

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

Circuit Court
(New Candidate)

Full Name: Autrey Carmichael Stephens
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1. Why do you want to serve as a Circuit Court judge?

Service as a Circuit Court Judge would not only be a tremendous honor, but it would also be the culmination of my nearly life-long dedication to the law and the court system. I have had the opportunity to serve my State in many different capacities within the court system—as a law enforcement officer, as the Clerk of Court for Dillon County, as Acting Probate Judge, as a Judicial Law Clerk, as an Assistant Public Defender, as an Assistant Solicitor, as an attorney in private practice, and now as a Circuit Public Defender. While I want to serve as a Circuit Court Judge because I view service as a judge to be the pinnacle of any legal career, I also want to serve because I believe I could best serve my community and the legal profession by bringing my experiences in many different roles within the legal system to the bench.

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

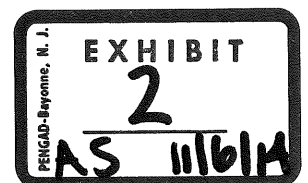
4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice?

Yes

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

My personal philosophy regarding *ex parte* communications is that they are improper under most circumstances. Canon 3 of the Code of Judicial Conduct permits *ex parte* communications in very limited circumstances such as communications restricted to scheduling, for administrative purposes, or in emergent situations. *Ex parte* communications are tolerable only in these limited circumstances. In the rare event an *ex parte* communication is permitted, the opposing party should be informed of the communication as soon as possible.

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 it is necessary for a judge to recuse himself or herself anytime the judge is unable to impartially hear a matter for any reason. Clearly, a judge should recuse himself or herself if the judge is related to a litigant or attorney involved in a case or if the judge has a financial conflict of interest. Even if a judge does not feel his or her impartiality is compromised, a judge must also consider if hearing a case creates the appearance of impropriety. Recusal in cases involving lawyer-legislators should not be automatic, but should be treated the same way recusal for any other lawyer is treated. Recusal should be determined on a case-by-case basis after full disclosure to all parties.

Once a judge recuses, it is clear that a judge should cease all procedural and substantive involvement in that case.

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 to recusal motions. While it would depend on the circumstances of each individual case, I would grant a recusal motion if I believed that hearing a case would create the appearance of impropriety, even if I did not feel my impartiality was actually affected. In all instances I would seek to avoid even the appearance of impropriety. It is my belief that the appearance of impartiality in judicial decision-making is of the utmost importance in maintaining public trust in the judicial process.

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

While it would depend on the circumstances of each individual case, I would not hear a case if the financial or social involvement of my wife or a close relative created the appearance of impropriety. To that end, I would automatically recuse myself from matters in which my wife or another close relative had a financial interest. If I believed my wife or a relative's social involvement could potentially create the appearance of impropriety, then I would disclose the issue with all parties and I would not hesitate to recuse myself if there was a concern about my impartiality.

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

A judge must be circumspect about his or her activities and should refrain from participating in events or engaging in behavior that could negatively affect public confidence in the integrity and impartiality of the judiciary. It is my belief that it is proper for a judge to participate and attend events hosted by the general bar association. While it is my understanding that judges are permitted to attend events hosted by specialty bar associations (i.e. South Carolina Association for Justice,

South Carolina Defense Trial Attorneys Association), a judge should be mindful that his or her attendance or absence from events hosted by lawyer groups does not call the judge's impartiality into question.

Generally, it is acceptable for a judge to extend to friends or accept from friends ordinary hospitality when visiting in each other's homes. However, a judge should not accept gifts of any kind from individual lawyers, litigants, or in any way use the prestige of judicial office to advance the judge's personal interest.

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

If I became aware of lawyer misconduct or misconduct by a judge, then I would follow my ethical obligations to report the violation to Disciplinary Counsel in the instance of lawyer misconduct, and in the instance of judicial misconduct, I would send the report to Disciplinary Counsel and the Chair of the South Carolina Judicial Standards Commission.

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

No

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?

If a ruling is made from the bench, then I would ask the prevailing party to draft a proposed order and share it with the other party before submitting it to the court. If the matter is taken under advisement, then in most cases, I would request each party to submit a proposed order for consideration. However, whether or not a proposed order is submitted, each order will be drafted to reflect my judgment. I have drafted numerous proposed orders over the span of my legal career and I gained invaluable experience in drafting orders as the first law clerk to the Honorable L. Casey Manning very early in my career. Thus, I feel most confident in my ability to draft orders clearly and expeditiously.

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

I would set-up a system similar to the system that I currently use, *Justice Works*, and have had success with, as Circuit Public Defender to ensure that my support staff, assistant public defenders and I meet all deadlines. I would set-up a system that utilizes the calendar and alert capabilities on Microsoft Outlook so that I, along with my staff, can all view the same calendar, deadlines, and can all be kept abreast of pending matters and upcoming deadlines. It would be my policy to keep all paper rosters, with important notations such as deadlines for proposed orders, in the event I need to access a hard copy.

15. What is your philosophy on "judicial activism," and what effect should

judges have in setting or promoting public policy?

I believe that the setting or promoting of public policy is not the proper role for a Circuit Court Judge. I believe that "judicial activism" is repugnant to the separation of powers. The power to enact laws is vested in the Legislative Branch. The Judicial Branch is vested with the authority to interpret statutory law and to define common law where necessary. In short, I believe the role of a Circuit Court Judge is to interpret the law as it is, regardless of what the judge's personal views may be.

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 be happy to participate in any activities allowed under Canon 4 that seek to improve the law, legal system, and administration of justice. Throughout my career I have particularly enjoyed the opportunity to mentor new lawyers and I would become involved in the available mentoring programs for young lawyers and once I gained experience, the mentoring programs for other judges. As a judge, I would take my responsibility under Canon 4 seriously and would be a go-to person to speak or teach at permissible events when asked.

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?

No

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:

Sentencing of a defendant should be made considering the nature of the offense, applicable penalties, the facts, criminal record of the defendant and any mitigation in each case.

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

See a.

- c. White collar criminals:

See a.

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

See a.

- e. Elderly defendants or those with some infirmity:

See a.

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
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?
I believe Circuit Court Judges should always conduct themselves with civility, understanding, and patience toward all parties, court personnel, jurors, witnesses, and anyone else that comes into contact with the judicial system. In short, Judge's should use good manners. The judge's demeanor greatly affects the atmosphere in the courtroom and members of the judiciary need to set an example for others by maintaining a calm and reassuring presence.
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?
The demeanor described in number 23 should not be left in the court room, but should be utilized at all times.
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?
A display of anger is not appropriate at any time. While it may be difficult not to feel such an emotion it should be controlled and never displayed because it serves no useful end. Decisions should not be rendered while angry.
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?
\$454.13
27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office?
Not a sitting Judge.
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?

Only contact I may have had was meeting and shaking hands in the State House Lobby.

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/ Autrey Carmichael Stephens

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

M.C. Stephens

(Print Name)

Notary Public for S.C.

My Commission Expires: September 17, 2023