

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

Circuit Court
(Incumbent)

Full Name: Eugene Cannon Griffith, Jr.
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1. Why do you want to serve another term as a Circuit Court Judge?

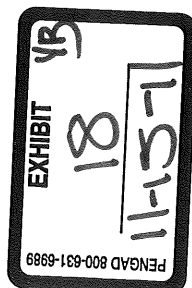
It was my lifelong dream to serve as a circuit judge. I was fortunate to be elected more than two years ago. I have enjoyed the challenges of sitting as a trial judge and would like to continue to do so.

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 plans at present.

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 always be avoided and discouraged. I make every effort to avoid these communications. If an *ex parte* communication occurs, I then publish and communicate to all parties the communication. I utilize group e-mails and conference calls to communicate with parties in order to minimize the occurrence of *ex parte* communications. I am also aware of the requirements and exceptions provided for in Canon 3, B, 7 (a-e) of Rule 501 Appellate Court Rules "Judicial Conduct". These provisions include (a) where (ex parte communications are) required for scheduling of administrative purposes or emergencies that do not deal with substantive matters or issues provided it is reasonably believed that no party will gain a procedural or tactical advantage as a result thereof and all other parties are promptly notified of the substance of such communication and allowed an opportunity for such other parties to respond; (b) where judge obtains the advice of a disinterested expert on the law and notifies the parties of the person (expert) consulted and the substance of the advice, and gives the parties reasonable opportunity to respond; (c) consulting with court personnel such as law clerks, clerks of court, whose function it is to aid the judge in



carrying out the administrative functions or with other judges; (d) with the consent of the parties, confer separately with the parties and lawyers in an effort to mediate or settle a matter; (e) when expressly authorized by law, *i.e.* application of temporary restraining orders.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

I believe that any time a recusal is requested that it should be carefully considered and should be granted to avoid the appearance of impropriety. I also believe that any recusal is subject to an inquiry from all parties as to any detrimental or substantial effect such recusal may have upon them or their case. If there is the likelihood of such detrimental or substantial effect upon a party or a case, then I have each party state his or her position on recusal on the record. After fully hearing both sides, I then decide whether to recuse myself. I base my decision not solely upon the merit of the recusal motion, but also upon the appearance of impropriety that may exist. When there is a lawyer-legislator involved, I consider what other reasons exist and what effect a recusal would have on the other parties. In the event that I have a close, personal relationship with a lawyer-legislator, I would grant a recusal motion. As to former associates or law partners, I have only had two partners in my legal career, one is my wife and the other is my father-in-law. I do not envision either of them being able to appear before me.

7. 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. The appearance of impropriety could not be overcome.

8. 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 without request.

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

From all but close, personal, non-lawyer friends, I return any gifts with a clear statement that while the gift was appreciated, such gifts or social hospitality are not permitted and ask that the individual refrain from such acts in the future.

10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?

I would report such offender to the Lawyer Competence or Judicial Standards Committee. If the misconduct involved over-indulgence of alcohol and I believed it was due to a drinking problem

which had not affected such lawyer or judge's ability to perform their duties, I would inform such lawyer or judge that I wanted them to contact Lawyers Caring About Lawyers or the similar committee for the judiciary for help in dealing with their problem. I would follow-up to make sure such contact was made and, if no effort had been made, I would inform such lawyer or judge that I was notifying the appropriate lawyer competence or judicial standards committee to investigate.

11. Are you affiliated with any political parties, boards or commissions that, if you were re-elected, would need to be re-evaluated?

I am not affiliated with any political parties or boards.

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

I am the Trustee for the Ernest Brooks Trust for Gamecock Excellence. This trust was created by a former client of my father's for the benefit of the University of South Carolina Gamecock Club. The assets of the trust are managed by a third party financial advisement firm. The income from the trust is paid over to the Gamecock Club on an annual basis.

13. How do you handle the drafting of orders?

At the conclusion of a hearing in which a decision is made from the bench, I request that the prevailing party draft a proposed order and send a copy to me and opposing counsel for review. I always allow the non-prevailing party to make comments about proposed orders prior to signing them. I prefer that proposed orders be e-mailed to me in a Word document so that my law clerk and I may edit them as we see fit in accordance with my notes and the applicable law. When I have taken a matter under advisement, I alert the parties to my decision via e-mail and follow the same procedure outlined above for receiving proposed orders.

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

My law clerk and secretary have a shared calendar that allows them to keep up with my schedule even when I am not in my home courthouse. My law clerk keeps a "matters under advisement" list as well as a list of orders that are in the process of being finalized. My secretary keeps a very detailed spreadsheet to keep up with the voluminous amount of mail I receive as Chief Administrative Judge for the Eighth Circuit. The spread sheet document retains and organizes much important information including dates of hearings, dates of status conferences, from whom the documents were received, which party is preparing proposed order, and which party or county the document was sent or filed. This document is available to my staff from any computer and is updated daily by them.

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

It is my belief that the trial court (Circuit Court) should apply the law of a matter as determined by the appellate courts (Supreme Court and Court of Appeals). A party has a right to submit evidence at least "in camera" for application of arguing against precedential law before me prior to submitting the issue to an appellate body. However, where case law has been previously decided, a trial judge should follow the established law. If it is a matter that has never been decided, then a trial judge should give full opportunity to present the matter for decision and appellate review. A process and procedure exists for attorneys and parties to present argument and evidence to change precedential law for which the trial bench should permit as set forth above, but the trial court cannot disregard the precedential law. As to "public policy", trial judges should allow this to be decided by the legislature or the Supreme Court, which is given this authority.

16. 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 will prepare materials and lecture at Continuing Legal Education Seminars when appropriate, encourage new and young lawyers who are not involved in matters to observe trials and discuss skills or tactics presented, participate in People's Law Courts when asked, serve on committees which seek to improve the legal system and/or judiciary and serve upon S.C. Bar Committees which seek to improve the system. I also believe that the education of our children on civics and Constitutional rights is important in preserving the rights which all citizens enjoy and receive protection.

17. 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?

Acting as a jurist, I have found that the potential exists for this strain. However, I have found that by informing my family, friends, and relatives that the office of a judge is a position I hold on behalf of the citizens of South Carolina. I have further explained to them that I must insure that all people who appear before me receive fair and impartial justice. I have also informed those people that any matters in which they are involved cannot be heard by me. Further, I would instruct and require that such people not use my name or office for obtaining a benefit or better position. I believe that they should conduct themselves appropriately and within the bounds of our laws.

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. Repeat offenders:
A person who has a prior record for the same offense should be treated more severely than a non-repeat offender. It has been my observation that repeat offenders generally received some consideration by the sentencing judge for their first or prior offense.
 - b. Juveniles (that have been waived to the circuit court):
It has been my observation that when a matter has been waived to Circuit Court it is generally because that matter has substantial offensiveness. A judge should always consider the youthfulness of an offender and the likelihood of reforming such acts in order to be returned to society. However, certain crimes which indicate mean-spiritedness such as crimes of violence, murder, criminal sexual conduct offenses, kidnapping, arson and hate crimes should be dealt with in sentencing that sends a message not just to the offender, but to all others in the public that such acts will not be tolerated.
 - c. White collar criminals:
People who have used their position of trust or status to take advantage of others should be punished as much for such position of trust or status as the act or crime committed. A person who uses his or her advanced education or position in life to take advantage of others less fortunate or with unequal opportunity in life, should be punished more so than an everyday offender for his or her violation of public trust.
 - d. Defendants with a socially and/or economically disadvantaged background:
A judge should always consider the educational and social background of an offender to determine its impact upon the offender. If a socially or economically disadvantaged defendant can be rehabilitated through probationary programs or other diversionary programs then that should be considered as an appropriate punishment.
 - e. Elderly defendants or those with some infirmity:
A judge should consider all factors including an infirmity when deciding punishment as to its effect not only upon the defendant, but its effect upon the state as well. Violent offenders, no matter their age or infirmity, should be incarcerated unless there is some substantial, over-riding consideration. Sexual offenders should be treated substantially the same as violent offenders based upon their degree of conduct towards children.
19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?

I do have personal investments from which I derive passive income. I do not believe that any of my investments or investment activity have affected or will adversely affect my impartiality. All of my investments are in publicly traded companies in which I have no influence on management or decision making.

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

I would not unless after disclosing the interest to all parties all such parties agreed on the record to my hearing the matter. Once again, the appearance of impropriety is never measured by degree, 1% is as offensive as 50%.

21. Do you belong to any organizations that discriminate based on race, religion, or gender? No.

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

23. What do you feel is the appropriate demeanor for a judge?

A judge's demeanor should always be patient, courteous, and considerate to all parties whether witnesses, litigants, lawyers, or court personnel.

24. Do the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or do these rules apply seven days a week, twenty-four hours a day? All the time.

25. 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? No.

26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees? I have spent no money on this campaign.

27. While campaigning for this office, have you used judicial letterhead or the services of your staff for your campaign? No.

28. Have you sought or received the pledge of any legislator prior to this date? No.

29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No.

30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?

No.

31. Have you contacted any members of the Judicial Merit Selection Commission? No.

32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted? Yes.

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

s/Eugene C. Griffith, Jr.

Sworn to before me this 4th_day of August, 2011. _____

Notary Public for South Carolina

My commission expires: 8/5/2015 _____