



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

Supreme Court/Court of Appeals
(New Candidate)

Full Name: Whitney Boykin Harrison

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1. Do you plan to serve your full term if elected?

Yes.

2. If elected, do you have any plans to return to private practice one day?

No.

3. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice?

Yes.

4. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

My view on ex parte communications follows Rule 501 of the South Carolina Appellate Court Rules, Canon 3(B)(7). These types of communications are generally inappropriate, and should only occur in rare and limited circumstance, for instance when the law expressly allows it or the parties have consented to such communications. Moreover, technology allows us to avoid *ex parte* communications. If we have learned anything during the past two years, it's that technology provides an effective platform to conduct court and address a wide range of issues, including emergency situations, with all parties actively engaged with ease. Of course, if a circumstance did arise, I would follow the applicable rules.

5. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what

deference would you give a party that requested your recusal?
Would you grant such a motion?

I would recuse myself from a matter if the party requesting the recusal had a reasonable basis, even if I did not believe it prejudiced my impartiality. I would grant the motion.

6. What standards have you set for yourself regarding the acceptance of gifts or social hospitality?

I would only accept ordinary hospitality.

7. How would you handle a situation in which you became aware of misconduct or appearance of infirmity of a lawyer or of a fellow judge?

If I became aware of possible misconduct or infirmity of a lawyer or fellow judge, I would first discuss my concerns with the other members of the Court of Appeals—using the utmost discretion to avoid unnecessary disclosure of those concerns to court staff. If it was collectively determined there was misconduct, I would defer to the senior judge to decide whether one of the judges or Clerk of Court should contact the Office of Disciplinary Counsel. As to the infirmity, I believe how to proceed and whom to contact would depend on a case-by case basis. Specifically, whether the infirmity raised concerns of health and safety in addition to legal concerns.

8. Are you affiliated with any political parties, boards or commissions?
If so, in what capacity are you serving?

I am a Trustee for the Presbyterian College Board of Trustees. If elected, I intend to continue my service on the Board and comply with Canon 4C(3), which requires me to refrain from soliciting funds on behalf of the college and prohibiting me from using my potential office to solicit funds.

I am also a Board Member for the South Carolina Bar Foundation and the South Carolina Association for Justice. If elected, I would resign from both.

9. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations? Please describe.

I have passively assisted with fundraising for Presbyterian College and South Carolina Bar Foundation by reminding others to donate.

10. How would you prepare for cases that were before you?

In appellate cases, preparation is key. I would begin by reading the parties' briefs then the record on appeal. Simultaneously, I would have my law clerks divide the cases and conduct their own review. Leading up to oral argument, I would have my clerks assist me in additional research and have a chambers conference to discuss every case.

11. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?

A judge's role is to apply the law. Public policy is established by the General Assembly. Once that policy is expressly established, it is the judge's duty to follow that policy/law.

12. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities would you plan to undertake to further this improvement of the legal system?

I would increase my speaking engagements and presentations at CLEs and schools. I believe our communities and legal system are best served when judges are engaged with the Bar and our communities. Additionally, I would seek to join or initiate an appellate task force to address the efficiency and timeliness of appellate cases being decided.

13. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you plan to address this?

I do not believe serving as a judge would strain my personal relationships. My practice of law routinely puts demands on my time and the gravity of the issues I am often confronted with can engross the bulk of my attention as I work through them. But because that is the type of work I wanted to be doing, I have developed well-seasoned methods of reducing stress like setting the work down when a moment is needed and taking a walk. And when I am in the company of my friends and family, I make every effort to engage fully, stowing the laptop and putting the phone on silent. Moreover,

the people close to me are not only accustomed to my often demanding job, but are also extremely supportive of my work.

14. Please describe your methods of analysis in matters of South Carolina's Constitution and its interpretation by explaining your approach in the following areas. Which area should be given the greatest weight?

a) The use and value of historical evidence in practical application of the Constitution:

Historical evidence provides insight into the drafter's intent. If properly presented and preserved, and the cardinal rules invite a further inquiry into the intent in such a context, I would consider such evidence. Such evidence, however, would not be controlling.

b) The use and value of an agency's interpretation of the Constitution:

Interpreting the Constitution rests with the judiciary, not an agency. That being said, I believe an agency is without question entitled to advance their interpretation like any other party.

c) The use and value of documents produced contemporaneously to the Constitution, such as the minutes of the convention:

I would give this evidence the greatest weight because it provides insight into the drafter's intent. Similar to historical evidence, I would only rely on this type of evidence if the cardinal rules invited such an inquiry. Where language is clear and unambiguous, further inquiry into intent is improper.

15. Are you a member of any organization or association that, by policy or practice, prohibits or limits its membership on the basis of race, sex, religion, or national origin? If so, please identify the entity and explain if this organization practices invidious discrimination on any basis.

No. I did have a one-year membership to Femex of Columbia, which is a women's social club that provides co-working spaces and hosts social gatherings, that recently ended.

16. Have you met the mandatory minimum hours requirement for continuing legal education courses for the past reporting period?

Yes.

17. What do you feel is the appropriate demeanor for a judge and when do these rules apply?

A judge should always be respectful and cordial—no matter the setting. While carrying out any aspect of the job, a judge should be polite, direct, clearly communicate expectations, professional, and understanding, as well as firm when warranted.

18. Would there be a role for sternness or anger in meetings with attorneys?

Anger does not belong in any courtroom or meeting with attorneys, nor anywhere a decision is being made. Judges are human. Inevitably some action or inaction by a lawyer or party will invite anger, and likely disappointment, sadness, or frustration—to name a few. I don't believe judges can avoid emotions, but they can manage how they handle them.

I do believe certain circumstances require a judge to be strict. When enforcing the rules or holding counsel or a party accountable it should never be done harshly or drastically.

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

Why B. Inc.

Sworn to before me this 13th day of July, 2022.

Kelly L. Webb
(Signature)

Kelly L. Webb
(Print name)

Notary Public for South Carolina

My Commission Expires: 8/19/2031

KELLY L. WEBB
Notary Public
State of South Carolina
My Commission Expires 8/19/2031