



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

Family Court
(New Candidate)

Full Name: Michael Scott McElhannon

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1. Why do you want to serve as a Family Court Judge?

I believe that my experience in virtually all areas in Family Court for the past thirty-one years has prepared me to be a Family Court judge. I have always tried to be fair, honest and just with everyone. I was taught to treat people as I would want to be treated. I believe greatly in civility in the practice of law, in and out of the courtroom. I believe that I have the right character traits and knowledge to be an efficient and effective Family Court judge.

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 statutory 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?

The best practice is to avoid *ex-parte* communications. A judge shall avoid *ex-parte* communications in substantive matters in a case. If certain *ex-parte* communications are permitted by the Rules of Practice and the Judicial Canons, such as administrative or scheduling matters, or emergencies, all parties should be notified and given 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?

I would recuse myself if there was an appearance of bias. I believe that for the judicial system to function properly it is paramount that all parties that are in court feel that they are being treated equally and fairly.

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 my spouse or close relative had a financial interest or social involvement in the case. I would also recuse myself if my spouse or close relative was likely to be a witness in the case.

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

I would not accept gifts or meals unless allowed by the Judicial Canons. Occasional ordinary social hospitality is allowed under Judicial Canon 4. Reimbursement of expenses for attendance at extra-judicial activities is permitted by Judicial Canon 4. Also, gifts from a family member or friend for a special occasion is permitted if it is commensurate with the occasion.

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 was a substantial likelihood that a fellow judge violated the Code of Judicial Conduct or that an attorney violated the Rules of Professional Conduct, I would take appropriate action. Appropriate action may include direct communication with the judge or lawyer or informing the appropriate authority. If I had actual knowledge that a judge or lawyer committed a violation that raises a question as to the judge's or attorney's fitness to practice I would inform the appropriate authority.

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? No. If so, please identify the entity and explain if this organization practices invidious discrimination on any basis.

11. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations? No. Please describe.
12. Do you have any business activities that you would envision remaining involved with if elected to the bench? No.
13. Since family court judges do not have law clerks, how would you handle the drafting of orders?

In my experience in practicing in Family Court I have had most judges request the prevailing party to draft the order and to submit it to the Court and opposing counsel. This method seems to work well; and given the volume of cases that come before a Family Court judge I believe that it is the most efficient way to keep things running.

There are certain cases where the judge may draft the order, such as a juvenile waiver order.

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

I would use a computer calendaring system for my administrative assistant and myself. I would also use a notebook to back up the computer system. I would request that the attorney preparing the proposed order submit it within a reasonable time frame. If the proposed order is not submitted on time my administrative assistant would follow up with the attorney as to the cause for delay.

15. If elected, what specific actions or steps would you take to ensure that the guidelines of the guardian ad litem statutes are followed during the pendency of a case?

A guardian ad litem should be appointed in all cases in which the interest of a child is in issue. The guardian ad litem is required to submit an affidavit to the court attesting that he/she has met the qualifications as set forth in the guardian ad litem statutes. The guardian ad litem should be present at all court hearings. The guardian ad litem shall submit a written report regarding the investigation and the child's best interest. The guardian ad litem should provide written disclosure of any relationship or interest that may cause either party to question the guardian ad litem's impartiality.

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

It is not the Judicial branch’s job to engage in judicial activism. The Legislature is the branch of government that enacts legislation. The Judiciary is tasked with construing the legislative enactment in a clear and unambiguous way, and in making every presumption in favor of the constitutionality of the enactment.

17. 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 have made several presentations at various conferences on juvenile justice law. I have also spoken to several high school classes on the subject. I was a founding member of the Anderson County Juvenile Drug Intervention Court.

18. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)?

No. My wife is aware of how much I have wanted to be a Family Court judge. She is in full support of my running for the position again.

19. Would you give any special considerations to a pro se litigant in family court?

A pro se litigant should adhere to the same rules of court as an attorney. However, I understand that a pro se litigant is not an attorney and may need some guidance so that the case is tried properly. The guidance given, if any, should not affect the issues in the case and should only be from a formality standpoint.

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

No.

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

A judge is not disqualified because a family member holds a de minimis financial interest. However, Canon 3 of the Judicial Canons allows a judge to disclose on the record the basis of the judge's possible disqualification. The parties and their lawyers may discuss the issue outside the presence of the judge. If all parties agree to waive the judge's disqualification, the judge may participate in the proceeding.

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

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

A judge should be polite, courteous, patient and dignified. However, this does not mean that a judge should lose control of the courtroom. These rules would apply to a judge at all times, whether in the courtroom or outside the courtroom.

24. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or a pro se litigant?
No.

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 _____, 2019.

(Signature)

(Print name)

Notary Public for South Carolina

My commission expires: _____