

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

Circuit Court At Large Seat 9
(New Candidate)

Full Name: Timothy Ward Murphy
Business Address: 107 North Main Street, Sumter SC 29150
Business Telephone: (803) 418-0800

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

I believe that here is no higher honor than serving our nation. During my military career, I was called upon to exercise legal judgment in service to our nation, and its system of justice, in a wide variety of situations—often under scrutiny and, at times, extreme pressure. Since entering civilian life, I have continued to serve our nation’s legal system by ensuring fairness for the indigent. I believe my breadth of professional experience and legal acumen qualifies me for the demands of the Circuit Judge position. I can think of no higher honor than to serve the State of South Carolina and the nation as a 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

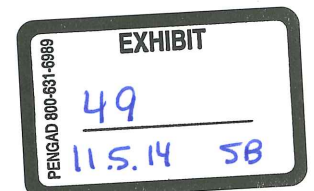
4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice?

Yes

5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

Canon 3 outlines the responsibilities of a judge regarding *ex parte* communication. *Ex Parte* communication by a judge with a party is improper. A judge should always avoid even the appearance of impropriety in communicating with parties involved in litigation. *Ex parte* communication is permitted by Canon 3 in certain specific and limited situations involving scheduling, administrative matters and in emergency situations when not dealing with the merits or substantive matters, and in the issuance of temporary restraining orders. I believe that even these permissible situations should be rare and would be discouraged by me (even if I could reasonably conclude that no party would gain an advantage). In those rare cases of permitted *ex parte* communication, I would notify the other party and solicit a response to the substance of the communication before making any decision.

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 involvement of a Lawyer-legislator does not call for recusal unless there is some circumstance or relationship independent of that status. Consistent with Canon 2B, I would be careful to avoid any appearance of impropriety that could be created by the conduct and interaction between a judge and lawyer-legislators.

In cases involving my firm, I would be required to recuse myself from all cases involving the firm that were being handled by it while I was a member, in accord with Canon 3E(1)(b). After those cases were disposed, I would ensure that I disclosed my former partnership to all parties in any cases and would address any request for recusal on a case-by-case basis. I would recuse myself if my impartiality might reasonably be in question.

Similar to my involvement with the firm, as the Chief County Public Defender, I have reviewed and assigned applications for appointment and made decisions regarding an applicant's qualification for an appointment. Under Canon 3E, recusal in those cases would be appropriate. Obviously, recusal in those cases in which I represented the individual in the case is appropriate.

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?

Because the standard under Canon 3E is an objective standard, I would give a high degree of deference to a party that requested recusal.

I believe that the appearance of impartiality is more vital to the integrity of the judicial system than actual impartiality. If a party reasonably called into question my impartiality, I would grant the motion.

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

For the same reason as noted above, I would recuse myself in situations where my spouse or children had a social (such as personal friendship) or financial interest with a particular litigant. While I cannot envision a situation where either my wife or children would be involved in some financial or social situation that brings discredit to the judiciary, if such a situation arose, I would attempt to stop it.

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

Canon 4(d)(5) provides the standards for acceptance of gifts and hospitality, and I would abide by those standards. Ordinary hospitality from friends and family, including gifts on special occasions, can be accepted as long as the gift is not extreme.

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

Canon 3D provides the standards for these types of situations. Instances where I have actual knowledge would be reported to the appropriate commission as required. The basic rule provides that if information is received indicating a substantial likelihood of misconduct, the judge must take "appropriate action"—which would include direct communication with the judge or attorney seeking clarification and reporting the conduct if necessary.

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

I am serving a term on the board of my Rotary Club and as President of the local chapter of the Military Officers Association of America (MOAA). Neither organization practices "invidious discrimination" as prohibited in Canon 2C. As president of the local chapter of MOAA, I am called upon on occasion to contact both state and federal government officials to provide input regarding legislation having an impact on veterans. Given the standards outlined in Canons 1 and 4C, I would resign from this position. I would also be mindful of any potential for conflict if members in the Rotary Club become involved in litigation as employees or officers in entities engaged in litigation.

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

No.

13. If elected, how would you handle the drafting of orders?

In all but the most routine matters, I would draft the order myself after soliciting proposed orders from both parties. In situations involving continuances and other administrative issues, the requesting party would draft the order and submit it to me after coordination with the other party.

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

I have experience with computer systems that include various reminders and "ticklers". As with any system, they are only as valuable as the input, so it would be important for the staff to be trained to input the correct data. I also would keep a personal written/l-pad calendar. I would reconcile these on a routine (weekly) basis.

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

I believe that a judge's role is to interpret the law that has been enacted through the political process using an analysis grounded in case law regarding precedent and statutory interpretation. I do not believe it is the role of a judge to "create public policy" or independently "make law", which is my understanding of the term "judicial activism".

16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal system?

I would write articles for both legal periodicals and the general public regarding issues involving the improvement of our legal system, as well as speaking at local panels or community or legal groups on this topic. On a practical level, I believe it is always important to solicit ideas from attorneys, clerks of court and other "stake holders" in the judicial process regarding ways to improve process efficiency and, if possible, try to facilitate the implementation of those improvements.

17. 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 address this?

I do not anticipate any "strain", especially in regard to my family.

Any "strain" that might develop with social friends (such as if they were involved in litigation) might require me to limit contact with them in order to avoid the appearance of impropriety, but I would discuss the necessity with them honestly and forthrightly.

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: Recidivism is a problem. An individual's criminal record, or lack of one, is especially relevant in sentencing when assessing the need to protect society from the prospect of continued criminal activity by the offender as well as the offender's potential for rehabilitation. While each individual defendant and case is different, I would generally give these two sentencing factors a higher degree of consideration when crafting a sentence for a repeat offender.

b. Juveniles (that have been waived to the circuit court): A juvenile who is being tried for a criminal offense in circuit court is entitled to the same consideration as any other criminal defendant. Obviously, in these cases, the offense is usually extremely serious. I would treat the offender's age and level of maturity as one factor among many relevant factors when arriving at a particular sentence.

c. White collar criminals: Generally, I believe that those who commit the same or similar crimes should be treated consistently when sentenced without regard to socio-economic status. A person's socio-economic status might be a relevant factor when assessing rehabilitation potential, but is neither an excuse nor an aggravating factor in and of itself.

d. Defendants with a socially and/or economically disadvantaged background: My answer is the same as c. above.

e. Elderly defendants or those with some infirmity: : As is the case with juveniles, age or disability is one factor among many that I would consider in arriving at a particular sentence.

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?
No. While it may be permitted under Canon 3E, I believe the perception of impartiality is as vital to the integrity of the judicial system as actual impartiality.
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?
In accord with Canon 3, I believe a judge should be professional. This means treating all who appear before the bench with courtesy and attentiveness. In short, the judge should be the example of civility that is expected among all members of the bar.
24. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would 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 pro se litigants?
While a judge might actually become angry, showing anger in public is not consistent with being a professional, and the tenets of Canon 3 regarding patience, dignity and courtesy. One can be direct in addressing individuals and issues without resorting to anger.
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?
To date, I haven't spent any money. I am contemplating sending correspondence of introduction at the appropriate time. If this effort exceeds \$100, I will report it to the House and Senate Ethics Committees as required.
27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office?
N/A
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/ Timothy Murphy

Sworn to before me this 6 day of August, 2014.

Vicki Lea Parnell

(Print Name)

Notary Public for S.C.

My Commission Expires: March 5, 2019