

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

**Circuit Court
(Incumbent)**

Full Name: William Paul Keesley
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Edgefield, SC 29824
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1. Why do you want to serve another term as a Circuit Court Judge?

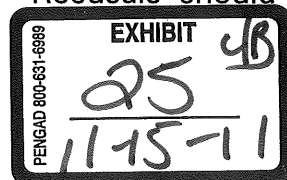
The position allows me to continue learning and interacting with people from diverse disciplines and backgrounds, and I feel that my experience on the bench allows me to serve the State effectively.

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?

Ex parte contact should be avoided. Canon 3(B)(7) of the Rules of Judicial Conduct establishes that *ex parte* communications are prohibited with the exception of administrative matters and emergency situations that do not deal with the merits of the case, provided that no procedural or tactical advantage is gained by the party engaged in the communication. Also, there may be *ex parte* contact, if the matter is one where *ex parte* communications are expressly authorized by law and the procedure is followed exactly as permitted by established law. An example of permissible *ex parte* contact would be where a party seeks a Temporary Restraining Order under Rule 65, SCRPC, without a hearing, to maintain the status quo. If *ex parte* communications occur, they should be promptly called to the attention of all the attorneys and any *pro se* parties.

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

The general standard is that a judge should recuse himself or herself if the judge's impartiality might reasonably be questioned. This must be applied with the requirement of diligence and the provisions of Canon 3(B)(1), Rules of Judicial Conduct, which establish that a judge must hear and decide matters assigned to the judge, except those in which disqualification is required. Recusals should not be



abused to allow difficult cases to be passed to another judge's workload. Recusal decisions are normally done on a case-by-case basis, though there are some absolutes. For example, I recuse myself from any cases involving the law firm where my daughter works. If there is a situation where my impartiality might reasonably be questioned or there is an appearance of impropriety, I would recuse myself. If there is a relationship between me and any of the parties or attorneys that does not seem to rise to the level of reasonably questioning impartiality, I disclose the relationship. My common practice is to recuse myself if an attorney or client asks me to do so, except in situations where there does not appear to be a legitimate request for recusal, such as where a party is trying to delay the proceedings or misuse the system. As for lawyer-legislators, there may be cases where I would recuse myself from a case; but, the mere fact that an attorney is in the General Assembly does not necessarily require recusal. I would evaluate the specific relationship and the timing of the matter in which the lawyer-legislator is involved, depending on specific relationships and whether a matter directly related to me is pending before the General Assembly. As for former associates in law practice, the Rules of Judicial Conduct require recusal on matters that the judge worked on as an attorney or any matter that the firm handled while there was an ongoing relationship between the lawyer and the judge.

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 give great deference if there was a reasonable, legitimate appearance of impropriety. I would expect to grant such a motion.

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

The Rules of Judicial Conduct cover members of the judge's family. The rules relate to a family member who resides in the judge's household or is a spouse, child, grandchild, parent, grandparent, or person with whom the judge maintains a close family relationship. My feeling is that an economic interest of such a family member would trigger the same analysis as a direct economic interest. I would think recusal would be the proper response to cases involving economic interests of family members, other than *de minimus* interests. Social relationships with family members would seem to require more of a case-by-case analysis which may be handled by notification and waiver. Assuming that there is an actual appearance of impropriety whereby the relationship between a party and a member of my family

would seem to undermine confidence in the impartiality of my judgment, I would recuse myself. A tangential social relationship between a family member and someone involved in a case would seem to be something to be disclosed and decided on the merits of that particular situation.

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

I do not accept gifts from individuals or firms, other than family or persons with whom I have a longstanding personal relationship. I do not accept gifts from attorneys, other than my daughter.

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

Circuit Judges are attorneys and are required to adhere to the Rules of Professional Conduct applicable to attorneys. Rules 8.3(b) and (c) require reporting a judge or attorney who has engaged in misconduct that raises a substantial question as to honesty, trustworthiness, or fitness. I am required to report such things to the proper agency or court. Issues of substance abuse, addiction, or depression may be reported to the Lawyers Helping Lawyers committee of the South Carolina Bar.

11. Are you affiliated with any political parties, boards or commissions that, if you were re-elected, would need to be re-evaluated? No

12. Do you have any business activities that you would envision remaining involved with if reelected to the bench? No

13. How do you handle the drafting of orders?

I draft some myself, some are drafted by my law clerk, and I have the attorneys submit proposed orders. I typically ask attorneys to submit drafts of proposed orders using electronic format so that changes can be made easily.

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

We use a shared online calendar and reminders. My law clerk is instructed to monitor deadlines and remind me of any that are coming up.

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

In this context, I believe that judges are only permitted to engage in activities that promote the integrity and proper functioning of the judicial system. Except in that very narrow area, public policy matters are almost always issues for the other two branches of government.

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?

Drug Court, SC STRONG, and any role I may be asked to play related to the Sentencing Reform Committee, if I am authorized to participate by the Chief Justice and the General Assembly.

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?

Yes. I try to explain why I cannot discuss some matters or engage in certain conduct; why they cannot discuss some things around me; why we have to be circumspect in our financial and social dealings; and, I try to have them understand that the requirements of the Code of Judicial Conduct extend to my personal life.

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:

Repeat offenders are subject to higher punishment because of their failure to learn from their earlier misconduct.

- b. Juveniles (that have been waived to the circuit court):

While the conduct of most juveniles should be evaluated in light of the typical immaturity that passes as one grows older, there are some crimes of violence and some repeat offenders that demonstrate a danger to the community and a need for more severe punishment.

- c. White collar criminals:

Crimes such as stealing, breach of trust, or environmental destruction are reprehensible, regardless of who engages in them. If there is a realistic opportunity to secure restitution, the court has to balance that need and the impact of incarceration on the ability to make restitution. I try to find an appropriate punishment that will provide restitution to victims, while meeting fundamental standards of fairness and propriety.

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

If there is minimal danger to society and there appears to be a realistic expectation that a defendant can be take advantage of educational, vocational, counseling, treatment, and other tools to become a productive citizen and avoid further violations of criminal laws, that defendant may deserve probation and another chance. If the defendants appear to be violent, they may have to be incarcerated to protect the public.

- e. Elderly defendants or those with some infirmity:

There is an aspect of sentencing that relates simply to punishment and the integrity and fairness of the criminal justice, even when it appears that the defendant is unable to harm

anyone else because of advanced age or physical or mental infirmity. In sentencing, however, the court must look to see what danger the defendant poses, and evaluate such additional factors as the cost of incarcerating the defendant due to medical care or mental health treatment costs.

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

No

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

Under Rule 3 of the Rules of Judicial Conduct, it is explained that the term *de minimis* means an insignificant interest that could not raise a reasonable question as to a judge's impartiality. If it is truly *de minimus*, a judge can hear the case. It may be more appropriate to disclose the interest and seek input concerning the issue of recusal. In reality, it is hard for me to envision having that situation since I do not own stock and I am unaware of any *de minimus* financial interests in any businesses held by any member of my family that would affect my ability to hear a case.

21. Do you belong to any organizations that discriminate based on race, religion, or gender?

I belong to a Masonic Lodge, which the Chief Justice has determined to be a fraternal organization. The judiciary has been instructed that we may belong to a Masonic Lodge, but cannot hold any offices. I have adhered to the restrictions. I understand that judges are not to belong to any group that practices invidious discrimination based on race, gender, or religion.

The term "invidious" connotes a malignant purpose that legitimate fraternal or sororal organizations do not.

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?

Canons 3(B)(3) and (4) provide that a judge is to maintain proper order in the courtroom, but shall be "patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, and of staff, court officials and others subject to the judge's direction and control." A judge should conduct himself or herself in a professional manner.

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?

I am to conduct myself in a manner that promotes public confidence at all times. [See Canon 2 of the Rules of Judicial Conduct.

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?
Anger is not an appropriate response.
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? None
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/William Paul Keesley

Sworn to before me this 9th day of August, 2011.

Notary Public for South Carolina

My commission expires: 2/4/2020