



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

**Supreme Court/Court of Appeals
(New Candidate)**

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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?

Ex parte communications should not be allowed on any substantive matters or issues. My law clerk is also well aware of the rules concerning ex parte communications and acts as an excellent front line of defense against ex parte communications. Furthermore, I scrupulously try to avoid any ex parte communications and insist that my staff observe this rule as well. The only occasions in which either my staff or I permit ex parte communication are either "for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits"; or consultation with Administrative Law Court personnel whose function is to aid the judges in carrying out our adjudicative responsibilities; or consultation with other judges in

accordance with the Code of Judicial Conduct, Rule 501, SCACR (Canon 3).

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?

If a reasonable person could perceive an appearance of impropriety, I would recuse myself regardless of whether I felt that I could fairly and impartially consider the case. The only exception I could envision would be a situation in which all the other Administrative Law Judges would be subject to the same potential appearance of impropriety or I would be the only judge available in a matter requiring immediate judicial action. Then, the "rule of necessity" would offset the appearance of impropriety. Under the latter instance, I would transfer the case to another judge as soon as possible.

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

A judge should not accept any gifts except those specifically authorized by the Code of Judicial Conduct, Rule 501, SCACR (Canon 4). As far as social hospitality, judges cannot and should not live in ivory towers. However, the acceptance of a judgeship inherently brings limitations upon your lifestyle. One of those limitations is that any gift or social hospitality that could reasonably be perceived to influence the judge in the performance of judicial duties should not be accepted.

I do not accept food, meals, beverages, lodging, transportation, entertainment, or other things of value from any attorney or group of attorneys. The only other individuals I accept gifts from are my family, coworkers and close personal friends of whom I would never hear any case involving their interest. Additionally, the only social hospitality I have accepted, or would accept from an attorney, is attending a holiday party to which a large number of bar members are invited.

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?

I would report any conduct which I had actual knowledge that raised a substantial question of a judge's fitness for office or a

lawyer's honesty, trustworthiness or fitness to practice in the legal profession, in accordance with CJC Rule 501, SCACR. If I simply received information concerning a judge's or lawyer's honesty, trustworthiness or fitness to practice in the legal profession, I would take what action I believed was appropriate under the circumstances.

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

No.

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

No.

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

In reviewing appellate matters as an ALJ, I read the briefs, research the issues and review the record before issuing an order. At the Supreme Court I would continue the practice of reading all the adversarial filings and the relevant designated record and researching the law in accordance with the complexity of the case. Additionally, as a justice on the Supreme Court, I would also have the advantage of consulting with my law clerks and reading the bench memoranda and opinions in the cases. If I questioned those findings, I would prepare my own memo of the law.

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

In South Carolina, the Legislature enacts public policy through statutes and regulations. Judges must honor the language of those statutes and regulations except when a constitutional issue is at stake; and even where constitutionality is at issue, every presumption should be made in favor of the constitutionality of statutory enactments.

I thoroughly believe that my record and reputation as an ALJ confirms that I am not a "judicial activist" as that term is commonly understood. Courts have no legislative powers but should rather follow and enforce the law, not create it. When an ambiguity exists in a statute or regulation that necessitates construction, I strive to effectuate the intent of the legislature, not usurp its authority.

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 currently speak at CLEs and at classes at the USC School of Law. I also serve on a S.C. Bar committee that seeks to improve our judicial system. Furthermore, I am active in the South Carolina Administrative and Regulatory Law Association which seeks to promote collegiality and legal education among lawyers who practice administrative law. I plan to remain active in such activities.

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?

No. This is not currently a problem, and I do not envision it becoming one in the future.

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:
- b) The use and value of an agency's interpretation of the Constitution:
- c) The use and value of documents produced contemporaneously to the Constitution, such as the minutes of the convention:

An answer to the above questions requires consideration of what history the Court is considering and what is meant by "practical application." As with statutory construction, if the Constitution is clear on its face there is no need for construction. If the Constitution is ambiguous, the courts should seek to determine the intent of the framers and the people who adopted the constitutional provision. See, Neel v. Shealy, 261 S.C. 266, 199 S.E.2d 542 (1973). In this context, consideration of history may be relevant. That consideration would most probably be limited to history for which the court can take judicial notice and history that is

relevant to determine the intent of the framers of the Constitution. In other words, the court may be guided by history that clarifies the meaning of ambiguous words or phrases. Following that supposition, documents produced contemporaneously to the Constitution may play a significant role in determining the intent of the framers and of the people who adopted it. Other historical information may also clarify the meaning of specific words that are in dispute. For instance, in Sloan v. Sanford, 357 S.C. 431, 593 S.E.2d 470 (2004), the South Carolina Supreme Court used a historical analysis to determine the meaning of the word "militia" in the Constitution. Ultimately, the goal should be an objective search to determine the drafters' true intent.

As to value of an agency's interpretation of the Constitution, in Dunton v. S.C. Bd. of Exam'rs in Optometry, 291 S.C. 221, 223, 353 S.E.2d 132, 133 (1987), the court held that "[t]he construction of a statute by the agency charged with its administration will be accorded the most respectful consideration and will not be overruled absent compelling reasons." (emphasis added). However, no agencies in South Carolina are charged with the administration of the Constitution. Therefore, an agency's interpretation of the Constitution would not be entitled to any distinct deference.

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.

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's demeanor should be patient, courteous, and respectful to litigants. The judge should assure the litigants that he is neutral and impartial so that the litigants will be confident that they have received a fair trial even though they may not be pleased with the result. Additionally, the judge should maintain sufficient

control of the courtroom to ensure that the integrity of the judicial process is upheld.

Furthermore, the Code of Judicial Conduct sets forth that a judge "shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." Rule 2(A), CJC, Rule 501, SCACR. Thus, a judge must conduct all extra-judicial activities so that they do not "cast reasonable doubt on the judge's capacity to act impartially as a judge" or "demean the judicial office." Rule 4(A), CJC, Rule 501, SCACR. The commentary to Rule 4(A) provides that: "Expressions of bias or prejudice by a judge, even outside the judge's judicial activities, may cast reasonable doubt on the judge's capacity to act impartially as a judge. Expressions which may do so include jokes or other remarks demeaning individuals on the basis of their race, sex, religion, national origin, disability or age." *Id.*

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

It is not appropriate to display anger from the bench or in chambers. Even if angry, a judge's demeanor must always be respectful. Nevertheless, there are times when a judge may need to address the behavior of a member of the public or an attorney in a stern manner. In those rare instances, if practicable, I have those discussions in chambers so as to avoid embarrassing the attorney or creating the appearance of partiality.

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

Sworn to before me this ____ day of _____, 2022.

(Signature)

(Print name)

Notary Public for South Carolina

My Commission Expires: _____