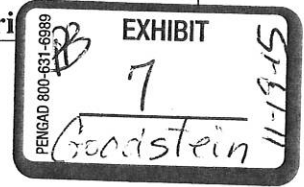


JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearing

Circuit Court
(Incumbent)



Full Name: The Honorable Diane Schafer Goodstein
Business Address: 5200 East Jim Bilton Blvd., St. George, SC 29477
Business Telephone: 843-832-0332

1. Why do you want to serve another term as a Circuit Court Judge?
I am still as inspired by the work I get to do. It started with my election in 1998 and continues to grow even to this day. I would be privileged to be able to continue to do the work I love so long as I am able to do so effectively and as an asset to our State.
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, I have made no plans beyond my time as a Judge.
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?
I begin with the premise that *ex parte* communications should be avoided. However, there are those rare circumstances where such communications are acceptable, such as for purely administrative or emergency reasons where a party would gain tactical or other advantage and where all parties are promptly notified of the communication. Let me give this example: I am always cautious about having a conversation which could be construed as *ex parte* however I am grateful I took a call from an attorney on a Friday afternoon requesting his case be continued because he was on the way to the hospital and he know something was wrong. I told him I would call the other side and tell them of our call and if his concerns were accurate we would work out the issue of the scheduling of his trial set for Monday and right then to care for his health. My clerk and I called the other attorney and described what had occurred. The lawyer who called died several hours later. I believe because the issue was only one of the scheduling and emergent and we promptly called the other attorney therefore the *ex parte* communication was acceptable. Clearly there was no advantage to be had and I was glad this attorney's last hours were at least alleviated of this concern.
Of course our law contemplates *ex parte* procedure such as preliminary restraining orders. Indigent criminal defendants are allowed *ex parte* communications for certain specified reasons such as requests for expense money and other defendants for matters such as mental evaluations however I would note that *ex parte* in these circumstances does not mean without a record.

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 would not recuse myself simply because one of the lawyers in the case was a lawyer legislator. I do not believe the rules contemplate such a blanket recusal for that reason solely. If I had a relationship with anyone with whom I felt created a situation where one side or the other had influence regarding my decision I would recuse myself whether the person happened to be a lawyer legislator or not. At this time I would not recuse myself if a former associate appeared before me because I have been out of the practice of law for nearly 18 years, However let me also add that when lawyers appear before me that have a substantial relationship with my husband who is an attorney it is my practice to disclose those relationships with counsel and recuse myself where any concern is expressed or he has a close and continuing relationship. Of course where an attorney has done work for me such as a real estate closing or for businesses formerly owned by my Husband that relationship is disclosed and a recusal done unless there is a waiver. My former law partner cannot appear before me because he is my husband. My daughter is completing her clerkship and if she joins a firm as she hopes I would recuse myself from her firm's cases.
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?
When I am met with those circumstances where I have disclosed a matter that could have the appearance of bias and I have therefore disclosed the matter I recuse myself if a normal and reasonable person viewing the matter would perceive a conflict. However if the parties waive any potential or perceived conflict after consultation with their attorney and away from any influence from the Court then I would hear the matter.
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 handle that matter as in 7 above regarding the issue of social involvement. If a reasonable person looking at the situation would believe there is a conflict, one must recuse oneself, unless there is a waiver as described above. If however, my spouse or close relative had a financial interest that is more than de minimus I would recuse myself.
9. What standards have you set for yourself regarding the acceptance of gifts or social hospitality?
If I have been asked to give a talk or teach a seminar I would accept refreshments if they are offered to the group at large. If it is necessary that I travel overnight to give a talk or teach I will accept a room offered for my use for the required period only. Also there are bar associations who entertain the judiciary as a whole at judicial conferences and I have attended those. Before I went on the bench I had friends with whom I would have lunch or dinner occasionally. I still have these friends and will engage in the occasional normal mutual hospitality. They entertain me no more than I entertain them. Because I am involved in meetings regarding many subjects associated with this position and because there will sometimes be lunch meetings and I eat lunch, I am confident that I have provided

more lunches than have been provided for me. I have had counties provide a meal for me along with the jury and other court personnel as we are waiting for a jury to complete their deliberations. Other than the reciprocal normal hospitality with friends, I do not allow litigants or attorneys to buy me meals or give me gifts or anything of value outside of perhaps the smallest gesture (such as a note or flowers upon the death of a parent from a longstanding friend). It is my normal practice, if they do I return the gift with a note however if the gift is perishable I re-gift it and send a note of explanation. I do not accept anything of value from a litigant perhaps with the exception of a county where I have held court and the county through the clerk of court provided snacks (counties are often litigants). In 2014 I was the portrait recipient from the Association of Justice and while money was raised for the portrait and gifts made to the University of South Carolina School of Law and Charleston School of Law I am unaware of the amounts or the donors. To my knowledge I have been provided nothing of value which could connect a lawyer or litigant with a case pending before me.

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

I would seek to correct the problem if I could do so properly and make the appropriate report.

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?

Sometimes I draft them myself with the help of my law clerk. However, because of the volume of cases that I handle, particularly non-jury matters, I will often request proposed orders from the attorneys. If I have decided the matter at the hearing I will ask one of the attorneys to draft a proposed order. If I have taken the matter under advisement sometimes I ask that both sides draft proposed orders. When the orders arrive, and frequently they do so electronically, my administrative assistant will log them in and my law clerk will compare the proposed order to our hearing notes and evaluate the document for consistency with the notes and perform any assigned research. If questions arise, we may review the hearing transcript but this occurs infrequently. Once my clerk's review is completed, the order, research and notes come to me for review and editing. Once an order is completed, it is signed, logged out and a copy made of its first page. My administrative assistant then returns the order to counsel for filling and service.

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

I handle deadlines in multiple ways. First, I will have my administrative assistant and law clerk calendar the deadline. Second, I have developed along with my staff over time an excel type spreadsheet that is maintained both by my administrative assistant and my clerk. When a matter is heard it is listed on the spread sheet with identifying information such as name, case number, attorneys, county heard, dates

proposed orders are due,, and the like. Certain information is color coded to indicate issues such as age of the case, conclusion of the case, and tardiness of tasks. Once an order is signed it is entered into the system and mailed to the appropriate attorney for filing and service. The first page is copied and maintained for further documentation. Third, for cases under advisement a report is filed monthly with court administration accounting for those matters.

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

I particularly believe in stare decisis. I believe in the three branches of government. I believe that it is incumbent upon the legislature to enact the laws and upon our Supreme Court to define and interpret where necessary the statutory and common law.

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 am currently honored to instruct at the new Circuit Judge’s School and the new Magistrate’s school; I have participated in the SC Supreme Court Institute and I instruct at the new Judges School. I currently serve on the Circuit Judges Advisory Committee. I am a panel chair for the Commission on Judicial Conduct. I am so honored to participate in the mentoring of new judges and have presided with the following during their four week mentoring process: Hon. Deadra Jefferson, Hon. Michelle Childs, Hon. Carmen Mullen, Hon. Benjamin Culbertson, Hon. Larry Hyman, Hon. R. Knox McMahon, Hon. Kristin Harrington, Hon. Edgar Dickson, Hon. Rob Stillwell, Hon. Deandra Benjamin, Hon. Craig D. Brown, Hon. Stephanie McDonald, Hon. Maite Murphy, Hon. Scott Sprouse, and Hon. Letitia Verdin, I have also participated in numerous observations with many magistrates.

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?

I believe that serving as a judge does not strain personal relationships.

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:
- (b) Juveniles (that have been waived to the Circuit Court):
- (c) White collar criminals:
- (d) Defendants with a socially and/or economically disadvantaged background:
- (e) Elderly defendants or those with some infirmity:

I have reviewed this question repeatedly and I have come to the conclusion that I cannot address these individuals as “classes of offenders”. I cannot see the people who I sentence as “classes of individuals”. They are individuals that I try in the time available to know as much about them as I can. These characteristics along with others such as ability to access community resources, degree of mental illness, educational background, family support and especially the facts of each

occurrence is essential along with other relevant information in assessing the reprehensibility of the conduct and the likelihood of recidivism. I believe that if a lesser sentence will accomplish what a longer one will, one ought impose the lesser. I believe most times the worst crimes are those of violence to innocent victims.

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?
Yes. This participation is allowed by canon 3E(1)(d)(iii) which allows the court to hear such a matter so long as the interest is *de minimis* and could not be substantially affected by the proceedings. If the interest known to the judge is more than *de minimis* that could be substantially affected, the interest must be disclosed and disqualification considered very strongly. If the interest was more than *de minimis* I would refrain from hearing.
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 patient and respectful to all who appear before her or him. A Judge should listen to those who come before her or him. I think a Judge should be mindful that litigation is stressful, frightening and can be very expensive. I think a Judge should create as best as possible a structured, calm and efficient environment to allow for parties and their attorneys to work. I believe this environment supports greatly the quest for the truth and justice.
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?
These rules apply every day in life.
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 no. In my experience it is difficult to be angry and think. I do believe that a judge can use a measure of sternness to control her or his courtroom, impress upon counsel or a litigant appropriate conduct, underscore expectations of the court and the like. True anger on the part of a Judge can be a precursor to a loss of control in the courtroom. I think that when as a sitting Judge you become angry it is imperative to take a break, assess and compose before reconvening.
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?
\$75.00.

27. While campaigning for this office, have you used judicial letterhead or the services of your staff for your campaign?
I have not used my letterhead however on their weekends or time off my administrative assistant has helped with typing and my law clerk with formatting. The total cost for their time is \$75.00.
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/Diane Schafer Goodstein

Sworn to before me this 6th day of August, 2015.

Ryan D. Templeton

Notary Public for South Carolina

My commission expires: 7/9/2025