



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

Circuit Court
(New Candidate)

Full Name: **Sanford Cox Graves**

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

Since I have joined the legal profession, I have consistently sought positions in the service to the public. I have been extremely fortunate to serve in these positions with very fine people who have guided me as both mentors and examples, many of whom served as judges. I am pleased to have clerked for Circuit Court Judge John Breeden, and also to have the guidance of Master-in-Equity Stan Cross in Horry County. Additionally, in law school, I had the momentous opportunity to serve the historic Sr. Federal District Court Judge Matthew J. Perry as a “Law Student Intern.” These people, their stories, and these experiences, have impressed upon me the importance of high standards and values, of humanity, hard work and service, and the need for people to do as much as possible to contribute to the maintenance and betterment of our state and our society. I want to become a Circuit Court Judge to do my part to fulfill my responsibilities, and to be a good example of a life of service.

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

Yes. The successful candidate for this seat during the 2023 judicial election cycle will serve the remainder of the incumbent’s term which is published to be the 6-months from January 1, 2025 to June 30, 2025. It will also be my intention to be a candidate during the 2024 judicial election cycle to win a full term beginning July 1, 2025.

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. As required by the South Carolina Constitution Article V §15, I am a citizen of the United States and South Carolina. At 54, I am over 32 years-old and have been a licensed attorney at law for 21-years. Although I am native-born to South Carolina, I have most recently been a legal resident for the last 24-years.

I have never been a member of the General Assembly.

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

I believe in, and will practice, strict adherence to South Carolina Appellate Court Rule 501 (Code of Judicial Conduct) Canon 3B(7) which addresses the prescribed manner in which a judge can perform the duties of judicial office impartially and diligently. Specifically, no *ex parte* communications are permitted regarding the *substance* of matters before the court. However, there are limited exceptions to the rule where necessary *procedural* communications relating to scheduling and other administrative purposes or emergencies may be had where no party gains or loses tactical advantages, and where all interested parties are promptly notified of the substance of the *ex parte* communication and are given an opportunity to respond. Certain circumstances, such as those contemplated under SCRPC 65 are permitted exceptions.

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?

The general integrity and independence of the judiciary is addressed in the South Carolina Rules of Appellate Court in Rule 501, Canon 1. Where a judge's actions are at question, the test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality, and competence is impaired. The crux of the rule is the perception of a reasonable mind, and not what actual prejudice may, or may not, be held within the mind of the judge.

In the comments to Canon 3 Section B(9), a judge is required "to abstain from public comment regarding a pending or impending proceeding", where, now quoting the Section, the judge's comment "might reasonably be expected to affect its outcome or impair fairness". The question herein focuses on the result of such a violation of Section 3B(9).

In addressing judicial disqualification, Canon 3E considers the criteria for the remedy of self-disqualification. In Section 3E(1), it is required where the “the judge’s impartiality might reasonably be questioned.”

Under the procedures covered in Canon 3F, a judge may disclose on the record the basis for disqualification and may ask the parties and their lawyers to consider, out of the presence of the judge, with such reasonable time as necessary, whether to waive disqualification. If the parties all agree, without the participation of the judge, to waive the disqualification the judge may continue in the case. Any such agreement should appear fully in the record, and it is proper and advisable for the judge to have the parties sign a remittal agreement for the record.

If the substance of the judge’s disclosure is material, and the moving party can show reasonable bias, or the appearance of bias, and all the parties do not consent to remittal, and outside of the rule of necessity, the motion to disqualify the judge should be granted.

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

Canon 3C(1)(c) provides that a judge should disqualify himself in a proceeding where impartiality could reasonably be questioned, and 3D requires the basis for the disqualification. It is imperative that judges take steps to avoid such disruptions.

The financial or social involvement of my spouse or a close relative is addressed in the South Carolina Rules of Appellate Court in Rule 501, Canons 1 and 2, which highlights a judge’s general duty to maintain integrity and independence. Section 2A, which states that a “judge shall avoid impropriety and the appearance of impropriety”, demands general impartiality, and Section 2B which specifically addresses the need of a judge to not allow personal or familial business to hold influence. The circumstance is also addressed in the Code of Laws of South Carolina in §14-1-130 which provides that, “No judge or other judicial officer shall preside on the trial of any cause when he may be connected with either of the parties by consanguinity or affinity within the sixth degree.” Based on the Rules and the Code, it is a basis for disqualification.

The necessity for impartiality is also addressed in Section 3E’s disqualification language. Section 3E(1) states that “a judge shall disqualify himself ...[in] instances where: ... (c) the judge knows ... of a familial economic interest in the subject matter ... that could be substantially affected ...”; or where the Section 3E(1)(d) criteria are met regarding familial participation in the

proceeding.

While the judge is required to make a Section 3E economic interest or familial relationship known on the record to all participants pursuant to Section 3F, the parties, following the procedural safeguards therein, may allow an otherwise disqualified judge to participate. I would approach this situation with extreme caution, tending to favor my disqualification, noting that the appearance of impropriety should always be avoided.

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

The acceptance of gifts or social hospitality is addressed in the Appellate Court Rules and the Canons, the Rules of Professional Conduct, and the South Carolina Code.

SC Code §8-13-100(16) defines "Gift" as "anything of value, including entertainment, food, beverage, travel, and lodging given or paid to a public official, public member, or public employee to the extent that consideration of equal or greater value is not received. A gift includes a rebate or discount on the price of anything of value unless it is made in the ordinary course of business without regard to that person's status. []." The ethical issue relating to gifts is the implication that the gift may be intended to influence the judge.

"Anything of Value" is defined in SC Code §8-13-100(1)(a) and lists 14 particular classes of items. Additionally, §8-13-100(1)(b) lists 7 items which are *not* "anything of value." While SC Code §8-13-700(D) excludes the courts from these enforcement provisions, the definitions can aid in knowing what items a judge should include in the reporting required under Canon 4H.

South Carolina Rules of Appellate Court in Rule 501 Canon 4A says a judge should not act in a manner which could "cast reasonable doubt on the judge's capacity to act impartially ... or demean the judicial office ...". Furthermore, Section 4D(5) states that a "judge shall not accept and shall urge members of the judge's family ... not to accept, a gift, bequest, favor or loan, from anyone ..." with limited exceptions, to include "ordinary social hospitality."

Ordinary social hospitality is treatment in the regular course and on the same general terms as the public or other guests. With that stipulation, ordinary social hospitality can be accepted where the situation cannot be perceived as intended to influence the performance of judicial duties.

The comments take particular note of gifts, favors, bequests, or loans given to a judge from lawyers or their firms, as well as a gift that is "excessive in value." A workable standard is to never accept gifts from parties, lawyers, or

law firms who have or who are likely to appear before me. Additionally, I would not accept, or permit family members to accept, any gift that could be perceived as intended to influence the performance of judicial duties.

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?

The guidance to answer this question is found in Canon 3. The disciplinary responsibility of a judge is found in Section 3D. It states generally with regard to other judges or lawyers, that where there is substantial likelihood or knowledge of violations of the Appellate Court Rule 501 or the Rules of Professional Conduct, the judge is to take appropriate action to include direct communication, other direct action, or reporting the violation. Where there is actual knowledge, the judge must report to inform the appropriate authority.

A judge's responsibility in regard to a judge or lawyer's appearance of infirmity is found in Section 3G. Where a judge finds a reasonable belief that the performance of a party is impaired by drugs, alcohol, or by mental, emotional, or physical condition, the judge shall take appropriate action, which may include a confidential referral to an appropriate lawyer or judicial assistance program.

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. I am not a member of any such group. I am aware of the general prohibition in Canon 2A, and the specific prohibition in Canon 2C for belonging to organizations that practice discrimination on the basis of race, sex, religion, or national origin. Additionally, I am aware of the remedies for such discriminatory practices as discussed in the comments of Section 2C which include calling organizational attention to the specific practice, the allowance of time for a prompt remedial action, and member resignation if the organization fails to correct or comply.

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

Generally, I don't. However, within the month of June, my family received a donation request for a friend who is an employee at my son's school who has a severely handicapped child. We made family financial contributions to the effort to raise money to purchase a handicap vehicle, and I also forwarded the donation request on social media with a personal note of support, and a

request for donations. Additionally, I have reached out to the fundraising organizer to offer my assistance in, among other things, securing federal, state, or private funding or grants, collective purchasing discounts or other advantages, and low interest loans. This is an ongoing effort; however, it is specific and limited to one family's situation.

I am aware of the prohibitions in Canon 4 Section C(3)(b)(iv) that a judge shall not "use or permit the use of the prestige of judicial office for fundraising...". If elected, efforts such as this may exceed the permitted limitations.

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

No.

I am aware of the provisions in Canon 4D which relate to a judge's financial activities, including those which may reasonably be perceived to exploit the judge's judicial position, and raise the likelihood of other potential conflicts.

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

Under Canon 3B(8), the judge is tasked with disposing "all judicial matters promptly, efficiently, and fairly." In practice at the Circuit Court level, there is great efficiency in allowing the prevailing party to draft and present a proposed order within a limited time to both the Court and opposing counsel. Additionally, there is wisdom in allowing both/all parties to submit proposed orders to ensure that the final orders are reflective of the entire substance of the matter. The proposed orders will be reviewed for scope and accuracy such that the intent of the Court is properly reflected in the documentation and record. Where efficient, or necessary, I will research and draft my own orders.

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

The administrative responsibilities of the judge are covered in Canon 3C. Recognizing that timeliness and efficiency are critical to a well-run court and to the greater judicial system, the judge and the staff "must maintain professional competence in judicial administration." Additionally, Section 3B(8) states that "a judge shall dispose of all judicial matters promptly, efficiently, and fairly."

With these goals in mind, the judge must hire staff that will apply the same standards of fidelity and diligence that apply to the judge and train these individuals in line with the highest ideals of Court Administration and office management for efficiency and productivity, and create a work environment

which respects all individuals such that the work is not just a vocation, but also an avocation. My office will calendar matters and conduct regular staff meetings.

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

I believe judicial activism is an improper exercise of authority.

The term judicial activism implies a hidden agenda or set of personal values that overrides judicial integrity and independence required to comply with Canon 1. Such improper actions are shortcuts around the proper legislative or executive processes and act to diminish public confidence in the judiciary and the courts as stated in Canon 2A. In many instances, judicial activism violates the Canon 3B(2) requirements that a judge be “faithful to the law” and “shall not be swayed by partisan interests, public clamor or fear of criticism.” Additionally, the act of judicial activism is not impartial, and is the essence of bias and prejudice as prohibited by Section 3B(5).

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?

I currently enjoy teaching business law classes to the business major students at Coastal Carolina University which I could continue to do until presumably January 2025. Also, in the past, I have assisted as a scoring judge for the high school and middle school mock trial competitions in Horry County. I will continue to have an interest in these events, and I know there is a need for volunteers. It would also be my goal to participate in efforts to promote the fair administration of justice, the independence of the judiciary, and the integrity of the legal profession as noted in the comments to Canon 4B.

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?

No. As an attorney I am already confronted with pressure and demands as found within the legal profession. Having served in judicial capacities, I do also recognize that additional rules apply. Canon 3 states that the “judicial duties of a judge take precedence over all the judge’s other activities.”

I have my family’s support in this endeavor, and I believe that they would be extremely proud of my success and accomplishments.

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.

I believe there is a legislatively authorized “spectrum of punishment” within the South Carolina Code of Laws. The range for the spectrum starts with a dismissal on the lesser end and increases in severity to a minimal conditional discharge or other authorized remedial measure that takes note of the criminal event without exacting punishment of record. Increasingly serious criminal conduct, or defendants with a more robust criminal history, would likely see greater punishments to include probation, terms of prison, or, with the requisite circumstances, proof, and Constitutional protections, the legally authorized sentence of death. The classes of offenders below are entitled to fairness. However, pre-judging what punishment one group, or another might receive from me, exercising judicial authority, suspends fairness and may serve to deny justice to all.

Under Canon 2A, the duty of a judge is to respect and comply with the law. Canon 3B(2) requires that a judge be “faithful to the law” and under Section B(5) “perform the judicial duties without bias or prejudice.” The comments to Canon 1 state that “public confidence in the impartiality of the judiciary is maintained by the adherence of each judge to this responsibility.” Canon 3 B(6), however, permits participants to engage in “legitimate advocacy when race, sex, religion, national origin, disability, age, or other similar factors are issues in the proceedings.” As to the following groups:

- a. Repeat offenders:

I would take into consideration that a repeat offender has likely landed somewhere on the spectrum of punishment on earlier charges and consider, as applicable, that the legislature has in many statutes authorized an enhanced range of punishment. As one of the many goals of a criminal justice system is deterrence, individuals who continue to repeatedly exhibit criminal behavior subsequent to prior punishment may have failed to consider the potential for greater sanctions. Depending on the crime, and similarly to the considerations in setting bonds, the danger to the community must also be weighed. Each case stands on its own and I would rightly consider and weigh the defendant’s criminal history and other factors including drug addiction, treatment, etc., to judiciously match the punishment to the instant crime and the criminal actor.

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

A judge must respect the judicial findings that allowed and required the juvenile to face justice in the Circuit Court. Juveniles, properly waived to the Circuit Court through authorized Code and process, are subject to the same

rules, due process, and punishments as adult offenders. In the pursuit of justice, and with an eye towards the rehabilitation of a young person, a judge must weigh the proven facts and circumstances in reaching a sentencing decision and act to impose punishment faithful and consistent with the Constitution and law as enacted by the legislature.

c. White collar criminals:

The legislature has enacted numerous code sections of crimes that would typically be considered white collar crimes. It has been my experience that some victims of financial crimes are interested in both punishment and restitution. Upon a proper showing, I would craft sentences that would exhibit a punishment towards future deterrence to the offender with repayment terms where restitution is sought by the victim as presented by the prosecution. Sentencing in each case would be largely determined by the specific facts and circumstances: However, no general or predetermined sentencing outcome would be proper, and the entire spectrum of punishment allowed by law would be under consideration.

d. Defendants with a socially and/or economically disadvantaged background:

To offer a worse or better punishment to the disadvantaged due to their background would act to deny blind justice to everyone. It would also be contrary to Canon 3(B)(2)'s requirement to be "faithful to the law", and (B)(5)'s requirement that judicial duties be carried out without bias or prejudice. The punishment, for anyone appearing before the court, must be within the range authorized by statute and be based on the criminal behavior as proven by the prosecution to the requisite level, tempered and mitigated by the defense, and generally not be based on background or economic status. The courts are designed to judge an individual's behavior in light of the law: If the Legislature intends for Courts to make judgments based on such economic or historical status, they will authorize it in the Code of Laws.

e. Elderly defendants or those with some infirmity:

It has been my experience that elderly or infirm defendants often suffer from conditions which relatively and subjectively increase the impact of punishments, create unintended consequences, and can burden officials and increase costs to the State associated with incarceration and treatment. Under the Canon 3B(2) requirement to be "faithful to the law", and the Section B(5) requirement that judicial duties be carried out without bias or prejudice, a judge should not prejudge the sentencing range or sentencing decision. If the personal characteristics are properly presented by litigating parties, they could become a relevant aspect for consideration. Canon 3B(7)(c) permits the court

to “consult with court personnel whose function is to aid the judge in carrying out the judge’s adjudicative responsibilities.” In weighing the criminal behavior as proven by the prosecution to the requisite level, and as balanced by the defense request for mercy, and the input of victims where applicable, there are other practical concerns that can be presented by institutional stakeholders in the State system where appropriate. As such, input from entities such as the Department of Probation, Parole, and Pardons, and the SC Department of Corrections regarding defendants with costly or burdensome characteristics or health conditions would become a proper factor for consideration in the sentencing of these individuals.

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

No.

I am aware of the provisions in Canon 4D which relate to a judge’s financial activities, including those which may reasonably be perceived to exploit the judge’s judicial position, and raise the likelihood of other potential conflicts.

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

Yes, I would hear the case. This situation is addressed in Canon 3E(1)(c) & 3E(1)(d), and in the associated Terminology. Because *de minimis* “denotes an insignificant interest that could not raise reasonable questions as to a judge’s impartiality.” For automatic disqualification, the Canon requires “any more than *de minimis* interest by a judge’s spouse or relative in the third degree of relationship.” The comment states that under Section 3E(1), the judge may be disqualified where “the relative is known by the judge to have an interest ... that could be ‘substantially affected by the outcome of the proceeding’.” An analysis is proper, however the insignificance of the interest as presented in the question “does not of itself disqualify the judge.”

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

Yes. However, I relied on my carry-over hours in 2022-2023 after having completed credit for 85.25 hours (99.25 total) for 2021-2022. I also completed 4.0 additional credit hours of online/DVD CLE programs in 2022 for my Florida Bar requirements which I did not report to SC Comm CLE.

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

Rules of Appellate Court 501, Canon 3B(4) says that a “judge shall be patient, dignified and courteous” and to demand the same from court participants. While the specific rule demands such behavior in the judge’s official interactions, Canon 1 more generally requires “a high standard of conduct” from judges, and Canon 2A implores judges to “act at all times in a manner that promotes public confidence in the ... judiciary.”

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. And no. The judge is not acting as an individual person: A judge is the representative and personal embodiment of the authority and integrity of the state and its court system where it most closely meets citizens and the public. The courts are intended and designed to be the location where a civil society gathers to be heard and resolve important issues of great personal or business concern. Recognizing the obvious need and purpose for such an institution, for the judge to act with incivility would defeat the entire purpose of the effort. Rule of Appellate Court 501, Canon 1, requires that a judge should establish, maintain, and enforce “high standards of conduct”, and Canon 2A instructs the judge to in a manner that promotes public confidence in judges, and comments that such confidence can be “eroded” by improper conduct. Canon 3B(3) presents the responsibility that a judge “shall require order and decorum in proceedings”. Furthermore, Canon 3B(4) states that a “judge shall be patient, dignified, and courteous” in dealing with all participants. A judge following the Canons has enough actual authority in the position, the judicial raiment, and the gavel, that an almost emotionless judge, through authorized actions, does not need to resort to unchecked emotion to be highly effective.

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: _____