



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

Circuit Court
(New Candidate)

Full Name: Milton G. Kimpson

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1. Why do you want to serve as a Circuit Court judge?

My service on the Administrative Law Court (ALC) ranks as a highlight of my legal career. I look at the opportunity for election to the Circuit Court bench as a greater chance to serve our State and a wider range of its citizens and I welcome the increased responsibility. I believe I can bring attributes such as hard work, integrity, fairness and preparedness to the Circuit Court bench.

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

Yes

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

No.

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

Yes.

5. 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 be avoided and further, should not be tolerated. In the event an ex parte contact occurs concerning a procedural or non-substantive issue, or, in the case of some emergency, immediate steps must be taken in accord with Canon 3 to

allow the opposing party an opportunity to respond.

6. 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?

Yes, I would grant a motion for recusal unless there were some circumstance, such as the unavailability of another judge, which required me to hear the case. If I determined that an issue had the potential to create an appearance of bias such that I needed to disclose it, I will also be prepared to recuse myself if a motion to recuse is made, even if I believed the issue would not cause me any difficulties in arriving at a fair decision. A litigant must have confidence that he or she is appearing before an unbiased and objective tribunal.

7. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

Canon 3 makes recusal necessary in the event a spouse, parent, child or member of the judge's household has an economic interest or any other more than de minimis interest in the subject matter of a proceeding. Full disclosure to the parties is necessary when any potential impropriety exists – which also may mean that recusal becomes necessary because of the social involvement of a spouse or family member. The public's faith in the judiciary requires the highest degree of impartiality.

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

Gifts should not be accepted. Social hospitality should be avoided.

9. 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 there is reliable evidence of misconduct or infirmity which requires reporting under the Judicial Canons and/or ethical rules, a report to the proper governing body is required.

10. 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; however, I do belong to two national fraternal organizations, the Omega Psi Phi Fraternity, Inc. and Sigma Pi Phi Fraternity.

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

No, I have not engaged in fund-raising activities. Furthermore, I have made it clear to any organization with which I am affiliated that I am unable to solicit funds.

12. Do you have any business activities that you would envision remaining involved with if elected to the bench?

My family and I own residential rental property as well as a small timber tract (40 acres) in Calhoun County. To the extent time permits, I would continue with these activities.

13. If elected, how would you handle the drafting of orders?

Currently, as a trial judge at the ALC, orders are grouped into three general categories. Typically, in routine cases, I will ask my law clerk or staff attorney to draft an order based on my impressions after hearing the case. I will then review the evidence and "mark-up" the draft order as necessary. At times in routine cases, after my consideration of the case, to include the evidence, I have asked the prevailing party to draft a proposed order and send to the opposing party for comment. I will then revise the order as necessary. While form orders are not used in my ALC work, from my experience as a litigant in the Circuit Courts, form orders are used in many cases and I will employ this method when appropriate because of the sheer volume of cases. In more involved cases, after my review of the testimony and evidence, I will provide my staff attorney or law clerk detailed instructions on the decision and how the order should be drafted. I will then review the draft and revise it as necessary. In complex cases, I will ask opposing attorneys for proposed orders and, after my review of the transcript and evidence, I will draft a final order.

For cases on appeal, after our initial discussions, my law clerk or staff attorney will draft an order. I will then review the file, to include the briefs and record on appeal, and make revisions to the draft order as needed. If elected to the Circuit Court, I will employ these methods to ensure that orders are timely drafted and distributed.

14. If elected, what methods would you use to ensure that you and your staff meet deadlines?

All dates must be placed on a group calendar – ensuring checks and balances - and every attempt must be made to adhere to those dates with automated reminders.

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

Judges must follow the law as enacted by the General Assembly; policy must be left to the legislature and the executive branch. A judge may only promote public policy insofar as his or her decisions are consistent with existing law and thus, further the policy expressed by our legislature when it enacted the law. Judges should not have any role in setting/promoting public policy.

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

As a judge on the ALC, I have looked forward to making presentations at continuing legal education programs. As time permits, I will continue to participate in continuing legal education programs and other events designed to provide information to lawyers.

17. 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 address this?

I have not experienced any additional stress in my relationships because of my judicial service at the ALC although I would imagine that such stress could certainly occur, especially since Circuit Court judges hear cases with the potential to generate much more publicity. In such a situation, I will attempt to insulate my family as best as I can from any public criticism aimed at me and the decisions that I may render. My wife and I have discussed this potential. The issue might also arise when relatives and friends seek legal advice – I carefully explain that I am no longer in the practice of law and that I am prevented from performing legal services or giving legal advice of any kind. I have not had a situation where a friend or relative has not understood this limitation.

18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.

A sentencing judge must follow the law. That being said:

- a. Repeat offenders:

Repeat offenders will come before a court having already received opportunities for rehabilitation. While this does not always mean that these persons must be sentenced to the full extent of the law and further, that mitigating circumstances such as, economics or mental health should not be taken into account, repeat offenders must be given sentences reflective of the severity of their crimes. Unfortunately, there is a growing body of data evidencing that repeat offenders are responsible for an increased number of violent crimes.

- b. Juveniles (that have been waived to the Circuit Court):

The fact that a juvenile has been waived from Family Court to Circuit Court indicates that a serious crime has occurred. Despite his or her age, a sentence for a juvenile convicted in Circuit Court must be commensurate with the crime committed and its effect on the community (including the victim). On the other hand, by virtue of his or her age, a juvenile may not have the same level of mental acuity as an adult and may have some rehabilitation potential. As with all sentencing issues, a judge must stay abreast of changes in the law, but particularly in juvenile cases where appellate courts routinely consider such matters. All of these considerations must factor into sentencing.

- c. White collar criminals:

While the crimes committed by these individuals may not be as publicized, white collar crimes generally have a reverberating effect in the economy and victims' lives. All factors such as a defendant's education, service to community, previous behavior, and rehabilitation potential must be taken into account. However, the public's trust in the courts is damaged when white collar criminals are not given sentences appropriate to their crimes.

- d. Defendants with a socially and/or economically disadvantaged

background:

All factors must be taken into account when considering a defendant's sentence. And, it is possible that economics or past disadvantages may mitigate against harsher sentences. However, a judge must follow the law and decide whether the severity of the crime, circumstances and its effect on the community outweigh such factors.

e. Elderly defendants or those with some infirmity:

As with the sentencing of all defendants, age and/or infirmity are factors that must be taken into account. With such individuals, the cost to the State of lengthy incarceration must also be evaluated. Whether these factors outweigh normal considerations such as the severity of the crime, record of the defendant and community impact must be considered on a case by case basis.

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

No.

20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?

No. Even if the interest were such that I felt could be impartial, I would certainly fully disclose the matter, meaning the extent of any financial interest, to the parties involved and discuss the need to recuse. I would go forward to hear the case only if each party affirmatively stated that there was no objection to my presiding. This will require review of cases early in the process to identify such interests.

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

Yes.

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

A judge should always strive to have a calm and controlled demeanor, whether in the courtroom, in other professional settings or in social settings. An objective demeanor is particularly important in the

courtroom because of the need to avoid the appearance of impropriety. Whether on the bench or not, a judge represents the judicial system so that the judge must always be mindful of demeanor and behavior.

23. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or pro se litigants?

No. A proper judicial temperament should always be maintained. As such, it is never appropriate to become angry with a member of the public, a litigant or a criminal defendant. That being said, at times it is necessary to express appropriate moral outrage but only in a calm and controlled manner. Additionally, attorneys or pro se litigants should not be allowed to engage in behavior which causes disruption in the courtroom or is somehow detrimental to the administration of justice. A judge cannot, however, effectively correct such behavior by becoming outwardly angry.

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 _____, 2023.

(Signature)

(Print Name)
Notary Public for South Carolina
My Commission Expires: _____