



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

Circuit Court
(Incumbent)

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

I enjoy my job as a Circuit Court judge. I have had the opportunity to travel around the state and meet many good people in the various counties. Most importantly, being a trial judge gives me a "frontline" perspective of the problems affecting our state and society as a whole. I can help combat those problems by fairly and justly applying the law. Certainly, there are unpleasant cases that I encounter. But I believe that I am well-equipped in temperament and experience to handle any type of case that is assigned to me. I also have had the very rewarding experience of seeing individuals who have appeared in front of me on serious charges be successful in turning their life around and becoming productive members of society.

I very much wish to continue in my position of Circuit Court judge.

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

I am very careful regarding *ex parte* communications. Canon 3B(7) of the Code of Judicial Conduct makes it very clear that a judge should avoid *ex parte* communications except under a very narrow set of circumstances such as scheduling, administrative matters or emergencies. This issue arises often regarding scheduling. As Chief Administrative Judge, I receive a large number of requests for continuances. My procedure is to not sign any orders of continuance that lacks written consent by opposing counsel until they have been given the opportunity to be heard on the issue. Most of the time this is resolved with an email from my law clerk to both lawyers, inquiring about consent. On some occasions I will have my law clerk set up a conference call. I go to great lengths to avoid *ex parte* communications.

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?

My basic belief is that a judge should avoid the appearance of bias, even if no actual bias is present. If the litigants to a case do not believe the court is fair, then public confidence in the system erodes. I have recused myself in cases where I did not believe there was a conflict because one party made a good faith request that I do so. I will evaluate these requests (and they are not common) and would not grant one if it were being made on some contrived argument in an attempt to delay the proceedings.

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

I would recuse myself if financial or social involvement of my spouse or a close relative was an issue in the case.

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

I do not accept gifts from any lawyer or person appearing or likely to appear in front of me. However, I do not believe that it an ethical violation for a judge to accept social hospitality, such as attending

Christmas parties, barbeques/dinners, weddings, etc. Judges are invited to annual events such as the SC Bar Convention (mandatory attendance for judges), the SC Association for Justice Convention, and the SC Defense Trial Attorneys Association. These are disclosed annually in our Rule 501 disclosure statement.

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?

I believe that a judge should report all unethical conduct in accordance with the Rules of Judicial Conduct.

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

I have not engaged in any fund-raising activities for any social, community or religious organization.

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

None.

12. How do you handle the drafting of orders?

I usually direct one of the attorneys to prepare the order. I do not sign the order until I receive verification from the other attorney that it has been reviewed. I will do my own orders on occasion, although this is not the norm. I have done them in highly contested cases in which I anticipated that there would be much disagreement between the attorneys over the wording of the order.

13. What methods do you use to ensure that you and your staff meet deadlines?

My administrative assistant and my law clerk work well together in managing our Matters Under Advisement (MUA) list. I have had some cases that took over thirty days due to unique issues, such as

the request of a transcript, additional briefing, etc. Our MUA list usually is cleared quickly. When I direct an attorney to prepare an order, my law clerk follows up with an email if the draft is tardy (I usually instruct the attorney to have the order prepared within ten days). That usually takes care of the problem. I am mindful of our dockets here in the Tenth Circuit, where I am currently Chief Administrative Judge. As of the latest monthly report, the Tenth Circuit has a state-leading 90% of Common Pleas cases meeting the 365 day benchmark. In General Sessions, our circuit has an overall 79% number (also leading the state), with my home county of Oconee meeting the benchmark at 80%.

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

A judge should not legislate from the bench. I instruct juries in my charge that they are to apply the law as it is, not as what they think it should be. I believe judges should be held to same standard. The Court should apply the appropriate constitutional, statutory and common law to the facts of each case. If it is statutory, then the Court’s mission is to “ascertain and effectuate” the intent of the Legislature. A judge should resist the temptation to modify from the bench laws with which he or she may have philosophical disagreement.

15. 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?

I plan on continuing my membership in the Circuit Court Judges Association and the ABA Judicial Association. These organizations are working to improve the efficiency of the Court system. I also enjoy participating in panels/CLEs. This allows me to talk to lawyers about things that can make the system better.

16. 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?

There was more strain earlier in my tenure, when my youngest son was still in secondary school and had a number of athletic events. Both of my children are grown now and all the arrangements that had to be made when I was traveling are now not necessary. Now there is minimal disruption in our daily lives.

17. 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. Repeat offenders: I always am interested in hearing the prior record of an offender. I am not unique among judges in sentencing repeat offenders to longer sentences. The maximum sentence is appropriate in some cases where the offender shows not likelihood of changing his behavior. The Legislature has built in significant penalties for repeat offenders in some types of cases, such as drug offenses or third/subsequent property crimes. Criminal history is a mandatory issue to be considered by the Court when determining whether or nor a defendant should be granted a bond. Like any case, the Court should evaluate each case on its own facts and circumstance.s
 - b. Juveniles (that have been waived to the Circuit Court): As noted above, each case is different. The Court must consider the facts and circumstances of the case on its own. There are options available to judge such as YOA, which is tailored toward young adults who have committed offenses. Sometimes, however, the nature of the offense itself is so bad that the juvenile has to be treated as a threat to society.
 - c. White collar criminals: I see a number of these type crimes, such as financial transaction card fraud, forgery, breach of trust, etc. These crimes, while not involving violence, are very damaging to society. They involve a person or business being victimized by having their money stolen. They also involve significant effort on the part of law enforcement and security personnel at financial institutions in tracking down how the transactions occurred. Sometimes these crimes create a bigger disruption in society as a whole than violent crimes. It is not the norm for a defendant in a case involving large sums of restitution to ever pay the full amount of restitution owed

given the limited amount of time that he or she can be on probation. Many of these crimes are tied to drug abuse. The Court has to fashion a sentence that protects society and offers to help the offender if substance abuse is the root cause. If that issue is not resolved, the offender will simply fall back into the same pattern when he is released from incarceration. Probation is a good option in these cases if the person does not have an extensive prior record and has the means to make meaningful payments toward the restitution owed. As in any other sentence, the Court has to weigh the potential of the victim being made whole and the offender being rehabilitated against the threat to society posed by the offender.

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

A person's lot in life is not a defense to a charge. However, the Court must look at a person's prospects for becoming a productive member of society when it comes to sentencing. The majority of defendants who appear in front of me in General Sessions Court are indigent and qualify for the public defender. If a person's living arrangements and associations are a root cause of the criminal behavior, then the Court will take that into consideration in fashioning a sentence. Being poor does not mean that a person has to commit crimes. Likewise, being rich does not insure that a person will not commit crimes. The Court should apply the law fairly to everyone, regardless of their economic and/or social situation.

- e. Elderly defendants or those with some infirmity:

I am mindful of persons in my courtroom who are elderly and/or suffer from disabilities. I direct the staff to make sure the microphones are operational and that reasonable accommodations are made for those who are hard of hearing or have limited mobility. I have to evaluate jurors with disabilities to determine their ability to serve. I have a number of defendants appear in Court whose attorney requests a mental evaluation. I generally grant those requests and have the Department of Mental Health issue a report prior to proceeding with the case.

18. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?
- No.
19. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?
- No.
20. 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.
21. Have you met the mandatory minimum hours requirement for continuing legal education courses for the last reporting period?
- Yes.
22. What do you feel is the appropriate demeanor for a judge and when do these rules apply?
- A hot-tempered person simply cannot do this job.
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 a pro se litigant?

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: _____