



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

Supreme Court/Court of Appeals
(Incumbent)

Full Name: Blake Alexander Hewitt

Business Address: 1220 Senate St., Columbia, SC 29201

Business Telephone: (803) 734-2492

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

2. Do you have any plans to return to private practice one day?

No. Although I enjoyed litigating cases and treasured my law partners, I plan to spend the rest of my professional career as a public servant.

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?

Consistent with Canon 3B of the Code of Judicial Conduct, I do not and would not permit ex parte communications except for the limited exceptions that are recognized as appropriate by law. Some events—emergency temporary restraining orders, for example—contemplate limited ex parte communications, but there are special rules for those circumstances. See Rule 65(b), SCRPC; see also Canon 3B(7), Commentary, Rule 501, SCACR. If I found myself in such a circumstance, I would strictly follow the applicable rule of law.

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?

My own view of my ability to be impartial would not control my decision. If a party could reasonably question my ability to be impartial, Canon 3E would mandate that I disqualify myself.

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

I do not accept gifts as a general matter, and I would certainly not accept any from lawyers who appear in front of me as a judge. When I have been invited to conferences, I accept meals and lodging, but I otherwise pay my own way. I do my best to follow the letter and spirit of Canon 4D.

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 knew a lawyer or judge appeared to be ill or committed a violation raising a substantial question as to that person's honesty, trustworthiness, or fitness, my own sense of ethics would compel me to immediately, but respectfully, inform the offending lawyer or judge that I was aware. I would advise him or her of my duty to report, and I am certain I would encourage the offending lawyer or judge to self-report. I would then make my own report to the Commission on Lawyer (or Judicial) Conduct, regardless of whether the offending lawyer or judge self-reported. I believe my own report would be necessary to satisfy my duty under Rule 8.3 of the RPC. See Rule 407, SCACR.

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

I am not engaged in any fund-raising. I donate money to my church and to other organizations. The Waccamaw Sertoma Club, of which I am a member, also sells Christmas Trees during the holiday season

and donates all proceeds to charity. I follow the letter and spirit of Canon 4C(3)(b), which gives the standards that govern fundraising activities.

9. How do you prepare for cases that come before you?

I believe there are two overriding goals in every case. The first goal is to treat each case as if it is the most important case in the world. This is because to the litigants who are involved, the case in question is the most important case in the world. The second goal is to make the right decision in each case, and always for the right reasons. This philosophy guided my work while I was a law clerk and while I was in private practice. It has continued to guide my work at the Court of Appeals.

I still begin working a case much the same way I started a case when I was a law clerk. I start with the parties' briefs and the appellate record, paying particular attention to the argument sections of the briefs and the reasoning in the order on appeal. After completing this "initial read," I read many of the cases cited in the briefs. Then, I conduct my own research in an effort to make sure that the parties have not overlooked any relevant authority. Once I feel like I have a firm grasp of the history of the case and the controlling legal principles, I develop an outline of the questions that I believe the court needs to answer in deciding the case.

When I was in private practice I always strived to write briefs that were honest and trustworthy. I tried to avoid arguments in which I did not have genuine and heartfelt belief, and I tried to be scrupulously accurate in how I represented case holdings and disputed facts. I am certain I did not execute these goals perfectly in every instance, but I endeavored to give each case my very best effort. I have tried to bring the same values and execute the same plan in my service as a judge.

10. 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 enforce the law as it has been written by the Legislature—not to make law of the judge's own design. The role of

a judge is a limited one. Judges must have the modesty and humility to understand and embrace the principle of judicial restraint.

The task of setting and promoting public policy is primarily a legislative function. Judging does not generally involve setting or promoting a view of what the law ought to be. The exception to this principle relates to the common law: The common law is court-made law, and under the separation of powers doctrine, the Supreme Court possesses the power to declare the common law of our State. My own view is that any evolution in the common law should proceed slowly and narrowly, and that the court's common law powers ought to be rarely and cautiously invoked. Legislating is the job of the Legislature—not the court system.

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

The past three years have been interesting because the Covid-19 pandemic hit two months after I started serving with the court. Still, I have been able to continue speaking at continuing legal education programs and continue participating in my local Inn of Court. I was not able to pursue returning to the Law School to teach Appellate Advocacy. I was afraid the demands of teaching in Columbia would be too much to juggle with my family priorities in Conway.

I continue to believe that it is important to remain active in the community. The biggest impact I am likely to have on how others view the court system will relate to how the people in my community see me acting. I hope my neighbors see me as an honorable person who puts others ahead of himself. If they do, I think that reflects positively on the legal system. If they see me as dishonest, pompous, or self-serving, it likely has the opposite effect. I love my community and I am committed to community involvement. I hope to have a lifetime of honorable service that reflects positively on the legal system.

12. Do you feel that the pressure of serving as a judge strains personal relationships (i.e. spouse, children, friends, or relatives)? How do you address this?

I try to devote substantial effort to ensuring that serving does not strain these relationships. The two things that matter most to me are my integrity and my family.

13. Are you currently serving on any boards or committees? If so, in what capacity are you serving?

I am currently the judicial officer for my local Inn of Court (the Coastal American Inn of Court). I also serve on the SC Judicial Branch's Continuing Legal Education Advisory Committee.

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:

Under South Carolina law, the primary goal in interpreting any writing is to determine the writing's original intent. As applied to the Constitution, this means the court's foremost goal is to determine what the authors of the Constitution intended when they wrote the provision in question.

The plain language of the Constitution might be clear. If so, there is generally no need to use secondary materials like historical evidence or documents produced at the same time as the Constitution.

If the plain language does not make the original intent clear, courts have frequently used historical evidence to aid in interpreting the Constitution. Where the federal Constitution is involved, courts have also studied the actions of the first Congress; presuming the first Congress' actions illustrate how the Constitution was intended to

apply because that Congress served in the early stages of the Constitution's ratification.

My own view is that secondary sources should be used cautiously. Depending on the contents of these materials and the degree of the Constitution's ambiguity, they may prove to be a useful resource. This will obviously depend heavily on the individual circumstances in question.

It is unlikely that I would afford deference to an administrative agency's interpretation of the Constitution. Administrative agencies are part of the Executive branch, and while the Executive must necessarily interpret the Constitution in the course of its mandate to execute the law, separation of powers requires that the ultimate responsibility for interpreting the Constitution fall to the Judicial branch.

15. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?

No. I do not a substantial amount of individual stocks. The overwhelming majority of my investments are in mutual funds and retirement accounts.

16. 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.

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

Yes.

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

The foremost qualities I believe a judge should possess are modesty and humility. All other desirable qualities are traceable in some way to these characteristics. These qualities ensure the judge's overriding goal is to help the parties adjudicate their dispute, not to try and prove that the judge is the smartest lawyer in the room. These qualities drive the judge to ask thoughtful questions and to seek first to understand the views of others before having his own views understood. Modesty and humility will compel a judge to treat others with respect, to appreciate that the judge's role is limited to interpreting laws (not making laws), and to be driven by the desire to serve others and honor the legal system. A judge should not be driven by ambition or ego.

I believe these things are critically important at the appellate level. Our system wisely requires that appellate courts reach consensus before they can take any affirmative action. An appellate judge must therefore work well with others and be willing to listen to other people as a panel works to reach a collective judgment. This requires an environment that is constructive and collegial, and my own view is that a modest, humble, and respectful demeanor will always lead to such an environment.

19. Is there a role for sternness or anger with attorneys?

I do not believe there is ever an appropriate place to exhibit anger with anyone in a professional environment, regardless of whether such person is an attorney. I would strive to treat everyone with the utmost respect and courtesy. The circumstances might call for firmness, but I believe there is a way to be respectful in any situation.

Lawyers are stewards of the profession and its reputation. That recognition is critical because a steward does not hold assets for himself; a steward protects someone else's property for someone else's benefit. Everyone suffers when the people in a professional environment do not act as professionals. Anger and conduct that demeans a lawyer hurts everyone because it injures our profession and its reputation. I am convinced one can always disagree without being disagreeable.

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 S.C.

My Commission Expires: _____