 the record, while we were in Executive Session,
18 no votes were taken and no decisions were made,
19 which brings us to the screening for Judge
20 Bromell-Holmes. Judge, if you please come to the
21 podium. If you would please raise your right
22 hand.

23 THE HONORABLE JAN B. BROMELL-HOLMES, being duly
24 sworn, testifies as follows:

25 VICE CHAIRMAN CASKEY: Thank you, ma'am. And if you

1 would, please state your full name for the
2 record.

3 JUDGE BROMELL-HOLMES: Jan Bromell-Holmes. If you
4 would please restate your full name.

5 JUDGE BROMELL-HOLMES: Jan Bromell-Holmes.

6 VICE CHAIRMAN CASKEY: All right. Judge, there should
7 be some documents there in front of you, a
8 personal data questionnaire and a sworn
9 statement. If you would please review those.
10 All right. Are there any updates or changes that
11 need to be made to those documents?

12 JUDGE BROMELL-HOLMES: No, there's not.

13 VICE CHAIRMAN CASKEY: Do you have any objection to us
14 entering those into the record?

15 JUDGE BROMELL-HOLMES: I do not.

16 (Exhibit Number 35 was marked for identification
17 purposes - (16 pages) Personal Data Questionnaire for
18 The Honorable Jan B. Bromell-Holmes)

19 (Exhibit Number 36 was marked for identification
20 purposes - (7 pages) Sworn Statement of The Honorable
21 Jan B. Bromell-Holmes.)

22 VICE CHAIRMAN CASKEY: Thank you, ma'am. Let me give
23 staff just a moment to do that. While they're
24 doing that, let me afford you the opportunity to
25 introduce some or any of the guests or none of

1 the guests, however you'd like to proceed, that
2 have joined you here this afternoon.

3 JUDGE BROMELL-HOLMES: My husband Cleveland, my
4 daughter Atira, second row, Dorita Edge, Jennifer
5 Kathleen Hearn, Cindy Hardy, Judy Guyton, George
6 Hearn, Carolyn Hill, Tammy Vandale, Deborah
7 Danford and Jennifer Hills.

8 VICE CHAIRMAN CASKEY: Pass. Thank you and thank you
9 all for being here this afternoon for this
10 important screening. The Judicial Merit
11 Selection Commission has thoroughly investigated
12 your qualifications for the bench. Our inquiry
13 has focused on the nine evaluative criteria and
14 included a thorough study of your application
15 materials, a ballot box survey, verification of
16 your compliance with state ethics laws, a search
17 of newspaper articles in which your name appears,
18 a study of your previous screenings and a check
19 for economic conflicts of interest. We have
20 received two affidavits filed in opposition to
21 your election. Three witnesses are present to
22 testify. Judge, I would ask you to please take a
23 seat so we can hear testimony from the first
24 complainant. And at this point I would invite
25 Michelle Capps to come forward to the podium.

1 Good afternoon.

2 MICHELLE CAPPS, being duly sworn, testifies as
3 follows:

4 VICE CHAIRMAN CASKEY: Thank you, ma'am. And if you
5 would, please state your full name for the
6 record.

7 MS. CAPPS: Michelle Davis Capps.

8 VICE CHAIRMAN CASKEY: All right. Let me recognize
9 staff counsel for some important comments and
10 questions.

11 MS. FOSTER: Hi, Ms. Capps. The Commission has before
12 it your affidavit of complaint, which I
13 respectfully request be made part of the record
14 at this time. For the record, home addresses
15 have been removed. The purpose of today's
16 hearing is for the Commission to review the
17 qualifications of the candidates to determine
18 whether Judge Bromell-Holmes is qualified to be
19 on the Court of Appeals. The Commission is not
20 here to relitigate a case, and they do not have
21 the ability to change the result of the case.
22 Ms. Capps, you've submitted your affidavit which
23 the Commission is reviewing. Is there anything
24 else you wish to testify to specifically
25 regarding Judge Bromell-Holmes ethics, competency

1 or character that has not already been covered in
2 the documents before the Commission?

3 (Exhibit Number 37a was marked for identification
4 purposes - (105 pages) Affidavit of and Part 1 of
5 Michelle Capps Complaint)

6 (Exhibit Number 37b was marked for identification
7 purposes - (212 pages) Part 2 of Michelle Capps
8 Complaint)

9 (Exhibit Number 37c was marked for identification
10 purposes - (165 pages) Parts 3 through 6 of Michelle
11 Capps Complaint)

12 (Exhibit Number 38 was marked for identification
13 purposes - (96 pages) Affidavits and Haley Capps and
14 Emily Capps.)

15 MS. CAPPS: Yes, and I just wanted to clarify
16 something that you stated. Did you say for the
17 Court of Appeals?

18 MS. FOSTER: I did and that's a mistake. I'm sorry.
19 You're correct, Family Court. I'm so sorry.

20 MS. CAPPS: I would like to have a moment to speak and
21 also have a moment to let anyone ask any
22 questions. I would like to have a chance to give
23 y'all -- ask me any questions or to speak if
24 that's fine. Is that okay to start now?

25 MS. FOSTER: Yes.

1 VICE CHAIRMAN CASKEY: Ms. Capps, before you begin
2 though, I just want to note we have received the
3 documentation you provided, which if my
4 calculator is correct is some 476 pages of
5 documents that you filed as well as the complaint
6 itself, and because of the volume of those
7 materials I want to make sure that we've given
8 you ample opportunity to be heard on this matter,
9 but I also have to recognize the constraints that
10 we have with respect to time. We're not going to
11 be here until the wee morning hours.

12 MS. CAPPS: Trust me, I've got Thanksgiving to get
13 ready as much as I'm sure y'all do.

14 VICE CHAIRMAN CASKEY: Fantastic. Let me --

15 MS. CAPPS: I have no desire to -- that's why I did it
16 all in the complaint. There are a few things I'd
17 like to touch on.

18 VICE CHAIRMAN CASKEY: Yes ma'am. And so to that end
19 what I'd like to do is make sure that I have
20 correct, based on the information you submitted,
21 essentially the the thrust of the the nine issues
22 that you've raised, and so I just like to review
23 those with you --

24 MS. CAPPS: Sure.

25 VICE CHAIRMAN CASKEY: -- to make sure we've got --

1 because again it is a lot to organize -- we've
2 got the principal thrust of it, and then I want
3 to afford you an opportunity to provide whatever
4 additional information you would like to.

5 MS. CAPPS: Okay.

6 VICE CHAIRMAN CASKEY: And the first is that you
7 allege during a 2017 rule to show cause Judge
8 Holmes allowed false claims and false testimony
9 and that she was not prompt or efficient.

10 MS. CAPPS: Yes.

11 VICE CHAIRMAN CASKEY: The second instance of alleged
12 misconduct relates to a 2018 rule to show cause
13 hearing where your daughters were made to watch
14 Judge Holmes preside in DJJ cases as a deterrent
15 to resistance to a father's visitation. Does
16 that sound right?

17 MS. CAPPS: Yes.

18 VICE CHAIRMAN CASKEY: The third instance alleges
19 misconduct between May 22nd and 23rd of 2019 in
20 which there was bias in allowing certain evidence
21 to be admitted. Is that right?

22 MS. CAPPS: I'm not exactly certain which one that
23 you're speaking of. Are you talking about the
24 hearing on 2014 -- on December 14th, 2018?

25 VICE CHAIRMAN CASKEY: I'm referring to May 22nd and

1 May 23rd of 2019.

2 MS. CAPPS: Okay. And the thing I guess that I'm a
3 little confused with is I know that you are being
4 very concise --

5 VICE CHAIRMAN CASKEY: Please tell my wife that.

6 MS. CAPPS: -- and that you're being very concise in,
7 you know, narrowing it down to maybe the overall,
8 the global thing, but there's multiple things
9 that are cited under each one, and I just -- you
10 know, they were important as well.

11 VICE CHAIRMAN CASKEY: Yes, ma'am. I'm going give you
12 plenty opportunity to talk about those.

13 MS. CAPPS: Okay. Actually, I don't need to do all
14 that.

15 VICE CHAIRMAN CASKEY: The challenge that we are faced
16 with as a Commission is that we are not a
17 judicial body that gets to step in and say we
18 should have made a different decision in any way.

19 MS. CAPPS: I know. I'm not after that.

20 VICE CHAIRMAN CASKEY: And so what what I want to do
21 is make sure that we've thoroughly received the
22 information that you want to provide to us to
23 help arrive at the decisions we do get to make.
24 And to that end we've tried to identify those
25 moments. And I'm going to -- after I go through

1 and get to the bottom of the list, give you an
2 opportunity to go back to the top so that we're
3 not confused. One of the challenges in an
4 extended domestic litigation especially is that
5 it's hard sometimes to follow what has happened
6 if you're not intimately involved in those
7 proceedings. And so to that end that's why I've
8 tried to organize these these thoughts because I
9 don't want anything to get lost. The fourth
10 instance of alleged misconduct was July 14, 2019
11 where you assert there were violations of canons
12 one, two and three, but there's no explanation of
13 Judge Holmes' violation of those cannons in
14 relation to the July 14th hearing.

15 MS. CAPPs: Is that June, 14th 2019?

16 VICE CHAIRMAN CASKEY: My notes say July 2019, July
17 14, 2019.

18 MS. CAPPs: Mine has June 14th, and I have exhibit --
19 well I'll go through afterwards.

20 VICE CHAIRMAN CASKEY: All right. The fifth instance
21 occurred September 25th, 2020, and it relates to
22 a statement to recreate the record. A sixth
23 instance occurred based on a motion to compel
24 dated March 9th, 2020 in which you allege
25 misconduct and bias based on not requiring an

1 exhusband to file a financial declaration. Do I
2 have that right?

3 MS. CAPPS: That's one of the things,

4 VICE CHAIRMAN CASKEY: Okay. I have that as number
5 six on our list.

6 MS. CAPPS: Okay.

7 VICE CHAIRMAN CASKEY: Does that sound right?

8 MS. CAPPS: I didn't number them, so that that's okay,
9 but that did occur on that date.

10 VICE CHAIRMAN CASKEY: Okay. The seventh instance was
11 alleged to have occurred June 22nd, 2020 in an ex
12 parte order. You alleged that that was improper
13 because Judge Holmes did not satisfy requirements
14 necessary to issue an ex parte order.

15 MS. CAPPS: Yes, that's correct.

16 VICE CHAIRMAN CASKEY: The eighth instance related to
17 a second temporary hearing that was continued on
18 August 12th, 2020. You allege canon violations
19 because Judge Holmes did not cite good and
20 sufficient legal cause for the continuance, and
21 you also alleged collusion. Is that right?

22 MS. CAPPS: That is.

23 VICE CHAIRMAN CASKEY: And the ninth instance of
24 alleged misconduct occurred in the second legal
25 action brought against ex-husband for additional

1 support for daughter's tuition. You would
2 disagree with Judge Holmes' ability to preside
3 over the case due to an ongoing appeal arising
4 from a ruling in the initial divorce proceedings.
5 Do I have that right?

6 MS. CAPPs: It didn't have to do with the initial
7 divorce proceedings.

8 VICE CHAIRMAN CASKEY: Okay.

9 MS. CAPPs: It was just a rule to show cause is what
10 the appeal was.

11 VICE CHAIRMAN CASKEY: All right. Okay. Are there
12 any other separate instances we can go back and
13 put some meat on those bones? Are there other
14 instances that we need to frame here for a
15 discussion because again, our inquiry is limited
16 to an assessment of the candidates fitness for
17 judicial service based on the evaluative
18 criteria. And so if at any point -- I certainly
19 don't intend to be rude or short -- but I may
20 intervene to help us steer back to the
21 information relative to our purposes here. Is
22 that fair?

23 MS. CAPPs: Of course.

24 VICE CHAIRMAN CASKEY: Okay. That all being said,
25 let's start with the first one, the 2017 rule to

1 show cause. What would you have to tell us
2 beyond the 500-ish pages of information we've
3 got?

4 MS. CAPPS: Well, to be honest, I don't have much. I
5 mean, I felt like I put everything, and I put it
6 purposely in the document. I felt that it was as
7 clear as I could get it. I provided all of the
8 transcript so that you could see exactly -- or as
9 much as the transcripts were accurate -- what
10 transcribed. You could see the exhibits, and so
11 I felt like I have completed that, and I have
12 provided that to the Committee.

13 VICE CHAIRMAN CASKEY: And certainly appreciate that.
14 I don't know who deserves the credit for the
15 organization and the various PDF files whether
16 that's you or staff, either one of you, did a
17 great job or all of you, whoever did that. It is
18 organized such that we have the ability to access
19 it here, and I'm grateful for whomever did that.
20 Okay. If there's nothing on that first instance,
21 let's move to the second.

22 MS. CAPPS: If there's one thing that I could say.
23 And if when you go back and you review anything
24 that you go to review, if there are some things
25 that I could possibly say maybe take a glance at

1 this one maybe take a glance at that, I would
2 like to say for the 2017 rule to show cause I
3 would encourage you to look at my exhibit number
4 two. I just felt that the evidence was very
5 clear. It was just overwhelming to sit in a
6 courtroom and have someone present evidence where
7 the truth was told about something, and then they
8 sit on the stand and right after they've read the
9 first sentence or played the recording where it
10 stated one thing, they right there on the stand
11 were stating the other. And it's -- it's a very
12 unsettling and bizarre feeling, and I believe
13 that I was able to show that very clearly in the
14 evidence I submitted. So I encourage you to
15 please glance at that.

16 VICE CHAIRMAN CASKEY: All right. Thank you, ma'am.
17 I've noted that. The second instance if we ready
18 to move on to that one, and this is the 2018 rule
19 to show cause hearing regarding the daughters
20 being compelled as you alleged to watch DJJ
21 hearings.

22 MS. CAPPS: Yes. You know, I don't want to take away
23 from their moment and this. However, never could
24 I imagine a situation where it's within judicial
25 or legal bounds to -- prior to anyone -- like I

1 never had even taken the stand. I hadn't
2 testified yet. She had never heard my voice. I
3 never testified because of some of the issues
4 that I claimed in the 2017 rule to show cause.
5 She'd never heard my voice and to then -- and you
6 can see this is the other thing that I am going
7 to implore you. Defendant's -- my exhibit
8 number 11, please, please, please go through,
9 look at every single piece of evidence that I
10 submitted because that is what she cites, that is
11 the only thing that she was given besides someone
12 who was not telling the truth on this stand. And
13 please look at that. It doesn't add up, it
14 doesn't make sense and this was outside of her
15 jurisdiction to do it anyway.

16 VICE CHAIRMAN CASKEY: And exhibit 11 refers to the --

17 MS. CAPPS: My exhibit 11.

18 VICE CHAIRMAN CASKEY: I'm sorry. Let's just make sure

19 --

20 MS. CAPPS: Okay.

21 VICE CHAIRMAN CASKEY: -- the lady just to your left
22 is the court reporter, and as it turns out in
23 proceedings like this we have to take turns and
24 we have a very nice lady who will make sure that
25 we do take turns because the record has to be

1 very clear as to all of our our proceedings here.
2 So just so I'm clear, your exhibit number 11,
3 that refers to the 2018 rule to show cause?

4 MS. CAPPS: Yes, and in that, my exhibit 11, it has --
5 from the 2018 rule to show cause it has
6 defendant's exhibits number 1 through 30, and
7 then it has plaintiff's exhibits number 1 through
8 7, which were introduced during the cross
9 examinations. And just as a small note,
10 plaintiff's exhibit number 4 of all the social
11 media posts are made -- the purpose of that was
12 because those social media posts when he was
13 doing whatever he was doing were on the girls
14 times when he never showed up to be with them,
15 and so that's the only point of relevance for
16 that.

17 VICE CHAIRMAN CASKEY: Okay. Thank you. The third
18 instance is the May 2019, May 22nd, May 23rd,
19 2019 in which you allege bias in allowing certain
20 evidence to be admitted. Is there a particular
21 exhibit you'd like us to turn to with respect to
22 that allocation?

23 MS. CAPPS: Let's see here. Well this is interesting,
24 and I will say this. In exhibit number -- my
25 exhibit, I'm sorry, number 14 it states -- page

1 159 line 18 through page 160 line 9 -- and to me
2 what's interesting is the issue of the
3 transcripts, especially since I'm someone who had
4 a three-day hearing, two days of the transcripts
5 were deleted. Another time I've had issues where
6 we knew that things were not accurately
7 reflected. We even went so far to ask for the
8 recording, we were denied. I believe that this
9 is in part as to why the first two days of the
10 hearing were deleted or missing.

11 VICE CHAIRMAN CASKEY: And so as to that third point,
12 you're citing us to your exhibit 14?

13 MS. CAPPS: Exhibit 14, yes.

14 MS. CAPPS: The fourth instance on July 14, 2019 where
15 you claim violations, but don't cite an
16 explanation of the violation on the ruling. It's
17 June. June, not July

18 MS. CAPPS: Yes, June

19 VICE CHAIRMAN CASKEY: Sometimes I read from Julio,
20 the month Julio, July. My fault.

21 MS. CAPPS: Actually, I did -- and I'm sorry if you
22 don't have that, I can definitely give it to you
23 -- my exhibit number 16 is what I used to back up
24 my claims. It includes paragraph 7 and paragraph
25 14 along with plaintiff's exhibit number 21 and

1 plaintiff's exhibit number 22. And paragraph 7,
2 you know, I cite how there's more than enough
3 evidence on the record to prove that this
4 shouldn't have been an issue. I cite a case of
5 South Carolina law, and number -- paragraph 14 I
6 know I cite how Judge Holmes acknowledged that
7 there's a great deal of disparity in our income.
8 How does she know that? She's refused to allow
9 house financials to be entered into the evidence
10 or viewed throughout any hearing or any case that
11 ever went on, but then she stated that I had
12 sufficient income to satisfy a portion of house
13 fees and costs. And \$40,000 is more than a
14 portion, and in plaintiff's exhibit number 21 and
15 plaintiff's exhibit number 22 -- provide more
16 than enough evidence that I did not have that
17 said enough income to satisfy that 40,000. So
18 that's how I felt that I backed those claims up

19 VICE CHAIRMAN CASKEY: And that's arising out of the
20 June 2019 hearing?

21 MS. CAPP: Yes, the June 14th, 2019.

22 VICE CHAIRMAN CASKEY: Okay. Turning then if we can
23 to the fifth instance which is the September
24 25th, 2020 statement to recreate the record.
25 That is as I understand it a generalized

1 objection to the fact that she's created, based
2 on her notes, a recreation of the transcript. Is
3 that --

4 MS. CAPPS: That is in part, yes.

5 VICE CHAIRMAN CASKEY: Okay. Anything else you'd like
6 to add to that?

7 MS. CAPPS: Well, let me see here if there's anything.
8 I just felt that overall -- you know, if you look
9 in my complaint -- if you look in my complaint,
10 you're going to see what I cited, and I'm not
11 going to read things verbatim here, but I was
12 very detailed and very clear, and I hope you take
13 the time to look at that because I felt that it
14 was very important.

15 MS. CAPPS: Yes, ma'am. And we absolutely will.
16 Again, I'll say this now and probably several
17 more times. Very much appreciate the diligence
18 with which you have submitted all of this. The
19 organizational effort is not lost on me. And I
20 won't speak for others, but this is considerable
21 amount of effort, and I appreciate that.

22 MS. CAPPS: I appreciate you saying that because it
23 definitely was.

24 VICE CHAIRMAN CASKEY: Let's turn then to the sixth
25 instance in which you allege the judge exhibited

1 bias and showed a lack of ethics by not requiring
2 husband to file a financial declaration.

3 MS. CAPPS: Yes.

4 VICE CHAIRMAN CASKEY: Anything in particular to add
5 to that other than what you've already referenced
6 in the record?

7 MS. CAPPS: You know, abiding by the rules of the
8 court in complying with rule 20 SCFCR, you know,
9 that's basic. And throughout every single
10 hearing and motion -- this was a motion to compel
11 hearing to get him to turn over discovery into
12 getting to do a financial declaration. Again it
13 didn't happen, and it's one of these situations
14 where you look at it overall. You know, what it
15 is it said, you know. One time is an instance,
16 two times is the coincidence, three times is the
17 pattern. I feel like I have worked very hard
18 here to show a lot of different patterns, and his
19 not being forced or requested or whatever to
20 comply with state law isn't okay. And that's
21 just one very small thing.

22 VICE CHAIRMAN CASKEY: Sure. Okay. Let's look then
23 at the seventh instance which is the June 22nd,
24 2020 ex parte order. You allege Judge Holmes
25 didn't satisfy the requirements necessary to

1 issue the ex parte order.

2 MS. CAPPS: Correct.

3 VICE CHAIRMAN CASKEY: Anything to add to that one?

4 MS. CAPPS: Well, I was never served the ex parte
5 order. I think that's kind of crazy.

6 VICE CHAIRMAN CASKEY: Let me interrupt you to ask,
7 were you represented by counsel?

8 MS. CAPPS: Yes, I was.

9 VICE CHAIRMAN CASKEY: Okay.

10 MS. CAPPS: And it was very, very known. We were in
11 the midst of horrific, and so, yes, I was.

12 VICE CHAIRMAN CASKEY: So your testimony to us is that
13 with respect to the June 22nd, 2020 ex parte
14 order, neither you nor your attorney were served
15 with that.

16 MS. CAPPS: My testimony is that I was never served
17 and that it was hand delivered to my attorney and
18 then emailed to my attorney. And, you know, I
19 thought it was wonky.

20 VICE CHAIRMAN CASKEY: So let me just make sure I'm
21 following what you've said. Your attorney, who
22 represented you at that point, received the
23 documents through a wonky mechanism to your
24 attorney.

25 MS. CAPPS: They hand delivered them, yes.

1 VICE CHAIRMAN CASKEY: Okay. Do you happen to recall
2 the time frame between the time the order was
3 signed and the time that the order was delivered
4 to your attorney?

5 MS. CAPPS: I probably could get -- find that
6 information with you. I have everything back
7 there.

8 VICE CHAIRMAN CASKEY: Let me ask it in perhaps a
9 broader sense. Are we talking about a matter of
10 a couple days, or is this like weeks later?

11 MS. CAPPS: It was not weeks later, but probably what
12 I think is the greater aspect of this situation
13 was the ex parte conversation that went on prior
14 to this ex parte order being signed. On June
15 22nd my attorney, Jalon Derek, was at the
16 courthouse and happened to be waiting to speak to
17 Judge Holmes regarding a separate case and not
18 involving me when Anita Floyd exited her
19 chambers. Even though they should have notified
20 her prior to their ex parte communication,
21 neither informed Jalon of the ex parte order that
22 Judge Holmes had just signed. And, you know, it
23 definitely appears to me to show an appearance of
24 impropriety, bias and possible collusion and
25 more.

1 VICE CHAIRMAN CASKEY: It seems to me that you were
2 reading a part of that. Can you tell me what
3 exhibit that is that you're reading?

4 MS. CAPPS: This is in my exhibit 19.

5 VICE CHAIRMAN CASKEY: Got it, exhibit 19. Okay. The
6 eighth instance of alleged misconduct occurred
7 when there was a second temporary hearing that
8 was continued on August 12th, 2020 if my notes
9 are right.

10 MS. CAPPS: Yes.

11 VICE CHAIRMAN CASKEY: You alleged that the judge did
12 not have good and sufficient legal cause for the
13 continuance and alleges collusion. As you say
14 earlier, instance, coincidence, pattern. The
15 pattern you're alleging here is that there is
16 continued communication ex parte or collusion not
17 involving you on the beneficial interest side of
18 it. Is that right?

19 MS. CAPPS: And certainly not involving my attorney.

20 VICE CHAIRMAN CASKEY: Okay. Is there --

21 MS. CAPPS: And this is exhibit -- my exhibit number
22 20.

23 VICE CHAIRMAN CASKEY: That was what I was about to
24 ask you. Okay. All right. Bringing us to the
25 ninth instance of misconduct you allege. You

1 disagree with Judge Holmes' ability to preside
2 over the case due to the ongoing appeal. Is that
3 right?

4 MS. CAPPS: That was one of the reasons, yes.

5 VICE CHAIRMAN CASKEY: Okay. What are the other
6 reasons?

7 MS. CAPPS: Well, you know, again, one of the specific
8 things I felt I need to say with this is that one
9 of my claims in the appeal was how she never
10 required how to abide by the rules of the court
11 and comply with rule 20 SC, you know, blah, blah.
12 blah. This also was an aspect in this case as
13 well, and so, you know, having to be in front of
14 a judge and requesting and being denied again
15 things that you're already appealing -- you know,
16 she couldn't very well go against herself, and
17 it's just an extreme appearance of impropriety.

18 VICE CHAIRMAN CASKEY: Yes, ma'am.

19 MS. CAPPS: And, you know, at this point in time it
20 just felt like it was for sport.

21 VICE CHAIRMAN CASKEY: Sure. Let me then sort of
22 bring us back if we've connected all the
23 information you've submitted to each of the
24 instances, and you've had a brief -- albeit a
25 brief chance, and I appreciate that this is years

1 of your life, and so that is not lost on me. But
2 insofar as we've had a chance to run through
3 these in summary, bearing in mind that our
4 responsibility as a Commission is to evaluate the
5 candidate along the lines of the evaluative
6 criteria, is there anything you want to offer
7 broadly to help us assess the candidacy?

8 MS. CAPPS: Well, there are --

9 VICE CHAIRMAN CASKEY: This is the time for closing
10 argument.

11 MS. CAPPS: Okay. That's what I'm thinking it is. I
12 feel that -- let me get my things here -- you
13 know, I know that the JMSC -- I tried very hard
14 and I hope that it was evident, to focus on your
15 nine evaluative criteria and the judicial canons
16 and to as much as I could do it keep emotion out
17 of it to stick straight to the facts and and keep
18 it from there. I know that your job is to
19 determine whether or not a candidate meets
20 expectations or does not meet expectations, but
21 what I through these years have determined is how
22 in the world can she meet expectations when I
23 have proven through her own words in court
24 transcripts and exhibits that at a minimum -- and
25 I do mean a bare minimum because if you've read

1 my complaint you know how things were grouped
2 together -- it wasn't a minimum, you know, every
3 single thing -- instance, but at a minimum she
4 has overall violated the judicial canon one 12
5 times, the judicial canon two 11 times, the
6 judicial canon three 13 times. That is a minimum
7 of 36 judicial canon violations. How in the
8 world could she possibly meet expectations?

9 VICE CHAIRMAN CASKEY: Well we're going to give her a
10 chance to tell us that --

11 MS. CAPPS: Absolutely.

12 VICE CHAIRMAN CASKEY: Is there anything else you'd
13 like to offer the Commission?

14 MS. CAPPS: Well, you know, I spent a lot of time over
15 the past few years reading transcripts of this
16 hearing, of times when she came up, and, you
17 know, I would always see her cite, you know, it's
18 all about the children. Well, I feel today and
19 before I have proven that it is not. Just
20 because there have been occasions where she did
21 the right thing, where she kept the judicial
22 canons, did not participate in judicial
23 misconduct, that in no way of her doing the bare
24 minimum does it diminish where she does violate
25 judicial canons and does participate in

1 misconduct. And let's see. I ask that you keep
2 her to the same standards that you've kept
3 others, including Charlie Holmes. I mean,
4 Charlie Andrews, with her appearance of
5 impropriety and lastly I will close with this.
6 When people are allowed to get away with blatant
7 horrible behavior and misconduct, it emboldens
8 them and it makes every aspect of the people they
9 come in contact with or their victims lives so
10 much harder. And so I hope that you all greatly
11 take the responsibility of which you've chosen to
12 sit on this Commission because it truly affects
13 generations of families, and I know that it will
14 affect generations of mine.

15 VICE CHAIRMAN CASKEY: Yes, ma'am. Thank you very
16 much. Thank you for your time. Thank you for
17 making the effort to be here. We certainly
18 appreciate your input.

19 MS. CAPPS: Thank you.

20 VICE CHAIRMAN CASKEY: Yes, ma'am. Senator Sabb.

21 SENATOR SABB: Are we allowed to ask a couple of
22 questions.

23 VICE CHAIRMAN CASKEY: Oh, yeah. Ms. Capps, if you'd
24 be willing to take a couple of questions, Senator
25 Sabb is recognized.

1 SENATOR SABB: Thank you, Mr. Chairman, and thank you,
2 Ms. Capps. And I won't belinger it. I just have
3 a couple of questions. I noted in some of your
4 writings that your lawyer sent a letter asserting
5 that the other lawyer was shopping for judges.

6 MS. CAPPS: Yes.

7 SENATOR SABB: And I note that you mentioned Judge
8 Buchanan, and Judge Norton and Judge Holmes. Is
9 that right? Were they the three?

10 MS. CAPPS: And the three in what? I'm sorry.

11 SENATOR SABB: So the three judges that were mentioned
12 in your paperwork was Judge Norton, and of course
13 one of the exhibits that you submitted was an
14 order signed by Judge Norton.

15 MS. CAPPS: Oh, yes.

16 SENATOR SABB: And also Judge Buchanan.

17 MS. CAPPS: Yes.

18 SENATOR SABB: And then Judge Holmes.

19 MS. CAPPS: Yes.

20 SENATOR SABB: And in most of the instances I noticed
21 the basis of the hearing were rules to show
22 cause.

23 MS. CAPPS: Yes.

24 SENATOR SABB: Now, those rules to show cause wasn't
25 submitted by any of the judges. They were

1 submitted and the matter brought before the Court

2 --

3 MS. CAPPS: Exactly.

4 SENATOR SABB: -- because of your --

5 MS. CAPPS: Situation with my ex-husband.

6 SENATOR SABB: -- your situation with your ex-husband.

7 Okay. I think that's all I have right now. Thank
8 you Mr. Chairman.

9 VICE CHAIRMAN CAPPS: Thank you, sir. Did any other
10 members of the Commission have a question you
11 want to ask. Okay. Thank you, Ms. Capps. We
12 certainly appreciate. I have in my notes that we
13 have two additional complainants, Emily and Haley
14 Capps, who are sitting just in front of the
15 berets there. My understanding is that the two
16 of you have alleged essentially the same charge
17 or allegation. I'm going to give both of you an
18 opportunity to be heard. We'd like to hear your
19 perspectives on this. I don't know who wants to
20 go first I can make that decision if it would
21 make life at home easier, but if you have a
22 preference. Yes, ma'am. Then if you would,
23 please come to the front.

24 MS. EMILY CAPPS: I am going to be speaking for both
25 me and my sister.

1 VICE CHAIRMAN CASKEY: All right. Pause right there.

2 If you would, please raise your right hand.

3 EMILY CAPPS, being duly sworn, testifies as

4 follows:

5 VICE CHAIRMAN CASKEY: All right. If you would,

6 please state your full name for the record.

7 MS. EMILY CAPPS: Yeah. I want to make sure I'm like

8 close. Okay there you go. I'm Emily Heart

9 Capps.

10 VICE CHAIRMAN CASKEY: All right. And Ms. Capps, you

11 were saying something just before you were sworn.

12 If you'd like to repeat that.

13 MS. EMILY CAPPS: Oh, yeah. I'm gonna be speaking for

14 both me and my sister, just on her behalf as

15 well.

16 VICE CHAIRMAN CASKEY: Fantastic. My understanding is

17 that your allegations relate to the 2018 rule to

18 show cause hearing in which the allegation is

19 that Judge Holmes compelled you to be in Family

20 Court to witness DJJ cases being dealt with and

21 that she instructed a solicitor or prosecutor to

22 address you, explain her job, the solicitor's

23 job, as as a prosecutor and some various offenses

24 that you could be charged with and that you

25 stated this was very emotionally abusive and very

1 traumatic to the both of you. Is that in large
2 part what you're alleging?

3 MS. EMILY CAPPS: Yes, it is, definitely. I prepared
4 a statement as well just to talk about it.

5 VICE CHAIRMAN CASKEY: Okay. Before we kick off on
6 that -- and I want to hear from you. This is a
7 whole part of what the government is supposed to
8 do is to hear out your concerns. As I said to
9 Ms. Capps, we don't have forever tonight. So I
10 didn't see exactly how many pages you have there.
11 It looks like two.

12 MS. EMILY CAPPS: It's like one and a half, and I did
13 big font too.

14 VICE CHAIRMAN CASKEY: All right.

15 MS. EMILY CAPPS: So we're good.

16 VICE CHAIRMAN CASKEY: A woman after my own heart with
17 the big font. You're welcome to share with us
18 whatever you like. Thank you.

19 MS. EMILY CAPPS: Thank y'all. First of all, I would
20 like to thank you all for being here. I
21 understand that this is the last hearing, and I
22 appreciate you all's time and dedication to
23 hearing our concerns. First off, I want to tell
24 you all a little bit about myself. I am
25 currently a senior at Clemson University. I am

1 majoring in psychology, and I have a double minor
2 in business administration and social sciences,
3 and I am currently in the process of applying to
4 graduate schools to pursue a career in speech
5 language pathology. I've always tried to live my
6 life as a model citizen and hold myself to the
7 highest standards. Back in high school I was
8 always the perfect student. I never got in
9 trouble. I always made straight As. I was a
10 member of several different honor societies, and
11 my biggest offense was the occasional tardy. Yet
12 on December 14th, 2018 I was pulled out of school
13 without being told why. I was driven to the
14 courthouse and forced to sit through two juvenile
15 cases where kids my age were handcuffed and
16 shackled, and I watched them get sentenced. I
17 can still hear the sounds of a girl throwing up
18 in the room next door after her sentencing,
19 gasping for air as she realized how her life was
20 going to be affected. I was able to see my
21 mother in the courtroom, but my sister and I were
22 forced to sit on our own directly behind the
23 juveniles. After the second case, Judge Holmes
24 directly addressed both my sister and I and
25 threatened us that if we kept behaving the way

1 that we were that would be us. I still remember
2 the sheer confusion and fear that I had that day,
3 and I didn't stop crying for several hours after
4 the incident. What had I done to deserve being
5 treated like a criminal, especially when I know
6 that I live my life in a way that doesn't warrant
7 anything of the sort. It was a clear abuse of
8 power and an inappropriate attempt to scare and
9 humiliate us, not to mention it was deeply
10 traumatizing. That day still haunts me, and the
11 psychological impact has stayed with me for
12 years. I knew that my dad hadn't come to pick me
13 up for over two years, and I knew that I was
14 contacting him and asking to see him and he
15 refused. This is my reality, and this is what I
16 knew to be true. Yet there I was sitting in the
17 courtroom as she told a completely fabricated lie
18 about my reality and refused to let me use my
19 voice. Her actions emboldened my father and
20 helped facilitate his continuous emotional and
21 financial abuse towards me and my family.
22 Justice, fairness and trust in the judicial
23 system are fundamental pillars of our society and
24 the foundation of our country. The judiciary is
25 meant to uphold these principles, ensuring that

1 every individual is treated with respect and
2 dignity. Without fairness, the system loses
3 credibility. Without trust, it loses its ability
4 to function as a force for good in people's
5 lives. When judges act in ways that intimidate
6 or abuse their power, it erodes the confidence
7 that we place in this critical institution. The
8 judicial system must serve as a beacon of
9 integrity where the pursuit of justice is
10 unwavering. It is essential that those in
11 positions of authority are held accountable to
12 maintain the trust that citizens place in the
13 system, for without it the very foundation of our
14 democracy is at risk. Due to that horrifying
15 experience, I was not able to eat or sleep for
16 days. For someone to be able to pull me out of a
17 safe place at my school, not ask me any questions
18 or allow me to speak on my own behalf, but to
19 throw lies directly in my face threatening my
20 safety and my future that I had been working so
21 hard towards was truly traumatizing to my core
22 and has stayed with me to this day. This entire
23 experience has shaken my faith in the judicial
24 system, and I'm here today to beg you all to
25 consider our claim to not allow Judge Holmes to

1 continue another six-year term.

2 VICE CHAIRMAN CASKEY: Very well said. Thank you for
3 sharing that with the Commission. I need to ask
4 you if you have any objection to our entering
5 your complaint into the record?

6 MS. EMILY CAPPS: No.

7 VICE CHAIRMAN CASKEY: I forgot to ask Ms. Capps that
8 earlier. I'm going to ask her briefly to come
9 back up. And we'll do that, but first before we
10 do -- oh, we did that. See, I have a whole --
11 all these ladies you see behind me are lawyers
12 who are trying to keep us straight.

13 MS. EMILY CAPPS: Yeah, it's that time of the day,
14 too. So, yeah.

15 VICE CHAIRMAN CASKEY: I got a note. So I don't have
16 to go back to that one. So, we've done that.
17 All right. I apologize for the levity. This is
18 obviously a very serious matter, and I don't want
19 to distract from that, At this point I want to
20 check and see if any members of the Commission
21 have any questions for Ms. Capps. Again Senator
22 Garrett.

23 SENATOR GARRETT: Excuse me. How old were you when
24 you were sitting in that courtroom?

25 MS. EMILY CAPPS: I was 15 years old.

1 SENATOR GARRETT: Had you ever had any disciplinary at
2 school or anything like that?

3 MS. EMILY CAPPS: Never. The only action I ever had I
4 got -- I was late to class occasionally, but I
5 could blame that on traffic or just waking up
6 late.

7 SENATOR GARRETT: And then what about your sister.
8 How old was your sister?

9 MS. EMILY CAPPS: My sister was 17.

10 SENATOR GARRETT: And do you know whether or not she
11 had had any kind of prior --

12 MS. EMILY CAPPS: No, she --

13 SENATOR GARRETT: -- criminal charge or activity?

14 MS. EMILY CAPPS: No, sir. We both were very straight
15 A, honor societies. That's just the way we were
16 raised.

17 SENATOR GARRETT: Thank you.

18 VICE CHAIRMAN CASKEY: Senator from Williamsburg.

19 SENATOR SABB: Let me just follow up on that a little
20 bit. Somewhere I read that you and your sister
21 were kind of not -- you kind of knew what was
22 going on, but not so much in terms of when your
23 parents were having hearings and those kind of
24 things. Did I understand that correctly?

25 MS. EMILY CAPPS: Yeah, I had no idea that my parents

1 were even in court, and, yeah, I had no idea what
2 was going on.

3 SENATOR SABB: You know, when I listen to young folks
4 like you, I'm just so proud of y'all --

5 MS. EMILY CAPPS: Thank you.

6 SENATOR SABB: -- and all that you experience and how
7 you stay focused, and I just want to encourage
8 you to continue to do that. Now, the hearing
9 that we're talking about right now, was that in
10 2018, did you say?

11 MS. EMILY CAPPS: Yes sir. It was December 14th,
12 2018.

13 SENATOR SABB: All right. And are you familiar with
14 the fact that there was a custody agreement
15 arrangement entered into by your parents back in
16 2014?

17 MS. EMILY CAPPS: Yes. Like I remember like I would
18 initially go over to my dad's every -- like every
19 other weekend, that whole thing, but after a
20 little bit he just kind of stopped coming to pick
21 us up, and I remember we would have bags packed
22 and everything, but he just wouldn't come. And,
23 yeah, it just sort of fizzled out, and it was
24 never really enforced.

25 SENATOR SABB: Yeah. And, you know -- and for me, I

1 always wish that people beyond litigation are
2 able to kind of focus, get back to normalcy. And
3 when it involves children and stuff like that, I
4 always -- I'm always a little worried and
5 concerned because you all are one of the most
6 precious gifts given to the world, and at some
7 point the world is going to rest in your hands.
8 I'm going to either be on Social Security or
9 something like that, and I need y'all to do what
10 you what you capable of doing. But I will just
11 tell you that I read through a lot of the
12 paperwork, not all of it, a lot of it, and sort
13 of got the sense that a lot of things are just
14 really, really tough on this family, the
15 counseling and all of those things that that you
16 guys went through, and I just want to encourage
17 you to stay strong and focus. I've got a baby
18 that went through Clemson, and she's at Emory
19 Law, and Clemson gave her everything she needed
20 to be successful. I'm sure they've given you
21 everything you need to be successful and that the
22 future will be bright. And we need more speech
23 pathologists.

24 MS. EMILY CAPPS: Exactly.

25 SENATOR SABB: And so happy that you've chosen that

1 field as well.

2 MS. EMILY CAPPS: Thank you very much. It means a
3 lot. Thank you.

4 VICE CHAIRMAN CASKEY: All right. Any other members
5 of the Commission? Mr. Safran.

6 MR. SAFRAN: Thank you, Mr. Chairman. Very
7 appreciative of your being here. I know going
8 through this is certainly difficult, and again
9 we've got a volume of paperwork, and so we don't
10 need to try to go through and rehash everything,
11 but just I want to clear up a couple of points.
12 I think you told Senator Saab that this
13 appearance the day they took you from school was
14 in December of '18.

15 MS. EMILY CAPPS: Yes.

16 MR. SAFRAN: All right. And prior there had been at
17 least some back and forth through the courts as
18 it related to the visitation and things of that
19 type.

20 MS. EMILY CAPPS: I mean, I --

21 MR. SAFRAN: I know you may not have been involved.

22 MS. EMILY CAPPS: I had no idea, honestly, really, but
23 like, yeah --

24 MR. SAFRAN: But your parents -- you didn't know when
25 they were going. You didn't necessarily know

1 that the depth of what was being decided by the
2 court. You knew something maybe was going on.

3 MS. EMILY CAPPS: Exactly. I mean, like I knew
4 obviously when parents get divorced there's
5 custody, and it's like I knew those things would
6 happen, and, yeah, it was typical, and like it
7 was as expected for a little bit. I can't really
8 remember how -- when exactly he stopped, like the
9 exact date, he stopped coming, but --

10 MR. SAFRAN: And I get that. I mean, I think you've
11 basically made it clear that despite him having
12 some rights to do it --

13 MS. EMILY CAPPS: Yeah.

14 MR. SAFRAN: -- he was not exerting those rights.

15 MS. EMILY CAPPS: Yes.

16 MR. SAFRAN: Okay. So, just as simple as you can tell
17 me, why do you think you were taken that day in
18 that circumstance to that proceeding that was
19 going on with more or less the juvenile issues?
20 I mean, what did you -- when you got there what
21 were you thinking, why am I here, what is -- if
22 there was a reason, what was it?

23 MS. EMILY CAPPS: I really couldn't say because it
24 still confuses me to this day as to why I was put
25 there. I mean, the only thing is that it made me

1 think and wonder what kind of lies were being
2 told about me and about my character and about
3 who I was as an individual in court or whatever
4 was going on. And I guess the only thing that I
5 could think of was that I was being portrayed as
6 this crazy, disrespectful, downright awful human
7 being who was deserving of something like that,
8 and I just didn't understand why.

9 MR. SAFRAN: Well, let me ask this. Leading up to
10 that day, was there, at least in your personal
11 estimation, any time where the opportunity was
12 available to your father that he wanted to use
13 his visitation that you chose not to do it?

14 MS. EMILY CAPPS: Not to my knowledge, no.

15 MR. SAFRAN: I mean, was there anything you were doing
16 during that time that was in any way -- that you
17 could understand somehow contrary to letting him
18 be your father?

19 MS. EMILY CAPPS: I mean, I really -- I can't think of
20 anything off the top of my head.

21 MR. SAFRAN: Well --

22 MS. EMILY CAPPS: To the best of my knowledge. To the
23 best of my knowledge, yeah.

24 MR. SAFRAN: Well, that's fine. And this is not an
25 inquisition. I'm just asking, okay?

1 MS. EMILY CAPPS: Yeah. I mean, I --

2 MR. SAFRAN: And so I guess my point is this, when
3 you're sitting in that courtroom, what what did
4 you ultimately think was the purpose of your
5 being there? I know you said you didn't know why
6 per se why was I here today, but what did you
7 come away with thinking well, what was the lesson
8 I'm supposed to learn if there was one?

9 MS. EMILY CAPPS: I just sort of saw it as an
10 intimidation tactic, basically just kind of like
11 a shut up, do what I say, do it, do what you're
12 told, but --

13 MR. SAFRAN: Was that actually said?

14 MS. EMILY CAPPS: No --

15 MR. SAFRAN: Okay.

16 MS. EMILY CAPPS: -- not like that, but it's just sort
17 of like the feeling I guess I got behind it.

18 MR. SAFRAN: All right. So you're you're in there.
19 you're basically witnessing this, okay. So were
20 you in any way addressed by the judge?

21 MS. EMILY CAPPS: Yes.

22 MR. SAFRAN: And what was said.

23 MS. EMILY CAPPS: I don't remember exactly, but I do
24 remember that like we were -- we were basically
25 told that if we kept behaving the way we were --

1 MR. SAFRAN: And were you explained what that behavior
2 was?

3 MS. EMILY CAPPS: I couldn't tell you. I know it
4 seems confusing, but I really like -- I tried and
5 I thought hard, and I just didn't understand what
6 I ever did wrong to cause that to happen.

7 MR. SAFRAN: All right. So you're basically sitting
8 there thinking I'm being told don't behave the
9 way I I've been behaving, but I don't know what
10 that is.

11 MS. EMILY CAPPS: I believe that it was just lies and
12 kind of saying that I was refusing to spend time
13 with my dad when --

14 MR. SAFRAN: So at least that was the gist of it?

15 MS. EMILY CAPPS: Yeah.

16 MR. SAFRAN: -- is that because even though you're
17 telling us that you weren't, it was coming to you
18 that you were?

19 MS. EMILY CAPPS: Yes.

20 MR. SAFRAN: Okay. And more or less you were told
21 this would be your fate?

22 MS. EMILY CAPPS: Yes.

23 MR. SAFRAN: Okay.

24 MS. EMILY CAPPS: That was very clear.

25 MR. SAFRAN: Okay. And I'm assuming you discussed

1 that with your mom when you had the opportunity
2 afterwards? I mean, you had to tell her where
3 you were.

4 MS. EMILY CAPPS: Yeah. No, she was in the courtroom.

5 MR. SAFRAN: Okay. She was there too.

6 MS. EMILY CAPPS: Yeah, she was she was there, and I
7 mean -- but she was very careful not to like push
8 too hard on it. It was more just like right
9 after it happened. It was a lot of consoling, a
10 lot of --

11 MR. SAFRAN: Was her lawyer there at the time; do you
12 remember?

13 MS. EMILY CAPPS: Yes.

14 MR. SAFRAN: All right.

15 MS. EMILY CAPPS: Yeah.

16 MR. SAFRAN: And was your dad there? I mean, if you
17 don't know you don't know. I'm not asking --

18 MS. EMILY CAPPS: I don't know.

19 MR. SAFRAN: The answer is simple. Either you
20 remember or you don't, okay.

21 MS. EMILY CAPPS: I do not remember if he was there.

22 MR. SAFRAN: But your mom was there. Her attorney was
23 there. Do you know whether this other lady or
24 any of these different psychologists or guardians
25 or any of them were in there? Do you remember?

1 MS. EMILY CAPPS: I didn't have my guardian at that
2 point yet, but I really do not remember if
3 anybody else was there. All I really remember --
4 the whole thing, it's kind of like I had like
5 tunnel vision. I felt nauseous, sick, sweaty,
6 crying. I was like bawling my eyes out
7 throughout the whole time.

8 MR. SAFRAN: Tell me this. When you left that day,
9 where did you go, home with your mom, or did you
10 go with your dad?

11 MS. EMILY CAPPS: Home with my mom, I believe, right?

12 MR. SAFRAN: Okay.

13 MS. EMILY CAPPS: Yeah. And I just remember getting
14 in the car and crying. I don't know. I don't
15 remember much, but I do remember the crying.

16 MR. SAFRAN: Did you visit with your dad after that at
17 any time?

18 MS. EMILY CAPPS: I'm sure I did. I'm pretty sure I
19 did for like the holidays maybe.

20 MR. SAFRAN: Right.

21 MS. EMILY CAPPS: But --

22 MR. SAFRAN: Did you ever have to go back to witness
23 another one of those displays as you put it?

24 MS. EMILY CAPPS: No, I never had to go back and
25 witness another juvenile sentencing.

1 MR. SAFRAN: Okay. Thank you very much.

2 MS. EMILY CAPPS: Thank you very much.

3 VICE CHAIRMAN CASKEY: Senator Sabb.

4 SENATOR SABB: I guess I just want to share one more
5 thing, Mr. Chairman. As I was listening to my
6 colleague, and in the exchange it reminded me
7 some years ago I was a prosecutor, and one of the
8 things that I -- I was on the school board first,
9 and then after I left the school board had an
10 opportunity to be a prosecutor, and so I wanted
11 to prosecute juvenile cases. And one of the
12 things that we had was we had what we call a
13 diversionary program. So like a juvenile would
14 get into what we call little trouble, so nothing
15 serious, right, more of a nuisance kind of thing.
16 And so I would have persons who were concerned
17 that the juvenile might go down the wrong road
18 and so unfortunately they would have them kind of
19 experience a situation like you and your sister
20 experience where they sort of introduced them to
21 the hard stuff and pretty much would want to say
22 you don't want to go there, you don't want to do
23 that. And the hope with that experience was
24 really not to traumatize them, but somebody saw a
25 lot of good in them --

1 MS. EMILY CAPPS: Yeah.

2 SENATOR SABB: -- and didn't want them to get caught
3 up in a situation. And I guess the last thing
4 that I want to share with you just from my
5 experience back in those days was we had some of
6 our young ones who their first encounter with the
7 system was such that we couldn't help them. It
8 was a really, really bad thing that they had
9 done, but all the other ones that were just kind
10 of like being kids, we got a chance to hopefully
11 try to introduce them to something where they
12 say, no, I don't want to live like that, I want
13 to live the way I was. So I was thinking about
14 you as you were talking and just kind of saying
15 to myself, I'm so glad that although she had to
16 experience that it didn't cause her to want to be
17 bad. It just caused her to just continue to be
18 good. So I just wanted to share with you that
19 that's one of the -- and you got me now thinking
20 about whether or not the tool was good or bad
21 necessarily, but just wanted you to know that
22 that's one of the things that that system does to
23 -- and it's really supposed to help and not to
24 hurt. So anyway just wanted --

25 MS. EMILY CAPPS: Definitely. Yeah, and I mean I do

1 think that that's a great alternative and like
2 doing that because I mean, I think it would have
3 been perfect in the right scenario, and I do
4 respect that, but in my opinion I don't think in
5 my nor my sister's scenario was that warranted I
6 guess.

7 SENATOR SABB: I get it. Thank you so much. Thank
8 you Mr. Chairman.

9 VICE CHAIRMAN CASKEY: Thank you. Ms. Capps, thank
10 you for sharing. Sorry, sometimes I have to look
11 at eyeballs to see if we're communicating
12 nonverbally, but it appears no further questions
13 exist among the Commission members with respect
14 to your testimony. Again, appreciate you making
15 the time to be here. Certainly wish you well in
16 all you do except for your football team this
17 Saturday. But that notwithstanding, appreciate
18 you making time. Thank you.

19 MS. EMILY CAPPS: Thank y'all so much for listening.
20 Thank you.

21 VICE CHAIRMAN CASKEY: All right. At this point then
22 I would invite Judge Holmes back up to the
23 podium. And while she's making her way, I just
24 want to thank Ms. Capps, Ms. Capps, Ms. Capps for
25 being here today, you don't have to get up or

1 anything. Just want to acknowledge the efforts
2 that you've made to get here and share the record
3 with us and your perspectives. Those aren't lost
4 on us. Judge Holmes.

5 JUDGE BROMELL-HOLMES: I'm going to first begin by I'm
6 rooting for her team on Saturday because my son
7 is a student at Clemson as well.

8 VICE CHAIRMAN CASKEY: Well, sometimes we don't always
9 make great decisions, and I can appreciate that.
10 Judge, you've heard the allegations and I believe
11 had copies of the complaint provided to you. Is
12 it your intent to provide the information you've
13 shared with counsel to us the into the record?

14 JUDGE BROMELL-HOLMES: Absolutely. I provided a 31
15 page response with exhibits A through Y.

16 VICE CHAIRMAN CASKEY: And if my Apple calculator has
17 not failed me, those exhibits total 156 pages.
18 Does that sound about right?

19 JUDGE BROMELL-HOLMES: I didn't count them, but if
20 that's what your records show.

21 VICE CHAIRMAN CASKEY: All right. We'd be happy to
22 hear from you.

23 (Exhibit Number 39 was marked for identification
24 purposes - (87 pages) Bromell-Holmes Response to Capps
25 Affidavits.)

1 JUDGE BROMELL-HOLMES: First and foremost, I deny that
2 I have violated the code of judicial canons in
3 any respect with respect to the complaints that
4 were filed against me. And I would like to take
5 the opportunity to address the nine violations or
6 issues that the panel is concerned with briefly.
7 I tried to write them in order. The 2017 rule to
8 show cause that was the first one that you noted,
9 that was a result of a hearing that was held
10 January 30th -- January 31st, 2017 and February
11 1st, 2017. After two and a half days of
12 testimony the parties informed the court that
13 they reached an agreement. The parties reached
14 an agreement. The agreement was stated on the
15 record, and most importantly a court order was
16 issued as a result of that agreement. Just
17 pertinent parts of the agreement so it's clear.
18 The parties agreed to joint custody of the minor
19 children with mother designated as the primary
20 custodial parent. Father was to exercise his
21 visitation with the minor children as per the
22 agreement already approved by the Court. In
23 addition father was granted additional visitation
24 as specified in the order. Mother agreed within
25 15 days to have an appointment with a counselor

1 to address the issue of her alienating the
2 children from father. Each parents counselor
3 would recommend three names of counselors, but
4 pretty much it was a rule to show cause for a
5 violation of visitation. The parties reached an
6 agreement. I did not --

7 VICE CHAIRMAN CASKEY: Judge, if I could interrupt you
8 just briefly. As I understand the allegation, in
9 part it was that you allowed false claims and
10 false testimony. Now, I understand that the
11 testimony or claims that may have been actually
12 offered ended up being false. Did you have
13 knowledge beforehand that any false testimony
14 would be offered or included?

15 JUDGE BROMELL-HOLMES: I absolutely did not, and at
16 all times Ms. Capps was represented by counsel,
17 so certainly her attorney had an opportunity to
18 object to any false claims or evidence they
19 believed to be untruthful but the result is that
20 they reached an agreement, and she agreed that
21 she was in violation of the court order.

22 VICE CHAIRMAN CASKEY: Thank you, ma'am. Senator
23 Sabb.

24 SENATOR SABB: Mr. Chairman, I guess I wanted to kind
25 of be clear on on the record as it relates to

1 some of what Judge Holmes is sharing with us. I
2 mean, I think a lot of that is in her response,
3 and to the extent that that we have the response
4 in writing, it may help us if there's something
5 that she wants to share that's outside of the
6 written responses. But I mean, just as you were
7 kind enough to share with the other witnesses
8 that came before us, that we have that
9 information. We'd like to let Judge Holmes to
10 know that we have those particular responses, and
11 so then if there's something, Mr. Chairman -- and
12 I hope I'm not overstepping my bounds when I
13 suggest to the chair that we just let her know if
14 there's something outside, then please share
15 those things, but we have the written responses
16 along with her numerous pages of submissions.

17 VICE CHAIRMAN CASKEY: I tried to only look and appear
18 as so obtuse as to not accept wisdom when offered
19 and not actually be that way. And I think you
20 rightly steer us in the right direction Senator
21 Sabb as you so often do. And so judge Holmes
22 having had the benefit of the senator's guidance
23 to us all, I certainly would adopt that as a
24 position of the Commission, that to the extent
25 you have -- you know, we can move through these

1 allegations sequentially as I did with the first
2 complainant to give you an opportunity to share
3 any additional information or responses that you
4 like like the witnesses that are here or
5 complaints that are here. I certainly want to
6 afford you that opportunity, but again as the
7 Senator has reminded us, we do have your
8 responses in writing to these things. And so you
9 you're welcome to offer whatever you would like
10 in whatever order you would like, remembering
11 again that we do have your responses in writing.

12 JUDGE BROMELL-HOLMES: I'm reading between the lines.
13 You have my response, and I have thoroughly
14 responded to the allegations. I deny that I have
15 abused my position as a judge. I do want to
16 highlight for the record, the December 14, 2018
17 hearing of which the the young ladies were
18 required to be brought to court, it was not for
19 them to witness juvenile proceedings. I did
20 explain this in my response, but I wanted to
21 state this for the record. It was not for them
22 to witness juvenile proceedings. What I did on
23 that particular day is there were only two days
24 allotted for the rule to show cause hearing
25 during that week, December 10th and 11th. We did

1 not complete it, so I allotted time for my
2 juvenile docket to finish this case on a Friday
3 morning. And so my juvenile docket ran over, and
4 somehow these young ladies gained access to the
5 courtroom. It was nothing planned by the court.
6 I did not intend for them to witness any juvenile
7 proceedings. The transcript from the
8 proceedings, I did provide to you as Exhibit R,
9 and everything that happened while the young
10 ladies were present is certainly included in the
11 transcript. And when we went back on the record
12 in the case I did highlight pages 45 through 56.
13 At no time were they slandered. At no time did I
14 berate them. The fact that the matter is I
15 wanted the young ladies to be brought to the
16 court so that the court could explain to them
17 that it was not a choice of theirs that they
18 visit with their father. It was an order of the
19 court, and that was basically the purpose based
20 on the testimony that I heard, and it was
21 certainly overwhelming. An order was issued.
22 The Court of Appeals affirmed my order that
23 resulted from the December 10th, 11th, 14th
24 hearing, of which carried over to May 22nd and
rd 25 23 . The June 14, 2019, that was a ruling on

1 the record. The September 25th, 2020 was me
2 recreating the record, and I was affirmed by the
3 Court of Appeals with my recreating the record.
4 The motion to compel, there was also an order
5 issued from that, and I just referenced your
6 attention to that. And that's pretty much my
7 response. I have never used my position as a
8 judge to intimidate any individual that appeared
9 before me. What I have done at all times was
10 hold everyone accountable. I expect individuals
11 to respect the court order. I expect them to
12 follow the court order, and certainly in this
13 particular instance, I expected the young ladies
14 to comply with the court order with respect to
15 visitation with their father. As Senator Saab
16 referenced, there are other orders that I have
17 included from Judge Norton and Judge Buchanan
18 that were issued with respect to the issues that
19 this family dealt with. And in my closing, I do
20 want to reference the Court of Appeals
21 affirmation of my ruling because it certainly
22 highlights my work as a judge and the difficult
23 nature of this particular case. On January 17,
24 2024 in an unpublished opinion, the Court of
25 Appeals, with respect to the issues that Ms.

1 Capps has raised, and I included that as Exhibit.
2 As to this court's order remanding the matter to
3 the Family Court for reconstruction of the
4 record, we affirm. Here the record demonstrates
5 the Family Court had made copious notes regarding
6 pertinent testimony at the rule to show cause
7 hearing. Wife offered no affidavits at the
8 reconstruction hearing and only sought to add a
9 few pieces of information about husband's cross
10 examination that do not appear to have been
11 particularly beneficial to her. Further, the
12 trial exhibits included in the record on appeal
13 aid in developing a fuller picture of the state
14 of affairs between the parties. Based on all the
15 circumstances, we are able to conduct a
16 meaningful review, and wife has not demonstrated
17 the reconstruction prejudiced her. Number two,
18 regarding the Family Courts determination wife
19 denigrated husband to the party's children, we
20 find husband established a violation of the
21 Family Court's order. By clear and convincing
22 evidence we find the testimony text and audio
23 recording of husband and wife's confrontation
24 regarding one daughter's recording husband
25 provides clear and convincing evidence wife

1 discussed inappropriate topics in front of the
2 parties' daughters and encouraged the daughter's
3 lack of respect toward their father. Furthermore
4 the Family Court observed wife's testimony at
5 this rule to show cause hearing as well as a
6 prior rule to show cause hearing and found wife
7 not to be credible. Consequently, we affirm the
8 Family Court as to its finding of contempt on
9 this point. And so this pretty much sums up the
10 complaint that have been filed against me by the
11 Capps. The Court of Appeals issues its ruling,
12 and with respect to the college expense case, I
13 denied it, and it wasn't appealed.

14 VICE CHAIRMAN CASKEY: All right. Thank you, ma'am.

15 I appreciate that. You know, I heard you
16 mentioned you were reading between the lines, but
17 I don't want you like any citizen to feel as if
18 we have unnecessarily cut you short. Before I
19 turn to members of the Commission to see if they
20 have any specific questions they want to inquire
21 of you about, I want to extend to you again that
22 if there's anything you want to add sua sponte,
23 we have it here. I don't want you to walk out of
24 here not feel like you've had an adequate
25 opportunity to offer in live testimony anything

1 you think need be shared out loud.

2 Representative Rutherford.

3 REPRESENTATIVE RUTHERFORD: So I've never been in this
4 courtroom that you all were holding court in, and
5 my familiarity with Family Court is representing
6 juveniles. And a lot of times the judges don't
7 know who's in the courtroom because there are
8 people in and out, solicitors in and out, DJJ's
9 in and out, lawyers in and out, and in fact
10 recently I was in a courtroom talking to DJJ on
11 my upcoming case, and the judge realized that I
12 was not supposed to be in there and they kicked
13 me out. I wasn't offended by it. I've been
14 kicked out of better places, but the hearing was
15 almost done when they realized that I was sitting
16 in there. And so is that kind of what you're
17 saying kind of happened here?

18 JUDGE BROMELL-HOLMES: That is exactly what happened,
19 and I referenced that in the transcript. I had
20 no clue the young ladies were in the courtroom.

21 REPRESENTATIVE RUTHERFORD: Right.

22 JUDGE BROMELL-HOLMES: No clue. I would have had to
23 orchestrate me sentencing juveniles and them
24 leaving out of the courtroom in shackles with the
25 time that the young ladies were brought into the

1 courtroom. That was absolutely not the case. I
2 had no idea --

3 REPRESENTATIVE RUTHERFORD: But let me interrupt you
4 if I could, judge, because I'm not offended by
5 it. I worked in Family Court. I was privileged
6 to be able to do that in Richland County when I
7 was 16, and it was enlightening for me to see
8 things that I had never experienced before and
9 never seen before, and I think an intelligent
10 assessment even as a child is that this is what
11 you don't do if you don't want to end up like
12 this. And some of the things that I saw I will
13 never forget, but it was educational to me and
14 maybe what led me to become a lawyer, but part of
15 it is to say that in especially juvenile court
16 because there's so many people in and out -- I
17 have been known in regular court to walk out of a
18 courtroom and leave my interns in there because I
19 forgot that they were sitting in there. I've
20 been known to ask the solicitor, do they see my
21 client because it's hard to tell with all the
22 faces where my client is sitting unless you're
23 just being nosy and trying to calculate who all
24 is sitting there. It would be when the chairman
25 found you sitting over to my left. I looked

1 over, saw everybody over there, but I did not see
2 you, and I've seen you for years come in this
3 room. But you may sit there and think that I was
4 being rude by not looking in your direction.
5 Communication is two ways. It's what's said,
6 what's heard. It is what is communicated by one
7 and what is received by another, and it is quite
8 possible that you all agree that they were there
9 and that you and I can't -- I was trying to
10 reference the transcript -- may have taken
11 advantage of the fact that, oh, they got to sit
12 through that, so let me address them as it
13 relates to why they're here, and use this as a
14 reference point without you orchestrating them
15 being there and seeing exactly that. And as you
16 stated, for those that don't do juvenile work, I
17 don't know that the judge always knows what's
18 coming up next. The prosecutor generally calls
19 the cases in this state some. Sometimes a judge
20 does it, but that you would know what juvenile
21 case was ready for the prosecutor to go next. So
22 I don't think we need to dwell on it. I just
23 find it interesting because clearly this appears
24 to be a case where perception for one was not
25 shared by all. I do find it interesting that you

1 have stated -- and I understand why you feel it
2 necessary -- to look at what was done by the
3 counsel for the complainants here because it's
4 noted how -- my client, sometimes we get into
5 debates about how long they went to law school,
6 and they want to reference their mother or their
7 aunt, and I'll ask what they do for a living and
8 then remind them that I could show up to their
9 job and do whatever it is that they do without
10 any training. And they say, no, you couldn't ,
11 and I say, well then, what makes you think you
12 can practice law without any training at all.
13 And it's one of those things where if I'm looking
14 at the actions of counsel that day and looking at
15 what happened when their counsel appealed and got
16 rulings that were favorable to you, I'm not sure
17 how exactly we end up that this case is still in
18 front of us with aggrieved complainants unless
19 this just gets to resemble something of a torch
20 that we just continue to carry. And I'll leave
21 it at that because I don't know how much we have
22 left to hear, but it troubles me sometimes that
23 judges are not allowed to act as human beings and
24 simply sit down and have a conversation with
25 somebody and explain to them what it is they're

1 thinking and how it is that they're feeling
2 because then they could probably better
3 communicate to litigants that are in front of
4 them. They use the lawyers for that. If the
5 lawyers are not communicating anything different
6 than that, then it would appear that everybody
7 understands what's going on. So I don't ask you
8 a question. I just was listening, try to stay
9 out of Family Court try to stay away from all
10 these issues, but did note all of those things I
11 wanted to comment.

12 VICE CHAIRMAN CASKEY: Thank you, sir. Representative
13 Jordan.

14 REPRESENTATIVE JORDAN: Thank you, Mr. Chairman.

15 Judge, thank you for offering to serve again, but
16 I do have some questions that are about this rule
17 to show cause hearing. I am a little confused,
18 and bear in mind I haven't been in that setting
19 in -- I represented juveniles back 15, 17 years
20 ago, so it's been a very long time since I've
21 been in that setting, but I am confused. On the
22 one hand I hear that you didn't know they were in
23 court, and then when I read the transcript you
24 talk about asking the juvenile solicitor to
25 remain behind to explain what's coming their way

1 if they don't comply -- I heard a kick in there -
2 - if they don't comply, so I'm a little confused.
3 I'm a little bit different than my colleague. I
4 am a little offended at the idea of a juvenile
5 who's not up on charges, so to speak -- again,
6 I'm butchering that, but sitting through
7 something that I think could be traumatic in some
8 scenarios, and again I don't know what all took
9 place. I don't know what the level of trauma
10 that existed that day, but I am wrestling with
11 that a little bit. Please expand on my
12 misunderstanding as to those two different
13 ingredients if they're --

14 JUDGE BROMELL-HOLMES: Okay. I'm going to -- I'm
15 referring to my exhibit R, which is the
16 transcript from the proceedings. As I stated, I
17 wasn't aware. It wasn't orchestrated or planned
18 for the two young ladies to witness any juvenile
19 proceedings. It just so happened somehow they
20 gained access to the courtroom. So when I called
21 the case -- well let me just -- I'm going to
22 start at page 45 because I think we are going
23 need to take some time. And I apologize for
24 this, but after we concluded the testimony, I
25 basically said it I'm not going to excuse the

1 parties. I need the courtroom cleared. I'm done
2 with testimony, but the parties are not excused.
3 I will be bringing the parties back in. I'm
4 going to give the party's specific instructions
5 as to what I expect to occur for visitation from
6 here on out moving forward. I am also going to
7 talk with the juvenile prosecutor as well as the
8 Department of Juvenile Justice. They are on my
9 docket today, and I will call the parties back in
10 when I need them to come back in. I need the
11 attorneys for the parties also in chambers at
12 this time. So at that time I concluded the
13 trial, or we were at a stopping point for that
14 particular week because I needed to start my
15 juvenile docket. I needed to know from the
16 juvenile solicitor how much time she guesstimated
17 it would take for our juvenile docket so that I
18 could have the young ladies brought back to the
19 court so I can do a ruling on the record with
20 respect to the visitation. And so we took a
21 recess. We went back on the record, and then I
22 called the case, and I basically said the court
23 is concerned, and I note that the two minor
24 children of the parties are present in court
25 pursuant to my instructions because I want the

1 children to hear the instructions coming before
2 the court as I explained it, and I don't want any
3 misinterpretation. It is clear to the court and
4 as this rule continues to pen, the court has not
5 made a decision, but it is clear to the court
6 that the children have been empowered to make
7 decisions as to whether they're going to visit
8 the father or not. That will no longer happen as
9 of today. When it is the father's weekend, the
10 children ought to be ready and visitation is to
11 occur. There will be no more are you going to
12 visit, that has been the problem in this case.
13 Children need to stay in children's places.
14 Children do not make adult decisions. Children
15 ought to comply with the rules of mother's home
16 and father's home. If children fail to do that -
17 - I do note that the young ladies were able to
18 witness what happens to juveniles that do not
19 comply with the rules -- and that wasn't staged
20 because they were here. It was just so -- it
21 just so happened that this judge had juveniles
22 scheduled on its docket today. It is real. And
23 so that was my explanation. I didn't intend for
24 them to see it, but because they saw it I did
25 feel like I needed to have the juvenile solicitor

1 explain. And I went on, juveniles don't get to
2 pick and choose whether they follow the parents
3 rules or whether they visit a parent. Children
4 don't get to demand what parents will do for
5 them. Children --

6 REPRESENTATIVE JORDAN: Can I stop you there?

7 JUDGE BROMELL-HOLMES: Sure.

8 REPRESENTATIVE JORDAN: Just a quick question again.

9 I'm not an expert in this field. In this
10 scenario -- and I'm sure it happens that you have
11 to deal with situations where a minor doesn't
12 want to go along with what the word of the court
13 is -- it's not their decision. I hear you, get
14 you on that. Is it common to refer that
15 situation -- that's a contempt issue, correct?

16 JUDGE BROMELL-HOLMES: Right. It would --

17 REPRESENTATIVE JORDAN: Would you refer that issue to
18 DJJ, or would you just handle that?

19 JUDGE BROMELL-HOLMES: The contempt would be by the
20 parent, but the-- because the parent was
21 empowering the children not to visit, the Court
22 found it necessary to explain to the young ladies
23 the importance of them complying with the
24 visitation, complying with the father's
25 visitation. And so when I did ask -- and I go on

1 with a litany of things, but none of them were
2 disparaging to the children. You know, I
3 explained to them about following the rules. If
4 one can follow the rule rules in mom's home, the
5 court expects the rules to be followed in dad's
6 home and continuing. And I talked about honoring
7 thy father and thy mother because they it came
8 out during testimony that they were heavily
9 involved in church. And I talked about the Ten
10 Commandments and how we're also taught if young
11 --

12 VICE CHAIRMAN CASKEY: Just a minute, please. Senator
13 Sabb.

14 SENATOR SABB: I really hate to interrupt, and I never
15 want to interfere with any of my colleagues
16 questioning, but I've got to tell you all what I
17 -- some of what I sense. These children were not
18 involved in a lot of the proceedings, and I could
19 be wrong on that, but I think I'm reasonably
20 correct. I think for whatever reason there was a
21 reason why they've not been exposed to all that
22 they're being exposed to right now. I would just
23 caution us, unless we believe it's really
24 essential that we go through all of what these
25 orders say before these -- and I know they

1 they're older now -- but unless it's essential
2 that we go through that stuff, my view is that we
3 try to spare them. And I just throw that in for
4 what it's worth, Mr. Chairman.

5 VICE CHAIRMAN CASKEY: I think that's a fair to point,
6 and I don't know exactly where Mr. Jordan is
7 headed with this, but my suspicion is that based
8 on the the testimony there's a question as to
9 what -- because there's a question as to why
10 those girls are there at 15 and 17, who was
11 subject to the orders. Are the girls making
12 decisions about where they're going, or are the
13 parents making decisions about where they're
14 going. And if it is in fact the parents are
15 making decisions about the where the girls are
16 going -- you know, I think we've got a little bit
17 of latitude to go here. Your words --

18 SENATOR SABB: Mr. Chairman, I would never cut my
19 colleague off. We worked together for years. I
20 think if I -- thank you. I apologize. We've
21 together for years. There are few people in the
22 world I have more respect for than my colleague.
23 I just believe that if if I were where he were
24 sitting and he was thinking the way that I was
25 thinking, I would appreciate him sharing and so I

1 just put it in the for the what it's worth
2 column.

3 REPRESENTATIVE JORDAN: And I certainly, if I may,
4 appreciate that tremendously. I just -- again,
5 not being an expert in the juvenile proceedings
6 trying to understand, and I think I do now, you
7 know, what was transpiring that had nothing to do
8 with the events of this case. So I could better
9 understand exactly what the exposure was, and I
10 think the dots have been sufficiently connected
11 for my purposes.

12 VICE CHAIRMAN CASKEY: Mr. Safran.

13 MR. SAFRAN: Let me spend just a couple of minutes
14 trying to figure one thing out. I understand
15 this was not staged. I understand -- understand
16 that the DJJ was already on the docket. They
17 happened to be there. I understand all that, and
18 I don't doubt it but, when I'm reading what you
19 just read -- and, you know, you published it.
20 And it says if the children fail to do that, I do
21 note that the young ladies were able to witness
22 what happens to juveniles that do not comply with
23 the rules. And, as you say, and that wasn't
24 staged because they were here. I get that. My
25 question is -- and I thought I heard you tell

1 Representative Jordan that had this continued in
2 violation of your order, the sanctions would have
3 been imposed against the mother, correct?

4 JUDGE BROMELL-HOLMES: The children would never
5 threatened with any sanctions.

6 MR. SAFRAN: But, no, hear me. The sanctions would
7 have been imposed against the mother, yes or no?

8 JUDGE BROMELL-HOLMES: And it was --

9 MR. SAFRAN: May I have a yes or no, please?

10 JUDGE BROMELL-HOLMES: Yes.

11 MR. SAFRAN: Okay. And so my point is this, that
12 language makes it look like you were threatening
13 them to go to jail, whether you -- I mean, that's
14 what I'm reading.

15 JUDGE BROMELL-HOLMES: But I -- I haven't read
16 everything else.

17 MR. SAFRAN: No, ma'am. Read that sentence for me.

18 JUDGE BROMELL-HOLMES: Juveniles don't get to pick and
19 choose whether they follow the parents' rules or
20 whether they visit a parent.

21 MR. SAFRAN: Yeah --

22 JUDGE BROMELL-HOLMES: If children fail to do that, I
23 do note that the young ladies were able to
24 witness what happens to juveniles that do not
25 comply with the rules. And that wasn't staged

1 because they were here --

2 MR. SAFRAN: All right. Well --

3 JUDGE BROMELL-HOLMES: It just so happened.

4 MR. SAFRAN: Let me ask you the question. But then
5 the tone of that -- that statement basically say
6 that they got to see what's going to happen to
7 them. We just saw the juveniles walking out of
8 here in shackles, so how would they not interpret
9 that as being that's going to be what's going to
10 happen to them? I mean, so when they come in
11 here and say that, it certainly is validated
12 what's in this transcript that they could have
13 come to that determination.

14 JUDGE BROMELL-HOLMES: But there's more I --

15 MR. SAFRAN: No, ma'am. I'm just asking you --

16 JUDGE BROMELL-HOLMES: I understand. I understand
17 what you're saying.

18 VICE CHAIRMAN CASKEY: Just a minute, please. Ladies
19 gentlemen, I understand passions, but we have one
20 person in this room who has to keep a record of
21 everything that's going on. And just as I
22 admonished the complainants earlier, we've got to
23 go one at a time. So with that, Judge Holmes.

24 JUDGE BROMELL-HOLMES: Okay. I have several -- just
25 so it's clear, we are also taught at a young age

1 to do unto others as we would have them do unto
2 you. We are taught about responsibility. We're
3 taught about being respectful, and children
4 should be taught to respect both parents
5 regardless of whether those parents are still
6 married or not. The reality is that their
7 parents are not married. The counseling shall
8 continue to occur. The children do not have a
9 choice in the matter. This is a court order, and
10 it's really repugnant to the Court that it has
11 not been followed. Manipulation has occurred,
12 and it is clear to the Court that it has
13 occurred. Based on what has been presented, this
14 matter should have come back before the Court
15 long before this week. Recording conversations
16 in one person's home is not acceptable. Being
17 disrespectful to either parent will not be
18 tolerated. Refusing to follow the rules will not
19 be tolerated. If a child thinks that by being
20 told that they no longer have the decision to
21 rather to visit or not and goes to the father's
22 home, refuses to follow the father's rules and
23 law enforcement has to be called, and that will
24 not be tolerated. And that's what happened. Law
25 enforcement was called, and so I was just going

1 over everything, but it's --

2 MR. SAFRAN: And I get that, and I understand this.

3 You as the judge have issued an order, and by all
4 rights that order needs to be followed. And that
5 if somebody is purposely encouraging somebody to
6 violate that order, it requires your attention
7 and ultimately the sanctions if necessary should
8 be imposed. I get all that, okay. I have no
9 doubt and no concern about that. What I'm asking
10 though is this. It wasn't staged, but at least
11 what I'm hearing is when I read this to some
12 extent I think it validates what they were
13 witnessing and the fact that they came away from
14 this process thinking this is where I'm going if
15 this continues. And I think you've told me that
16 truly isn't the case, and I'm not saying that was
17 your intent. What I'm saying is though based
18 upon what you said in that singular context, they
19 legitimately could have come to that conclusion.
20 Isn't that correct?

21 JUDGE BROMELL-HOLMES: Just based on that if that was
22 where I left it, but I --

23 MR. SAFRAN: No, I heard what you were saying, and we
24 can read it six times. I get that. What I'm
25 saying is you were talking about it's not their

1 prerogative, it's not their decision, they are
2 children, their parents are really the ones that
3 have to make the decision. And ultimately beyond
4 that, the Court has to make the decision. I'm
5 not asking you to basically say anything other
6 than when you look at that sentence -- and these
7 are kids now who are brought in there, at least
8 by their statement, don't have any idea exactly
9 why I'm here. Now, I know you brought them
10 because you said you know what, you're not
11 getting this from the parents. You're going to
12 get this from me so there's going to be no
13 question about what's going on here, and I don't
14 have any problem or issue with you deciding to
15 say, I want you to hear it from the Court. I
16 don't want it in any way embellished or not from
17 your parents. This is what I'm telling you. All
18 perfectly fine. What I'm asking though is this,
19 they at least could have easily come away with
20 the concern that if we don't obey, we're going to
21 jail, at least based upon what you said and what
22 they witnessed. I mean, is that not a fair
23 assessment?

24 JUDGE BROMELL-HOLMES: That is a fair assessment.

25 MR. SAFRAN: Okay, Thank you.

1 VICE CHAIRMAN CASKEY: Thank you, sir. Representative
2 Rutherford.

3 REPRESENTATIVE RUTHERFORD: And equally so I disagree.
4 I don't think that this was anything other than -
5 - and I'm a little upset that we are here now for
6 an hour discussing and not anything you could do
7 about it -- people's feelings. And she said that
8 day this was not staged, and unless there is
9 evidence to prove that it was, then why are we
10 talking about it? This was a case, and to my
11 colleague regarding alienation where this was --
12 the issue was whether one of the parents had
13 alienated the children from the other parent,
14 which judges see when they issue orders and the
15 parents are not complying, so the kids are
16 brought in. They happen to see something, and
17 it's just like everything else that kids witness,
18 you try and take advantage of it as a parent or
19 in this case as a judge, to say this is the
20 lesson out of that. You can't unsee it, you
21 can't unhear it, but this is the lesson from
22 that, and that's it, but this is nothing that we
23 need to be talking about for an hour period.

24 JUDGE BROMELL-HOLMES: And that --

25 REPRESENTATIVE RUTHERFORD: I'm sorry. Hold on,

1 Judge. This is about people's feelings, and the
2 evidence that we have says this was not staged,
3 and so unless they're going to bring in the
4 solicitor to say the judge lied, unless they're
5 gonna bring in DSS to say the judge lied, then we
6 shouldn't be talking about this. This is
7 people's feelings in Family Court, and again when
8 this case went up on appeal the issue of
9 alienation and the issue of alienation as she was
10 lecturing them had to do with recording the
11 father in the house. And so it wasn't kids that
12 just came in and went, oh wow, how did we end up
13 here. The only way they could have ended up in
14 that courtroom is the lawyer took them in. You
15 don't know where to go in Family Court, as you
16 know Mr. Safran, unless the lawyer says this is
17 where we're going guys. There she is. And so
18 again, all I'm saying is we've spent an hour
19 dealing with feelings, not any evidence
20 whatsoever that what she did is contrary to the
21 law, is contrary to any of the standards that we
22 are looking at as to whether she is qualified to
23 be a judge. I hate that this was
24 miscommunicated, but as anybody could see in this
25 room we disagree, and Jay and I sit here and

1 disagree on what she should have done and whether
2 it's fair but, disagreements are why people go to
3 court. Feelings always get hurt, but this is not
4 what we should be dealing with in here as it
5 relates to this issue. There are other issues.
6 We can look at those. This one should be over.

7 VICE CHAIRMAN CASKEY: So to answer your question, we
8 are addressing this issue because when afforded
9 the opportunity to address the issue the judge
10 chose to have a further discussion about that and
11 offer more from her perspective about that, and
12 then members of the Commission had questions
13 about that. I don't think we've run afoul of the
14 the ambit of reasonableness with respect to the
15 Commission's dialogue on this particular point,
16 though your observation is a point well taken. I
17 saw Senator Garrett first, and then Mr. Safran,
18 I'll recognize you. The Senator from Lexington

19 SENATOR GARRETT: Thank you, Mr. Chairman. Before you
20 decided to have a conversation with the children
21 unrelated to the problem with the juvenile, what
22 they saw, did you talk to their guardian ad
23 litem?

24 JUDGE BROMELL-HOLMES: This was a rule to show cause -
25 -

1 SENATOR GARRETT: Yes, ma'am.

2 JUDGE BROMELL-HOLMES: And so this was a 2014 case.

3 There was a rule to show cause and a 20- that was

4 --

5 SENATOR GARRETT: Ma'am, did you --

6 JUDGE BROMELL-HOLMES: There wasn't a guardian ad

7 litem.

8 VICE CHAIRMAN CASKEY: Suspend. Please suspend.

9 SENATOR SABB: That's the second time --

10 VICE CHAIRMAN CASKEY: Senator Sabb. Senator Sabb, I
11 will recognize you. Please, I have a
12 responsibility to maintain a clean, clear record
13 here, okay. So I would just admonish all
14 parties, everybody in the room, that the way that
15 this has got to flow is through the chair. I
16 will recognize everybody. I will not deny
17 anybody an opportunity to be heard. I heard
18 Senator Saab raise an objection. I'm going to
19 recognize him in just a moment, but I would ask
20 that all parties please continue to respect the
21 process that we have, which is to sequentially
22 recognize folks. Senator Saab.

23 SENATOR SABB: And so, Mr. Chairman, I just think
24 that, you know, on the second occasion I
25 witnessed us interrupting the witness when the

1 question is being answered, and I know that
2 everybody in here is skilled. We know how to
3 cross-examine witnesses. It's just not something
4 that I traditionally see out of this body. And
5 so my concern would be that we not go there, and
6 that we deal in the collegial manner that this
7 body is accustomed to as opposed to putting on
8 our litigatory hats and taking it in a different
9 direction. And so with due respect to my
10 colleagues, I see us heading down that path, and
11 I just don't think that -- well, I would
12 encourage us to not go there.

13 VICE CHAIRMAN CASKEY: Yes sir, and I appreciate that.
14 I think to the extent Commission members have
15 questions that are as yet unresolved, I'm
16 inclined to afford some latitude as we have shown
17 one another so far and encourage everyone to
18 remain focused on our principal purpose here,
19 which is the evaluation of a candidate along our
20 evaluative criteria. And to the extent there are
21 continuing questions or questions at all arising
22 out of this case, I would remind you that there
23 are some 900 pages almost of materials that may
24 have the answer there. So I appreciate that, and
25 thank you. And Senator Garrett you are

1 recognized.

2 SENATOR GARRETT: Thank you. And I wasn't trying to
3 cut you off. I'm just trying to understand if
4 we're going to -- I understand if the parents are
5 at each other, and one's trying to harm the
6 other, I'm with you. And you can put them both
7 in jail as far as I'm concerned, but as I've
8 always said I don't really care about the
9 parents. I care about the children, and do you
10 agree with me the first responsibility of a
11 Family Court judge in a Family Court case
12 involving custody or visitation is protecting the
13 children?

14 JUDGE BROMELL-HOLMES: Absolutely.

15 SENATOR GARRETT: Okay. So we're on the same page
16 there. And do we have a mechanism in our court
17 to be able to make sure that the children's
18 interests are brought before the court?

19 JUDGE BROMELL-HOLMES: Yes, we do have a mechanism.

20 SENATOR GARRETT: And what is that mechanism?

21 JUDGE BROMELL-HOLMES: In an open case, in a pending
22 case, if there are contested issues with respect
23 to custody or visitation, and the court believes
24 the guardian ad litem is necessary, then a
25 guardian ad litem is appointed.

1 SENATOR GARRETT: And you didn't feel like it was
2 necessary in this case, apparently, to appoint a
3 guardian ad litem to hear the children's
4 position?

5 JUDGE BROMELL-HOLMES: The this case was a closed
6 case. It was a closed case --

7 SENATOR GARRETT: With an order, consent order.

8 JUDGE BROMELL-HOLMES: It was a 2014 case with an
9 order, right. This was a rule to show cause that
10 was before the court based on a violation of the
11 order alleged by the father in terms of the
12 children, the mother not allowing the children or
13 encouraging the children to not visit with the
14 father. I had reviewed several texts
15 communications between the the father, the
16 mother, the children, and I've referenced some --

17 SENATOR GARRETT: I saw the one with Haley. I'm with
18 you. Look --

19 JUDGE BROMELL-HOLMES: And it was terrible. I mean,
20 this is the worst case of parental alienation
21 that I've dealt with, and the children were being
22 empowered to disrespect the father. And my
23 concern was we were ending this hearing. The
24 father was not exercising visitation. This was
25 December. Christmas was upon us. They wouldn't

1 be able to come back to court until -- at that
2 particular time I didn't know it would be May 9th
3 -- May 22nd , 23rd , whatever the last two days
4 were. I didn't know -- I was concerned with the
5 children continuing counseling, trying to repair
6 the relationship between the children and their
7 father. That was my concern. It was parental
8 alienation.

9 SENATOR GARRETT: Right.

10 JUDGE BROMELL-HOLMES: I didn't want the kids to
11 continue to be empowered and choosing not to
12 visit with their father.

13 SENATOR GARRETT: I'm with you. Listen, I've studied
14 the alienation, the entire concept. I'm very
15 familiar with it. Did you consult the consultant
16 before you brought the children to court?

17 JUDGE BROMELL-HOLMES: The attorneys were there. The
18 attorney --

19 SENATOR GARRETT: Ma'am, I'm asking you did you ask
20 for the consultant that you had, wanting to make
21 sure it was doing the job -- apparently not --
22 did you ask for the consultant to be brought in
23 before you so you can make sure as to how you
24 would handle these particular children in that
25 case?

1 JUDGE BROMELL-HOLMES: This was a rule to show cause,
2 and in terms of a consultant, just based on my
3 years of experience and the fact that it was a
4 closed case, the only thing I did was I wanted to
5 repair the relationship with the father. But it
6 wasn't really time in terms of between the time
7 that I finished the testimony and just
8 encouraging the visitation to be reimplemented
9 because no visitation was happening, and they
10 were -- the children were supposed to be in
11 counseling because that happened at the 2017
12 hearing and just based on the records. And I
13 didn't make copies of counselors records because
14 I just didn't think that was appropriate to give
15 to the Commission because of the HIPAA laws, but
16 based on everything what that was before me, the
17 father was of no threat to these children. They
18 may have thought otherwise, but there are other
19 orders that I've referred to where judges found
20 that the mother empowered these young ladies to
21 disrespect their father.

22 SENATOR GARRETT: I'm with you.

23 JUDGE BROMELL-HOLMES: And that's all that I was
24 dealing with.

25 SENATOR GARRETT: But the children were not before the

1 Court. it was the parties that were before the
2 Court, the mother and the father. The children
3 weren't before the Court, and they didn't have a
4 representative to -- at least a counselor or a
5 guardian ad litem to -- before you started making
6 decisions to have a conference, which is unusual
7 -- very seldom do judges have conference with
8 children, not in the juvenile sense, of course
9 every day you do that, but I'm talking about in a
10 private custody action, do you often bring
11 children into the courtroom and talk with them?

12 JUDGE BROMELL-HOLMES: This was the first time that I
13 had to do such because it was -- this was the
14 second rule of show cause that I presided over
15 with respect to the alienation of the mother --
16 of the children towards the father, and so it was
17 it was just -- it was awful based on -- I had
18 counseling records, so I reviewed all of that,
19 and it was just telling the children that they
20 needed to comply with the visitation. They were
21 not crying, and I understand how they explained
22 it to you, but I also referenced -- and I was
23 concerned that that would be an issue. And so in
24 my response, I did reference the mother had a
25 lawyer, the father had a lawyer, and the letters

1 between the lawyers with respect to what happened
2 in court is not reflective of what the young
3 ladies explained to you. And I really frankly
4 count it as a blessing that I found these letters
5 in the court file.

6 SENATOR GARRETT: I don't -- we don't need to go
7 through all that. I'm just I'm just asking about
8 whether or not you consulted with their counselor
9 or guardian ad litem before you decided to take
10 action as against the children. And I understand
11 what you did and why you did it. And to your
12 point, Senator Sabb, I actually taught the scared
13 straight class in Greenwood where we were trying
14 to help youth, but the ones that were before us
15 had violated already, but it was a very minor
16 violation, and we would bring them before us and
17 we would scare them straight. That was the
18 theory behind it, and it worked. At least I had
19 one young man come up to me and said that was the
20 thing that changed his life, so I I'm with you. I
21 understand, but this case is different than that.

22 SENATOR SABB: Well since you mentioned me --

23 VICE CHAIRMAN CASKEY: Senator Sabb.

24 SENATOR SABB: Thank you. So my sharing that --

25 really when you look at this case it's a wee bit

1 different because what you and I did was sort of
2 intentional but to help. In this instance it was
3 unintentional in -- in terms of what they
4 experienced, but, you know, we've all got a
5 concern for our kids, and our kids are
6 everybody's kids. And so when that young lady
7 was up there, I wanted to share that other
8 experience with her just to make sure that her
9 takeaway from our conversation is we just want
10 you -- whatever it is you experience in your
11 life, we want you to stay focused and just do
12 good. And I appreciate that work that that you
13 did, and those are some of the rewarding points
14 of our lives when we bump into a kid and
15 something that we did or said to them has made a
16 difference and it's helped them on their journey
17 to success and so -- so, yeah.

18 VICE CHAIRMAN CASKEY: Thank you. Thank you both,
19 gentlemen. Mr. Safran, I'm happy to recognize
20 you. If we are going to plow new ground on this
21 issue or move to another --

22 MR. SAFRAN: I'm not going anywhere. I'll take one
23 minute.

24 VICE CHAIRMAN CASKEY: Mr. Safran for one minute.

25 MR. SAFRAN: To the extent that Senator Sabb, you

1 know, correctly pointed out, that sometimes the
2 litigator in us comes up. I certainly do not in
3 any way want to have violated the decorum of this
4 process, and I apologize to the extent I did.
5 And, Judge, I'm not certainly trying to, you
6 know, do anything to denigrate you. I think
7 we've got two complaints here, and frankly the
8 complaint I was most concerned about was with two
9 children. I think that they came in here and
10 made a sincere comment. I think it was worth our
11 time to determine whether or not they had a
12 justification for at least making the comment
13 whether it violates anything or not. So to that
14 extent I hope I didn't do anything that, you
15 know, you found offensive. It wasn't meant that
16 way. The other thing is in response to my dear
17 friend Mr. Rutherford, we've sat through two days
18 of Family Court judges coming in here and saying
19 that feelings in Family Court of something that
20 they think matter tremendously. So that extent I
21 think that we certainly have to look at the fact
22 that feelings in these matters are at a high
23 fever pitch and that it needs to be something as
24 all the judges, yourself included, I think have
25 recognized that you rule with justice, but you

1 also rule with compassion. And I think here I
2 don't have any doubt that what you did is it
3 relates to Ms. Capps -- you've had the Court of
4 Appeals speak to that. I don't think they've
5 said there was anything wrong about anything you
6 did, and I certainly acknowledge that, but just
7 for the point here, as Senator Sabb pointed out,
8 you know, we're dealing with children, and I
9 wanted it very clear on the record that those
10 children certainly had some concern, and I think
11 we've now resolved it. And I think it was --
12 again, there was never anything intentional, but
13 I think as you pointed out it certainly could
14 have been something they came away with whether
15 you intended it or not. So, thank you.

16 VICE CHAIRMAN CASKEY: One second, please.

17 COURT REPORTER: Mr. Chairman, I just need to take
18 about a minute break just to clear some more room
19 on my backup recorder because I've only got seven
20 minutes left, and I don't want to cut anybody off
21 midstream. Just for two seconds. Thank you.

22 (OFF THE RECORD)

23 VICE CHAIRMAN CASKEY: All right. We are now back on
24 the record. Judge Holmes, if you would please
25 come back to the podium. We just took a brief

1 pause to allow the court reporter to reset. We
2 had just finished with some comments from Mr.
3 Safran. And at this point, I would recognize Ms.
4 Blackley.

5 MS. BLACKLEY: Good evening.

6 JUDGE BROMELL-HOLMES: Good evening.

7 MS. BLACKLEY: As the only non attorney, but familiar
8 with court processes as being a former clerk of
9 court in the Upstate, I want you to help me to
10 understand this viewing of DJJ court with the
11 Capps daughters. Were you in a position of
12 trying to admonish them, or was that a teachable
13 moment based on the fact that it was unscheduled
14 for them to walk into a DJJ hearing and see young
15 people, which is what DJJ court is, children
16 being heard in regards to events that may have
17 happened, and they have to go through the court
18 process? What was your purpose in saying the
19 things that have been read on the transcript when
20 you were speaking with the DJJ officials?

21 JUDGE BROMELL-HOLMES: Right. Because once I was done
22 with DJJ proceedings and everyone cleared the
23 courtroom, I noticed that the courtroom, I
24 noticed the two young ladies were still there,
25 and that's when I realized that they were there.

1 As Representative Rutherford stated, I didn't
2 know -- I didn't intend for them to witness it,
3 but because they did, I wanted to explain to
4 them, and I also had the solicitor explain, and
5 it's in the transcript, the juvenile process. It
6 was not to intimidate them. It was not to cause
7 them to be in any fear. I just used that because
8 I realized that they did see a portion of
9 juvenile proceedings because they were already in
10 the courtroom at the time. When the docket was
11 completed, I noticed that they were still there,
12 and so I used that as an opportunity to just
13 explain to them the juvenile process. It wasn't
14 that they were going to have to leave out the
15 courtroom handcuffed and shackled because they
16 didn't do anything to be handcuffed and shackled.

17 MS. BLACKLEY: Okay.

18 JUDGE BROMELL-HOLMES: And if you read the rest of the
19 transcript --

20 MS. BLACKLEY: I read it.

21 JUDGE BROMELL-HOLMES: -- you will see that that is
22 absolutely not what happened. I basically -- I
23 tried to restore the family unit as best as I
24 could, and I tried to teach the children it's
25 important to respect all parents. Honor thy

1 mother and father. That's what we're taught.

2 MS. BLACKLEY: Okay. Who brought them into the
3 courtroom?

4 JUDGE BROMELL-HOLMES: I don't know. I believe the
5 grandmother. I don't know. I don't know who
6 brought them in. I believe the grandmother
7 brought them from school to the courtroom because
8 the parents were still there. I really don't
9 know, but it wasn't intentional for them to
10 witness what they did witness.

11 MS. BLACKLEY: Okay. Thank you.

12 JUDGE BROMELL-HOLMES: And --

13 VICE CHAIRMAN CASKEY: All right. Ms. McIver.

14 MS. MCIVER: Thank you, Mr. Chairman. I don't know
15 that I really had a question, but I will take
16 this opportunity. I never really want to try and
17 speak after Senator Saab when he is speaking to
18 young people, especially because I think he has
19 such a heart for young people. But since I have
20 an opportunity to speak, I do have two girls of
21 my own that are about y'all's ages, and so I did
22 want to address you just briefly certainly not on
23 behalf of the Commission. I don't know you or
24 your family. I don't know Judge Holmes
25 personally, but I am appreciative of your

1 willingness to come and speak before this body.
2 That takes a tremendous amount of courage, so I
3 want to applaud you for that. I also want to
4 take this opportunity to tell you that the
5 emotions that you see in this room -- I don't
6 even know what you call this room -- the
7 heightened emotions and the passion that people
8 are displaying today are not uncommon for the
9 Family Court. And when you are messing with
10 somebody's children or when you are fighting over
11 things like that, it is as heated as it gets.
12 And after hearing from various Family Court
13 judges now for several years, I'm convinced that
14 being a Family Court judge is the hardest job
15 there is because even though you're calling balls
16 and strikes, you're calling balls and strikes in
17 a game that is the most important, hardest fought
18 game in a person's life, right. And I'm sure
19 your mother would feel the same way. I don't
20 know your mother or your father, but it is an
21 intense place, and I don't want you to take any
22 of that as being disrespectful to either of you.
23 We are here to try and get it right. Judge
24 Holmes is there to try and get it right. All of
25 the Family Court judges are there to try and get

1 it right, and so I appreciate you being here and
2 being a part of the process and helping us to get
3 it right. So thank you so much for being here.

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

5 MS. MCIVER: Thank you, Mr. Chairman.

6 VICE CHAIRMAN CASKEY: Yes, ma'am. Okay. We are
7 still on the complaint, and I don't want to do a
8 disservice to you, Judge, in disallowing or not
9 providing you with an opportunity, though, as
10 you've seen, we can very ably spend ourselves or
11 send ourselves down a rabbit hole, but if you
12 want to offer something else with respect to the
13 complaints alleged, we'd be happy to hear from
14 you, or you can stand on the documents you've
15 submitted thus far.

16 JUDGE BROMELL-HOLMES: This is difficult for me
17 because the Capps children are about the age of
18 my two children, and I knew that it would be
19 difficult for me to address it because to
20 appropriately address the accusations against me
21 would mean -- and I just refuse to state anything
22 publicly that would harm these young ladies. I'm
23 just going to ask the Commission members to refer
24 to my exhibits. They give you all great detail
25 as to the position that I was in, the disrespect

1 that I saw, the counseling records that revealed.
2 And I'm not going to say anything damaging to
3 these young ladies, and that's just as honest as
4 I can be. But I did what was necessary on that
5 day. It was not intended to demean these young
6 ladies or intimidate them because I have children
7 that I would go to bat for as well. And I
8 wouldn't appreciate anyone doing that to them,
9 but that was never my role. I simply tried to
10 restore the relationship between the father and
11 his girls, of which it was clear that he loved
12 them and so did the mother. And it's a terrible
13 case. It's the worst case that I've had in
14 Family Court, and I did the best that I could do
15 on that particular day.

16 VICE CHAIRMAN CASKEY: There may be someone -- whoever
17 watches this video, and I would not want to have
18 them be deprived of the audio in full.

19 SENATOR SABB: Well, candidly, I just saw the
20 expression on the judge's face. She started
21 talking about her kids and all of that. If it
22 were me, I'd just go on and on and on. I kind of
23 sensed her going on and on and on because she was
24 kind of in her feelings. I mean, she's human
25 just like everybody else. And so just one of

1 those moments that I was trying to be kindly rude
2 and saying, we hear you, and let's just move on
3 to the next phase.

4 VICE CHAIRMAN CASKEY: Yes, sir. Given your literacy
5 and reading between the lines, did you have
6 anything else you'd like to offer, Judge?

7 JUDGE BROMELL-HOLMES: I would just ask that you read
8 my response and all of the exhibits --

9 VICE CHAIRMAN CASKEY: Yes, ma'am.

10 JUDGE BROMELL-HOLMES: -- in its entirety. I did not
11 want to be put in a position to come and say
12 anything harmful to these young ladies because
13 they have a bright future.

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

15 JUDGE BROMELL-HOLMES: Just like my children do.

16 VICE CHAIRMAN CASKEY: Yes, ma'am. Senator Garrett
17 has indicated he has something.

18 SENATOR GARRETT: Just briefly. I really didn't
19 understand why we had to recreate a hearing.
20 Could you help me with that?

21 JUDGE BROMELL-HOLMES: I'm so excited. I didn't know
22 either. December 10th and 11th, 2014, a court
23 reporter retired. And for some reason, her
24 records weren't able to be transcribed. And so
25 the Court of Appeals ordered me to recreate the

1 record. Recreate the record? What do you mean,
2 recreate the record? I had never been asked to
3 do that. So I called some other judges that were
4 on the bench longer than I were, and I asked,
5 have you ever been asked to recreate the record?
6 And all of them said, no. And so what I did, I
7 used my notes from the hearings on that day, the
8 exhibits, and I recreated the record. And now
9 that's a pretty proud moment for me because I was
10 affirmed on recreating the record. But that's
11 what happened. The court reporter's records --
12 she retired, and her records were not able to be
13 transcribed. And that was December 10th and the
14 11th, not the December 14th date that we're here
15 for. Those records were certainly available
16 and, were transcribed.

17 VICE CHAIRMAN CASKEY: Thank you, Judge. Thank you,
18 Senator. Did you have anything else?

19 SENATOR GARRETT: It was at the 10th and 11th. I
20 was trying to get my head around which dates
21 those were. Was it the rule to show cause?

22 JUDGE BROMELL-HOLMES: Correct. It was the first two
23 dates of the rule to show cause, December 10th,
24 11th, and then we have court records for the
14th, 25th, May 20th, for all of the other hearings.

1 SENATOR HOLMES: I'm familiar with that. Actually, I
2 was in a serious counsel doctrine case where the
3 court reporter lost my client's testimony on the
4 first day. Only my client's testimony and all
5 the rest of it was there. So we had to recreate
6 the record. He made counsel, the court made
7 counsel -- make us all get together and put
8 together a record, so it does happen. Thank you.

9 VICE CHAIRMAN CASKEY: Yes, sir. Thank you. And
10 thank you, Judge. Having now heard all of the
11 testimony with respect to the complaints brought
12 before the Commission, we will turn to our
13 ordinary proceedings with respect to questions
14 from staff counsel. At this point, I would
15 recognize staff attorney, Julia Foster.

16 JUDGE BROMELL-HOLMES - EXAMINATION BY JULIA FOSTER:

17 **Q. Judge, after serving over 17 years on the Family**
18 **Court, why do you want to continue serving as a**
19 **family judge?**

20 A. Because I love my job, and I have the passion to
21 continue doing what I do. And it is about what
22 is in the best interest of the minor children,
23 and I desire another term to continue doing so.

24 **Q. What do you think your reputation is among**
25 **attorneys that practice before you?**

1 A. Well, given the fact that there are so many here
2 in support of me, they know me as a fair minded
3 judge. The rule applies across the board. I am
4 not biased. I am not prejudiced. I expect you
5 to know the case law because I'm going to apply
6 the case law. I have ruled in favor of some that
7 are here as well as ruled against them, and they
8 have not taken it personal. I just apply the law
9 across the books.

10 Q. Judge, the Commission received 357 ballot box
11 surveys regarding you with 56 additional
12 comments. The ballot box survey, for example,
13 contained the following positive comments:
14 excellent judge, very well versed in the law and
15 gives logical, thorough consideration of all
16 arguments before her. Another stated, Judge
17 Bromell-Holmes is wonderful, a tremendous asset
18 to the Family Court bench. And finally, another
19 stated, Judge Holmes is an excellent judge. She
20 knows the law and runs her courtroom
21 exceptionally well. We are lucky to have her on
22 the Family Court bench. Eight of the written
23 comments expressed concerns. Several of these
24 comments indicated concerns with your ability,
25 namely application of law and inconsistent

1 **rulings. What response would you offer this**
2 **concern?**

3 A. If I had proper context, I would probably be able
4 to address that. I apply -- I know the law. I
5 certainly apply the law, and I follow the law,
6 and I certainly expect the litigants and the
7 attorneys that appear before the court to do
8 likewise.

9 **Q. Judge, the second concern indicated concerns with**
10 **judicial temperament. What response would you**
11 **offer to this concern?**

12 A. Family Court is a very emotional court, and
13 tempers flare oftentimes amongst litigants. And
14 sometimes the lawyers may get a little aggressive
15 towards each other, and there are times when I
16 may have to raise my voice to gain control of my
17 courtroom. But for all intents and purposes, I
18 have always displayed appropriate judicial
19 temperament based on the situation in front of
20 me.

21 **Q. Judge, the final concern indicated concerns with**
22 **lack of professionalism, including perceived**
23 **bias. What response would you offer to this**
24 **concern?**

25 A. I am certainly professional. I am not biased.

1 And certainly individuals are entitled to their
2 opinion. That is a subjective opinion, but I
3 treat everyone the same, and I certainly don't
4 exhibit bias towards any particular party or
5 solicitor or the defense. I just treat everyone
6 the same.

7 **Q. Thank you, Judge.**

8 MS. FOSTER: I would note that the Pee Dee Citizens
9 Committee found Judge Bromell-Holmes to be well
10 qualified in the evaluative criteria of ethical
11 fitness, professional and academic ability,
12 character, reputation, experience and judicial
13 temperament and qualified in the evaluative
14 criteria of constitutional qualifications,
15 physical health and mental stability. The
16 Committee had no summary or related comments.

17 **Q. Judge, since submitting your letter of intent,**
18 **have you contacted any members of the Commission**
19 **about your candidacy?**

20 A. I have not.

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

24 A. I am.

25 **Q. Since submitting your letter of intent, have you**

1 sought or received the pledge of any legislator,
2 either prior to this date or pending the outcome
3 of your screening?

4 A. I have not.

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

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

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

13 A. I am.

14 MS. FOSTER: I would just note for the record that any
15 concerns raised during the investigation
16 regarding the candidate were incorporated into
17 the questioning of the candidate today. And Mr.
18 Chairman, I have no further questions.

19 VICE CHAIRMAN CASKEY: Thank you, ma'am. And Judge,
20 it occurred to me as I'm trying to process a
21 number of different things here. First of all, I
22 have a great deal of empathy and sympathy for
23 what it must be like to do this in a real
24 courtroom. But it occurred to me that I called
25 you several times, Judge Holmes, in our last

1 exchanges. And your name is Judge Bromell-
2 Holmes.

3 JUDGE BROMELL-HOLMES: I answer to both.

4 VICE CHAIRMAN CASKEY: Okay. So I asked -- my first
5 name is Micah. So typically when I meet people
6 and say, hi, I'm Micah. They say, Mike, nice to
7 meet you. I say, I'm sorry, it's Micah. They
8 say, Michael, I'm so sorry. And then I have to
9 say, it's Micah, so I have some sensitivity to
10 it, dulled and nerved, but yes, I appreciate your
11 grace, but I ask for your forgiveness and that of
12 your family. I meant no disrespect. I simply
13 lost my focus there.

14 JUDGE BROMELL-HOLMES: My husband would just love for
15 me to drop the Bromell, but I'm keeping the
16 Bromell for my dad because I love my daddy. So
17 my maiden name is Bromell. Holmes is my married
18 name. So I honor them both, Bromell-Holmes.

19 VICE CHAIRMAN CASKEY: I appreciate that. And my
20 intention is to respect your wishes, and to the
21 extent I fell short of that, I apologize. I
22 wanted to rectify that at our first opportunity.
23 Senator Sabb.

24 SENATOR SABB: Thank you, Mr. Chairman. And I really
25 don't have a question, just a comment. And I've

1 known Judge Holmes for a long time, and just
2 always a studious individual. I mean, I couldn't
3 even spell Magna Cum Laude when I was in college.
4 And she graduated Magna Cum Laude and just enjoys
5 an excellent reputation, both in our home area of
6 Georgetown, as well as around the state. And
7 while I know that none of our judges are perfect,
8 just from the standpoint of her heart, I know
9 that she tries to get it right and tries to do
10 right. The community service that she gives to
11 that community, I think, is exemplary. I go to a
12 bunch of programs, and seemingly so many of them,
13 especially when they're recognizing the pastors
14 that do such great work, like Bishop Nowlin --
15 when I was there, she was one of the persons that
16 they chose to speak at that service. And I don't
17 know that there are any ministers in the state
18 that I respect more than Bishop Nowlin. I mean,
19 just an extraordinary individual. But anyway, I
20 could kind of go on and on. I just want the
21 members to know that I appreciate her service and
22 her stance and the pride and dignity that she
23 brings to the job.

24 JUDGE BROMELL-HOLMES: Thank you.

25 VICE CHAIRMAN CASKEY: Thank you, sir. Other members

1 of the Commission have questions or comments for
2 Judge Bromell-Holmes? All right. Go once,
3 twice, thrice. Thank you. Well, seeing no more
4 questions then, Judge, this will bring us to the
5 conclusion of this portion of our screening
6 process. I do want to take this opportunity to
7 remind you that, pursuant to the Commission's
8 evaluative criteria, the Commission expects
9 candidates to follow the letter as well as the
10 spirit of our state's ethics laws. And we will
11 view any violation or appearance of impropriety
12 as very serious and potentially deserving of
13 heavyweight in our screening deliberations. And
14 so on that note, as you know, the record will
15 remain open until the release of the final
16 qualifications report. And were the need to
17 arise, we would have the ability to bring you
18 back. Do you understand all of that?

19 JUDGE BROMELL-HOLMES: I do.

20 VICE CHAIRMAN CASKEY: Thank you, ma'am. And so with
21 that, I want to thank you for your service to the
22 state of South Carolina. Thank you for your
23 offering for continued service to the state and
24 wish you, your family, and all of your guests a
25 wonderful Thanksgiving holiday and safe travels

1 back home.

2 JUDGE BROMELL-HOLMES: And I wish you all the same.

3 Thank you so much. I think this is the last
4 hearing before Thanksgiving for you, so enjoy
5 your family.

6 VICE CHAIRMAN CASKEY: Yes, ma'am. Thank you. And
7 thank you to everyone who was here tonight. I
8 appreciate your time and interest in the
9 judiciary in the state of South Carolina. With
10 no further items on our agenda, the Committee
11 will stand. We will stand adjourned until Monday
12 at 9:00 a.m. So thank you all. Hope you have a
13 very Happy Thanksgiving.

14 (There being nothing further, the proceeding ended at 6:54
15 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
26TH DAY OF NOVEMBER, 2024, AND THAT THE FOREGOING 433
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
13TH DAY OF JANUARY, 2025.

Jennifer Nottle

JENNIFER NOTTLE, COURT REPORTER

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