



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

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

Full Name: William Grayson Lambert

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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 are inappropriate because they undermine confidence in the judiciary as an impartial decisionmaker. When one side gets to talk to a judge without the other side present, the absent side can only wonder what was said or what advantage was gained.

Therefore, Canon 3(B)(7) prohibits virtually all *ex parte* communications. At the appellate level, there should rarely, if ever,

be a need for *ex parte* communications, and they should not be tolerated. Even when emergency motions or petitions are filed, they are filed with the clerk of court and should be served immediately on all counsel of record (particularly now that the Supreme Court has permitted service of appellate court filings via email). Finally, any of the scheduling-related issues that Canon 3(B)(7) permits as *ex parte* communications should, at the appellate level, be handled with the clerk's office.

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?

A judge must disqualify himself when his impartiality "might reasonably be questioned." Rule 3(E), CJC, Rule 501, SCACR. "[T]he need to maintain a fair, independent, and impartial judiciary—and one that appears to be such"—is critical to the third branch of government's ability to function as a means of settling disputes. Caperton v. A.T. Massey Coal Co., 556 U.S. 868, 890 (2009) (Roberts, C.J., dissenting, joined by Scalia, Thomas, and Alito, JJ.). Therefore, I would recuse myself if the motion were reasonable. In an appellate court that sits in panels as the Court of Appeals does, there is no need to risk any appearance of impartiality, as other judges could hear that particular case. See Cheney v. U.S. Dist. Ct. for D.C., 541 U.S. 913, 915 (2004) (Scalia, J., in chambers) ("resolv[ing] any doubts in favor of recusal" "might be sound advice if I were sitting on a Court of Appeals" because "my place would be taken by another judge, and the case would proceed normally").

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

I would accept ordinary social hospitality because it is important that judges not lead secluded lives. Factors I would consider in determining whether something is ordinary hospitality include whether the cost of the hospitality is typical, the nature of the relationships of the people involved, and whether that hospitality is typical of the hospitality usually offered and accepted.

I would also accept social hospitality and gifts permitted by Canon 4(D)(5). In addition to avoid leading a secluded life, it is

important that judges be engaged members of the Bar, which this Canon permits.

I would continue to accept gifts from family and friends as I have accepted gifts in the past, but I would be hesitant to accept gifts from anyone who with whom I had not exchanged gifts in the past, unless a new, meaningful friendship had developed since taking office. And I would not accept gifts from anyone with any cases pending in the Court of Appeals.

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 misconduct or the appearance of infirmity as required by Canon 3(D).

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.

I currently serve on the Diaconate at First Presbyterian Church in Columbia. A separate Diaconate committee is responsible for stewardship and finance, but the entire Diaconate discusses issues arising out of that committee if warranted.

I served on the 2014 Reunion Giving Committee for the University of Virginia's Class of 2009 Reunion. In that role, I encouraged classmates to donate to the University ahead of the reunion.

I served as a member, vice chair, and chair of the New Lawyers Division of the Duke Law Alumni Association Board of Directors from 2012-2017. In that role, I encouraged recent graduates to join the Alumni Association and donate to the Law School.

I served as a member of the Law & Society Committee of the Mecklenburg County Bar while working as an associate at McGuireWoods in Charlotte. In that role, I helped plan an annual

luncheon to raise money for the Bar and encouraged other lawyers to attend.

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

I would begin by reading a bench memo prepared by a law clerk, using that memo only as an overview of the case. After reading that bench memorandum, I would begin by reading the order being appealed. I would then study the briefs submitted by the parties and any amici. I would next focus on the record prepared by the parties, with a particular emphasis on the portions relied on most heavily by the parties. Finally, knowing the parties' arguments and facts of the case, I would do my own legal research to determine what result the law required in that case.

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

It is "the province and duty of the judicial department to say what the law is." Marbury v. Madison, 5 U.S. 137, 177 (1803). Nothing more. Courts do not make policy. They are instead confined to their "limited constitutional function of the 'judicial power.'" Carnival Corp. v. Ansonborough Neighborhood Ass'n, 407 S.C. 67, 81, 753 S.E.2d 846, 853 (2014). The judicial power is the "power to decide cases and controversies." Clinton v. Jones, 520 U.S. 681, 700 (1997); see also S.C. Code Ann. § 14-8-200(a) (the court of appeals "has jurisdiction over any case" meeting certain criteria (emphasis added)). In other words, the appellate courts, "like well-behaved children, do not speak unless spoken to and do not answer questions they are not asked." Herron v. Century BMW, 395 S.C. 461, 469, 719 S.E.2d 640, 644 (2011).

Staying faithful to this principle of deciding only the question raised by the pending case ensures that courts do not encroach upon the authority of the General Assembly, which "has plenary authority to make policy decisions on behalf of the state." ArrowPointe Fed. Credit Union v. Bailey, 438 S.C. 573, 581, 884 S.E.2d 506, 510 (2023); see also Richland Cnty. Sch. Dist. 2 v. Lucas, 434 S.C. 299, 306-07, 862 S.E.2d 920, 924 (2021) (courts "do not sit as a superlegislature to second guess the wisdom or folly of decisions of the General Assembly"). Failing to adhere to this principle and usurping the General Assembly's policymaking authority undermines the People's right to elect representatives to make the laws that govern the State.

Judges' sole constitutional responsibility is to faithfully interpret and apply the law and decide the specific case in front of them.

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 envision two primary ways to improve the law beyond the usual work of a judge. The first would be to speak at CLEs to help practicing lawyers. Having attended CLEs for more than a decade now, I know that judges play an important role in CLEs, and judges should be willing to accept invitations to speak at CLEs. The second would be to engage with law students, whether as interns or in a classroom setting, to help teach the next generation of lawyers.

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 that the pressure of serving as a judge would strain any personal relationships. I have maintained a busy law practice with high-profile cases, so my wife, family, and friends are used to the rhythms and scheduling issues that accompany that practice. I am fortunate that they are understanding and supportive both of my work, including the fact that the Rules of Professional Conduct require that I not discuss much of that work, and of my decision to run for the bench. To maintain a work-life balance, I try to be intentional about being present and engaged when I am with family (especially my children) and friends and to be diligent with my work when I am at my desk (whether literally or figuratively).

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:

Our Constitution is interpreted “in light of the intent of its framers and the people who adopted it.” State v. Long, 406 S.C. 511, 514, 753 S.E.2d 425, 426 (2014). In undertaking this effort, words must be given their “ordinary and popular meaning.” Id. And those words must be given the meaning they had at the time the constitutional provision was enacted, as that was the meaning that the Framers and People understood this provision to have when they “worked to create th[is] governing law.” Id. To give the words a meaning from a more recent time would be to implicitly amend the Constitution and deprive the People of their right to amend this social contract. See S.C. Const. art. XVI, § 1.

Given these rules of interpretation, the most important of the three tools in this question are contemporaneous documents such as convention records. What people involved in adopting a constitutional provision said at the time of its adoption is strong evidence of how that provision was understood. See, e.g., Sloan v. Sanford, 357 S.C. 431, 436–37, 593 S.E.2d 470, 473 (2004); Diamonds v. Greenville Cnty., 325 S.C. 154, 480 S.E.2d 718, 720 (1997). Using such historical sources to interpret the Constitution is an important way to ensure that judges give the Constitution the meaning it had at the time it was enacted, rather than the meaning judges might want it to have now.

Historical practice comes next in this hierarchy. How a constitutional provision has been applied can provide compelling evidence about how the framers and people understood a constitutional provision. See, e.g., Fulton v. City of Philadelphia, 141 S. Ct. 1868, 1903 (2021) (Alito, J., concurring in the judgment) (“Since the First Congress also framed and approved the Bill of Rights, we have often said that its apparent understanding of the scope of those rights is entitled to great respect.”). That said, the closer in time the historical evidence is to the enactment of the constitutional provision, the more persuasive that evidence is likely to be. See, e.g., District of Columbia v. Heller, 554 U.S. 570, 614 (2008) (“Since those discussions took place 75 years after the ratification of the Second Amendment, they do not provide as much insight into its original meaning as earlier sources.”).

Finally, an agency's interpretation of the Constitution is entitled to no deference. Agency deference applies only when an agency interprets its own enabling statute and that statute is ambiguous, based on the theory that an agency better understands its purposes and functions than the courts do. See Kiawah Dev. Partners, II v. S.C. Dep't of Health & Env't Control, 411 S.C. 16, 32–33, 766 S.E.2d 707, 717 (2014). This doctrine has no application in constitutional interpretation, and an agency's interpretation of the Constitution should be adopted by the courts only if the agency's interpretation is persuasive using the usual tools of constitutional interpretation.

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 should be patient, self-controlled, open-minded, reflective, eager to listen, inquisitive, courteous, and respectful. These rules apply at all times. See Rule 2(A), CJC, Rule 501, SCACR.

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

A judge must be an impartial, dispassionate decisionmaker. Thus, there is no role for anger with attorneys. Anger indicates, or at least suggests, that emotion, rather than reason, logic, and law are driving judicial decisionmaking.

To be sure, there is a difference between anger and sternness, which may be required to exercise control over the courtroom. And there is a difference between both anger and sternness and tough questioning, which is inherently part of the appellate process. A

judge may—and should—ask tough questions, but should do so without being angry, harsh, or condescending.

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

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Sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print name)  
Notary Public for South Carolina  
My Commission Expires: \_\_\_\_\_