



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

**Circuit Court
(Incumbent)**

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1. Why do you want to serve another term as a Circuit Court Judge?

As a teenager and young adult I developed a fascination for the legal system and more particularly the judiciary. I recognized the necessary combination of intellect, wisdom, and temperament required to be a good jurist. While in undergraduate school at Columbia College I had the fortunate opportunity to work for the U.S. Attorney's office under Vinton Lide. Additionally, I clerked for three law firms, as well as worked in Washington on the Senate Judiciary Committee while in law school. These experiences heightened my interest in being a jurist someday because of my occasional exposure to the courtroom. One unique experience which I have treasured was my first employment out of law school as the law clerk for the Honorable James B. Stephen, who was a circuit court judge from Spartanburg. After viewing the court system for one year from that position, I knew I wanted to serve as a jurist if the opportunity ever presented itself. After 28 years in numerous courtrooms at the magisterial, administrative, circuit court, and federal levels, I have appeared in front of numerous judges. As would be expected, I have observed all types of judicial demeanor and a wide range of decisions. From those experiences, I have developed an overview of what qualities are possessed by a good jurist and how a courtroom should be run. First, it is important to always remember that the community looks to its court system, and more particularly its judges, for protection, fairness, integrity, and equality. In addition, a courtroom must be a place run with firmness and respect for the presiding judge, but at the same time, litigants, jurors, witnesses, court personnel, and the public in general should not feel intimidated or unwelcome. It would be my goal to make those characteristics my daily responsibility. Since becoming a lawyer, I have been blessed in my personal and professional life. I believe I have the respect of the community in which I live, and my law practice has been financially lucrative. At the same time, I have watched my classmates from law school become judges, congressmen, state legislators and other public servants. I know this position comes with financial sacrifice, a commitment of time, and other sacrifices. Having been given the opportunity to serve as a circuit court judge, I have found the position both intellectually stimulating and personally rewarding. Even though difficult decisions are necessary, serving the public is an honor.

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?
It is my opinion, based upon my experience as a litigator in trial courts for 27 years, that any *ex parte* communication with the trial judge is inappropriate due the unfairness to the opposing counsel and party. Such communication also places the judge in a precarious situation due to the appearance of impropriety on behalf of the judge. Further based upon Rule 501 of the South Carolina Appellate Court Rules, Canon 3 B. (7) of the Code of Judicial Conduct provides:
"A judge shall not initiate, permit, or consider *ex parte* communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except for limited circumstances such as emergencies or scheduling."
Therefore I can envision that, per the exceptions, I would only allow *ex parte* communications, per those limited and specific circumstances which I anticipate would be rare due to advances in technology
6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?
My philosophy, generally, is that as a jurist my goal would be to ensure that all whom appear before me at the outset feel comfortable in my ability to be neutral and unbiased and fair to all. This philosophy reflects the provision in Rule 501 of the South Carolina Appellate Court Rules, Canon 3. E. (1) of the Code of Judicial Conduct which provides: A judge shall disqualify himself in a proceeding in which the judge's impartiality might reasonably be questioned. However, this provision must be balanced against Canon 3. B. (1) of the Code of Judicial Conduct which provides: that a judge shall hear and decide matters assigned to the judge except those in which disqualification is required. I would not automatically recuse myself from hearing matters involving lawyer-legislators due only to their status as legislators. My former law partner is deceased and I have no former associates. I, obviously, would not allow my spouse, who is an attorney, to appear before me. I am married to Attorney Patrick E. Knie. I would disqualify myself from hearing matters in which he is counsel of record or in other matters in which he involved as specifically outlined pursuant to Rule 501, SCACR, Canon

3E., “a judge shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned.” Canon 3E. lists specific examples of when the judge’s impartiality might be questioned, such as if the judge’s spouse is a party or lawyer in the proceeding; if the judge has or judge’s spouse has more than a *de minimis* interest in the proceeding; if the judge has a bias concerning a party or lawyer in the proceeding; or if the judge’s spouse is a likely to be a material witness. Canon 3E.(1)(a)-(d).

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?

In this situation, my belief is not the focus or the relevant factor, but the appearance of bias as perceived by the parties or counsel. Pursuant to the Code of Judicial Conduct, Canon 2 A. which provides that a judge shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. Therefore, in that the question suggests that there is an appearance of bias, I would, in an effort to protect the integrity of the judiciary and promote public confidence in the impartiality of the judiciary, grant the motion to recuse.

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

Canon 3E.(1) (d) of the Code of Judicial Conduct governs the appearance of impropriety because of the involvement in an action by a spouse or close family member, and it provides that a judge should disqualify himself in that situation. Procedurally, I would recuse myself, on the record and with all parties present, and then would insure that the matter would be referred as expeditiously as possible to another jurist.

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

Canon 4D. (5) Provides that a judge shall not accept, and shall urge members of the judge’s family residing in the judge’s household, not to accept, a gift, bequest, favor or loan from anyone with few exceptions. It is my opinion that, based upon this Canon that the presentation of a gift, regardless of the value, would bring into question and scrutiny the appearance of bias or impropriety of a jurist. Therefore, the standard that I would set is not to accept gifts and to avoid offers of social hospitality.

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

I would handle the situation by complying the Code of Judicial Conduct, Canon 3D. (1)-(4), which mandates that that I take appropriate action by at a minimum directly communicating with the judge or lawyer who has committed the violation and reporting the violation to the appropriate agency or authority.

11. Have you engaged in any fund-raising activities with any social, community, or religious organizations? Please describe.

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?

The Canons of Judicial Conduct provide that a Judge shall dispose of all judicial matters promptly, efficiently, and fairly. Although, the method will vary based on the type of case and type of hearing, if I do not draft the order, it is my opinion that all instructions for the drafting of orders should be issued in writing and provided to all counsel or pro se litigants or on the record with instructions for one attorney to draft the order. The instructions should provide specific time deadlines for completion. The completed order would be forwarded to opposing counsel/parties for review prior to submission to me for signature and execution. Lastly, it is my opinion, and in compliance with Canon 3, B. (8), that all rulings should be made expeditiously to avoid the matter, and memory of the matter, becoming stale.

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

I have implemented a procedure for calendaring time and date deadlines for submission, both on paper and electronically. This procedure is implemented by both me and my staff with regularly scheduled conferences with staff to status the flow of information with timely periodic status checks with counsel.

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

It is my opinion that the role of a judge is to apply the law to the facts as presented in each case. To do otherwise would go beyond the role of the judiciary as defined by our government's separation of powers and would infringe on the authority of the Legislative Branch. Therefore, I am opposed to judicial activism and it is my opinion that judges should not have a role in setting public policy.

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?

It is my wish to participate in continuing legal education programs and to pursue educating the public, especially young people and students, as to the legal system

and to promote a positive public image of lawyers and members of the judiciary in South Carolina in accord with the parameters articulated in Canon 4.

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?

Both in the capacity of a prosecutor and as an attorney in private practice, I have been aware of the importance of confidentiality and the avoidance of conflicts. With regard to the stress of the position, my twenty-eight years of practicing, and in handling the duties of a prosecutor, have taught me to deal with the stress of dealing with a multitude of sensitive problems on a daily basis. I clerked for a circuit court judge as my first employment upon graduating from law school. I am well aware of the demands of the position. I have the support of my spouse. We have discussed at length the requirements of the position. We do not have minor children. In my social relationships, I maintain professionalism and do not allow personal relationships to cause bias.

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.

Generally regarding all criminal defendants, each case must be decided upon its own set of facts regarding the crime committed and the person charged. Each case should be viewed individually and the appropriate sentence determined for the person committing the offense.

a. Repeat offenders:

With repeat offenders my philosophy depends upon the type of crimes committed in the past and currently. The Court should consider the person's history to determine if the current offense is the same or similar to a prior offense and the length of time since the last conviction. I would look at the conditions imposed in the prior sentence and whether the offender had received active SCDC time. My goal is both to punish and to rehabilitate.

So the review of the prior record is important in supporting such a decision. Obviously, people with violent histories who continue to commit violent offenses need to be incarcerated, separated apart from society in order to protect individuals from being harmed. If you can determine that the criminal history and current violation/s are a result of drug addiction, in my opinion it would be beneficial to consider alternative sentencing like enrollment in intensive drug treatment programs such as drug courts. While the offender must be punished for the crime committed, the court needs to strive to rehabilitate offenders with effective drug treatment programs.

b. Juveniles (that have been waived to the Circuit Court):

With respect to juvenile offenders, my philosophy depends upon the crime committed and the criminal history of the offender. Since the offender is a

juvenile, our criminal justice system is focused towards rehabilitation so I would look at the juvenile's history to determine the opportunities that have been available and that were offered during his/her prior interactions with the juvenile system and whether he/she took advantage of those opportunities. If the juvenile is coming to General Sessions with no prior contact with the juvenile system, then I would look at him more as a juvenile and not as an adult. However, if they have been involved in the system on the juvenile side without success, they then have been exposed to consequences for actions and should be held to a higher standard.

c. White collar criminals:

It is my belief that white collar crimes are serious crimes and that the sentencing should reflect the gravity of the offense. My sentencing philosophy reflects the type of crime committed and the criminal history of the offender, while weighing the possibility of restitution to victim. I am aware that these types of cases in our courts are routinely sentenced to home incarceration with electronic monitoring. The cost of which is paid for by the offender. A condition of home detention generally requires that the offender maintain employment and earn income for the purpose of paying restitution to the victim. Work release prisons are another option in sentencing for white collar crimes. In this situation the offender is incarcerated in a prison but is released during the day to go to a place of employment. They return to prison at night to fulfill their sentences. A portion of the earned wages are applied to the victim's restitution. In some instances a portion of the wages are used to help fund the programs.

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

The background of the offender is not be a controlling a factor in my sentencing philosophy. It is my belief in sentencing that each person should be viewed individually along with the crime charged. I believe that the factors to be focused upon are not the mitigating circumstances for the offender, but rather the facts of the crime, such as harm done to the victim. The relevant facts as to the offender are if there is any prior criminal history, and the realistic possibility of rehabilitation, such as a drug addicted offender. For instance my sentencing would be the same for breaking and entering whether or not the offender was socially or economically disadvantaged. I try to offer vocational opportunities such as the availability of GED courses and other job training. There are Drug Court programs where the offender pleads guilty and the sentence is suspended until you either complete or fail the program. A participant can finish the program in a year or as long as 18 months. On average, a person is there for about 15 months. While they are in the program, they are required to have a legitimate job and if they do not have a job, they have to perform hours of community service that would be equivalent to full time employment. Employment or community service would be in addition to their NA and AA meetings, time spent in court, meeting with the drug court counselors several times a week, and having drug screens.

e. Elderly defendants or those with some infirmity:
My sentencing philosophy for elderly or infirm offenders is different from those outlined previously primarily due to the common sense approach of weighing the financial cost of incarceration and medical treatment, against the possibility of future crimes and the danger posed to society if this person is under house arrest or on probation. There is a high cost for the taxpayers to incarcerate those with serious medical issues and those who are elderly because of the increased medical issues that will arise. The key considerations of the crime committed and the reason for incarceration are included in the sentencing evaluation, along with age, health problems, and unique medical requirements.

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

I have investment assets in my financial portfolio which distribute dividends and interest. In the event that those corporate entities were to appear before me I would offer to recuse myself to avoid the appearance of bias pursuant to Canon 3.

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 would disclose the potential conflict to all parties on the record. I would then explain that the Code of Judicial Conduct, Canon 3E. (1) (c) requires disqualification in a proceeding if the economic interest is more than *de minimis*. I would then inquire if the parties wished to have me recuse myself. If they did I would have the case referred to another judge.

21. Are you a member of any organization or association that, by policy or practice, prohibits or limits its membership on the basis of race, sex, religion, or national origin? If so, please identify the entity and explain if this organization practices invidious discrimination on any basis.

No.

22. Have you met the mandatory minimum hours requirement for continuing legal education courses for the last reporting period?

Yes.

23. What do you feel is the appropriate demeanor for a judge and when do these rules apply?

A judge should exhibit the demeanor of respect, courtesy, and patience, to all persons without prejudice or bias.

The demeanor of a judge should be consistently judicious regardless of the environment, time, or setting.

24. 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?

No. The term anger equates to hostility or loss of temper. There is no situation in which anger is the acceptable emotion to portray. I feel that being firm while maintaining respect to all parties is the appropriate courtroom demeanor.

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

Sworn to before me this ____ day of _____, 2017.

(Signature)

(Print Name)
Notary Public for South Carolina