

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

Circuit Court  
(New Candidate)

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

I believe that I have all of the attributes and experience to be a good judge. I believe that my knowledge of the law and experience in the courtroom would allow me to handle all types of cases. I believe that I have the temperament necessary to treat all parties and attorneys with the respect that they are due in a courtroom. I have the physical and mental ability to handle the job and I have a strong work ethic after practicing as a solo practitioner for more than 20 years. As a student of history, I am a firm believer in our judicial system. I have the character, reputation, experience and strong ethics to serve very capably in this position. I am fully aware of some of the issues hampering our justice system and believe that I can work to make our system more expeditious to the parties and hold attorneys more accountable to their duties to the court. As a resident of Pickens County, I understand the importance of maintaining the tradition of having a judge in Pickens. This is a good time for me personally because my children are grown and I still have many years to serve in this capacity.

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?

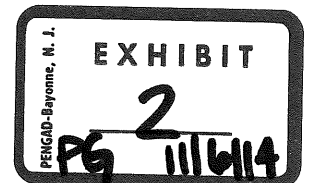
At this point, I do not know if I would return to private practice or not. My intent at this time would be to serve as long as the legislature would allow me to serve in this position.

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 philosophy follows the Code for Judicial Conduct of which I will swear to uphold if elected and this Code prohibits a judge from initiating, permitting or considering ex parte communications



concerning a pending matter, but then lists certain exceptions such as casual conversations, non-substantive conversations, when such communications do not allow either party to gain an advantage, discussions with Court personnel for administrative matters, in mediation situations and other minor situations. Under most of these type incidents, the judge should notify the other 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?

Generally, a judge must carefully weigh any decision for recusal since it may seriously alter the efficiency of justice. But if the need arises, the Code for Judicial Conduct provides that all parties must be notified and the parties can waive any disqualifications. As a judge, I do not think that I should recuse myself because a lawyer-legislator or legislator as a party is in front of me unless I do not feel that I can be impartial. As a judge, I would have sworn to be impartial. The same goes for former associates or law partners unless it involves a matter that I was involved in while associate with such attorney. The Code provides an outline of when a judge should disqualify himself from these situations—and the primary rule is does it impact the impartiality of the judge or the appearance of impropriety. Upon recusal, all parties and attorneys should be notified of the basis for the recusal.

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 think you have to weigh each case based on the facts and circumstances. As a judge, I need to make sure that I do not jeopardize my impartiality, but on the other hand, you have to make sure that the “wheels of justice” are not substantially delayed by unnecessary recusals. If a Motion for Recusal is denied, I would have to act as if no such motion had been made and continue on in an impartial manner, but if the circumstances changed and it appeared that there may be a bias, then I need to be ready to act accordingly. I believe that I could do this without any problem.

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

In a small community and relatively tight knit state, it is very difficult to avoid situations that do not involve social involvement of a spouse or close relative. But as a judge, I would have sworn to remain impartial and I need to be ready to make tough decisions even if adverse to the social connection. If I felt that I could not do that, then I would have to recuse myself from the case. A financial connection may be a little more complicated and if the financial interest is more than de minimis, then it would be necessary to disqualify myself in

such matter. Under certain circumstances, I think that it would be appropriate to put on the record my decision to proceed and the nature of the connection or interest.

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

As a judge, I should not accept gifts except those allowed by the Code of Judicial Conduct. These circumstances are basically gifts provided to other members of the general public, ordinary social hospitality, from a relative or close friend for special occasions and are reasonable and when the gift is not from someone who is involved in any pending litigation. In such events, if the gift is over a certain amount, then as a Judge, I would need to disclose the gift with annual filings with Court Administration. As a judge, I should return any gifts that do not fall within these categories. Even with these exceptions, a Judge should never accept gifts from parties or attorneys who are likely to come before him or with the intent to gain some advantage.

When considering invitations for social functions, you must consider what is the reason for the invitation, other invitees and whether attending the function could create a conflict or appearance of impropriety later on. If attorneys are involved, then I would need to determine what other attorneys have been invited—i.e. members of the solicitor's office and defense bar and other attorneys, etc.

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

The Code of Judicial Conduct clearly states that if as a judge I receive information indicating a substantial likelihood that another judge has committed a violation of the Code, then I should take "appropriate action." (Canon 3D). Of course, then you have to weigh the information received, the violation and what is appropriate action. In certain cases, it may mean filing a complaint with Court Administration or appropriate law enforcement. The same analysis would apply to receiving information about an attorney.

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?

Other than activities relating to the winding up of my law practice, I do not anticipate having any business activities that should present a problem.

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

Based on my past experience, I believe it is important to make a serious outline and drafting a proposed order as soon after the hearing as possible. As time passes, it is more difficult to include all of the salient points in an order. I would like to request briefs or

written comments from all sides and then prepare an order. In some situations, I would ask that my law clerk provide comments and suggested language, but I like to do my own work and the ability to delegate is not one of my strong suits. Also, I believe that some circumstances dictate requesting one of the parties to provide proposed orders with all communications provided to opposing sides at the time or prior to presentation to judge.

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

I am a firm believer in setting and meeting deadlines and I believe that at the end of every day, I should evaluate deadlines for the day's activities if needed. At the end of the week, these deadlines should be finalized and put on a proper calendar system. I think it is important that orders or rulings not be delayed. If for some reason, delays are to be expected, then all parties should be notified of this. Also, the Code of Judicial Conduct clearly provides that a judge is responsible for his staff in carrying out all duties expeditiously and professionally.

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 should be guided by the letter of the law.

I do not believe that it is a position to be used in setting or promoting a public policy, although that may occur as the result of rulings—but it should not be used to promote my personal agenda or goals.

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 carefully look at ways to make the wheels of justice move more quickly and efficiently without affecting the rights of the parties. I believe in a hand's on approach to handling matters and having the attorneys and parties abide by deadlines. I believe that more time should be devoted to status conferences or some occasion when all parties and attorneys can gather for the purpose of discussing the case and possible resolutions.

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? .

As a judge, I would need to be mindful of the stresses with families and personal relationships. It is very likely that a ruling or position from the bench could jeopardize those relationships, but I need to always make my ruling on my beliefs as to my interpretation of the law and facts. I would need to be open with my friends and families and let them know what my obligations are. As a sitting judge, I would have to be mindful that all of my and my families activities outside of the court room could create an issue as well and

my friends and family must realize that this is an issue that needs to be addressed from time to time. I do not believe that serving as a judge would provide substantial stress with personal relationships. As judge, I do not need to discuss cases or rulings with friends and families even if they are of public record and are not confidential. If there were any particular stressers with families or friends, then they need to be addressed as soon as possible and make sure your family and friends are aware of your situation.

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.

I am not comfortable providing blanket comments on possible sentences or positions for theoretical defendants because I think you need to consider every case based on the particular facts and circumstances of those cases. Also, the Code of Judicial Conduct prohibits a candidate from making statements that appear to “commit the candidate with respect to cases, controversies or issues that are likely to come before the Court.” (Canon 5A(3)(d)). But in commenting generally, I think in each instance, I would need to consider the circumstances of the case, apply the law in a fair and impartial fashion, as with every case. Each of the categories have special circumstances but that is part of the circumstances which need to be reviewed and I think you need to look at alternatives if the circumstances dictated, but otherwise treat these defendants as all defendants—that is weigh the circumstances, the crime, the victim and apply the law fairly and judiciously.

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?

I do not believe that it would be improper to hear a case where I or a family held a de minimis interest in the outcome and Code of Judicial Conduct allows that. I think that it should be disclosed and a proper ruling if either party objects. If the situation appeared in such a manner that I could not be impartial, then I would need to carefully look at whether I should recuse myself.

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 should always be cordial and respectful to all parties

and attorneys and the public at large. I think this is important even when the judge is not in the Court room. I think a judge needs to be careful in his or her private life as well, because any improper actions could impact his or her actions or ability as a judge. As set forth in the Code of Judicial Conduct, a judge must maintain "order and decorum" but must remain patient, dignified and courteous to all who come before him or her.

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?

They would apply at all times. You are always a judge whether you are in the courtroom or have your robe on or not. The general public will always look at you as a judge and will always expect judicial behavior.

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?

I do not think anger is ever appropriate in the court or general public. A judge must always be dignified, patient and courteous to all parties, attorneys, witnesses, etc. regardless of the circumstances. Anger has never been an issue with me and I believe that you can maintain control "order and decorum" without resorting to anger. If a Judge needs to get mad, do it in his chambers when no one is around.

If anger goes beyond what is appropriate, I think a person needs to be able to take steps to remedy the situation. Anger should never be used as a replacement for justice.

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 \$154.34 for postage, stationery and envelopes in sending letters to members of the General Assembly announcing my candidacy and providing a copy of my resume and providing information to SLED as required by the application process.

27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office?

Not applicable.

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?

I have personally contacted several members of the General Assembly to advise my candidacy for this position, but I have not asked for any commitment or pledges. I have not asked friends or colleagues to contact members of the General Assembly, nor am I aware that any friend or colleague has contacted any member on my behalf.

31. Have you contacted any members of the Judicial Merit Selection Commission?

While considering whether to be a candidate, I spoke with Larry Martin whom I have known for many years since we grew up in the same community and he is a member of my county delegation. I ultimately advised Senator Martin that I had planned to be a candidate when I learned that this seat was open, but did not provide any additional information or seek his support.

Before becoming a candidate and before the notice that this seat was opening, I briefly spoke with Senator Gerald Malloy and Representative Bruce Bannister at a public reception and indicated that I was interested in this seat when it became open. I did not provide any additional information or seek their support.

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/ Perry Gravely \_\_\_\_\_

Sworn to before me this 22 day of July, 2014.

Elaine T. Murray

Notary Public for S.C.

My Commission Expires: March 16, 2017