



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

Circuit Court
(New Candidate)

Full Name: Kristi Fisher Curtis

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

In the past six years of serving as Chief Magistrate for Sumter County, I have seen first-hand both the challenges and the professional fulfillment that come from sitting on the bench. I believe the legal profession is made up of some of the finest, most hard-working and dedicated individuals in the community. I am proud to be a member of the legal community and to be a public servant to both lawyers and litigants. I would like the opportunity to continue to serve my community on a wider scale by serving on the Circuit Court bench.

I believe I possess both the academic ability to unravel complex legal issues and the judicial temperament necessary to earn the confidence of lawyers and litigants.

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?

My preference would be to remain on the bench for the remainder of my legal career.

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?

First, I believe judges should make every effort to avoid engaging in *ex parte* communications. The best practice is to have safeguards in place to prevent *ex parte* communications from occurring, such as getting both attorneys on a conference call or requiring that all e-mail communication be copied to all parties. However, the Canons of Judicial Conduct do allow a judge to have *ex parte* communication with a party for the purpose of scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues. In those limited circumstances, I believe *ex parte* contact is permissible provided the judge complies strictly with the Canons of Judicial Conduct by promptly notifying all other parties of the substance of the communication and giving each party an opportunity to respond.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

In the past six years, I have not heard any cases in which a party was represented by any of my former law partners. I do believe it is permissible under the Judicial Cannons to hear a case in which one of the parties is represented by a former associate or law partner of the judge, so long as the judge has no personal knowledge of the case, was not practicing at the law firm while the case was pending, and has disclosed the former association to all parties. However, the judge should be very sensitive to any appearance of impropriety and should give considerable weight to any request for recusal. I would and have treated lawyer-legislators the exact same way as any other attorney who appeared before me.

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 grant the motion. Even if I sincerely believed that I would be impartial, I believe it is more important that the integrity of the judicial process be protected. The attorneys and litigants cannot know my subjective intent. If there is the appearance of impropriety the motion should be granted.

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

The Canons of Judicial Conduct require recusal. A judge is required to disqualify herself from any proceeding in which the judge's impartiality might reasonably be questioned. A judge is required to recuse himself or herself if the judge's spouse, family member, or close relative has an economic interest in the case, is a lawyer in the proceeding, or is likely to be a material witness in the case.

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

I would not accept any gifts having more than a *de minimis* value from anyone who appeared regularly in front of me or from anyone whose interests have come before me or are likely to come before me. I would accept ordinary social hospitality only if it is something of a low dollar amount, it is tied to some other social event separate and apart from my role as judge, and would not reasonably cause someone to question my impartiality. Of course, I believe a judge is free to accept social hospitality or gifts commensurate with the relationship from close friends or relatives whose appearance or interest in a case would already require disqualification.

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?

A judge is required by the Canons of Judicial Conduct to take appropriate action in this situation. The action should be commensurate with the seriousness of the misconduct or infirmity. Appropriate action may include direct communication with the other judge or lawyer, communication with other members of the lawyer's firm, or reporting the violation to the appropriate authority. A violation that raises a substantial question as to the judge's fitness for office must be reported to the appropriate authority. A violation by a lawyer that raises a substantial question as to the lawyer's honesty, trustworthiness, or fitness as a lawyer must be reported by the judge.

11. 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.

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

No. As a Magistrate, I am prohibited from engaging in any fund-raising activities.

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

No.

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

I believe that the drafting of orders is first and foremost the responsibility of the judge. While a judge may request that one party submit a draft order for the judge's signature, the other parties must be apprised of the request and given an opportunity to respond to the proposed order. Furthermore, the judge should do his or her own "due diligence" in terms of legal research and findings of fact to ensure that the order is correct, legally sound, and factually accurate.

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

I believe that all deadlines should be calendared by both the judge and by the judge's staff. The judge should keep his or her own record of any approaching deadlines and should not rely solely on staff. Both electronic and "hard copy" reminders should be calendared to give sufficient advance time to meet approaching deadlines.

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

I believe in the separation of powers. The legislature is the branch of government that enacts the laws. The role of the judiciary is to interpret those laws, and a judge should not use his or her judicial position to promote a personal or political agenda.

17. 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 currently serve on the Summary Court Judges Advisory Committee. The Committee meets regularly to discuss issues of importance to the Magistrate's Courts statewide. I would continue to serve as requested on any similar committees and would welcome the opportunity to contribute to the improvement of the legal system.

18. 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?

My family is very supportive of my position as Magistrate. They understand that I have after-hours obligations as part of my job and respect the fact that there are many aspects of my job that I cannot discuss with them. As an attorney, my husband certainly understands the time commitment the legal field requires as well as the confidentiality mandates. My family and close friends also understand that there is considerable public scrutiny of my behavior and that I will avoid any situation that would reflect negatively on or undermine public confidence in the judiciary.

19. 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:

In general, I believe that repeat offenders should be given longer sentences than first-time offenders. A Defendant's background and prior criminal history should be a part of the sentencing decision. The judge should, however, always consider all of the facts and circumstances before sentencing a Defendant.

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

I believe juveniles require special consideration. Before sentencing a juvenile, the judge should consider all efforts to rehabilitate the defendant. Prison time for a person who is not even old enough to vote, serve in the military, or live independently, should be reserved for those committing violent crimes.

- c. White collar criminals:

The nature of the offense is always the primary consideration of any sentencing judge. However, I do not believe that a defendant

convicted of a "white collar" crime is particularly deserving of leniency compared with any other crime involving theft. As with any case, the judge should consider all of the facts and circumstances, along with the Defendant's background and prior criminal history, in fashioning an appropriate sentence.

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

I believe the judge should take a Defendant's disadvantaged background into consideration, along with all of the other facts and circumstances, in determining the appropriate sentence. While a disadvantaged background does not excuse criminal behavior, it should always be taken into consideration.

- e. Elderly defendants or those with some infirmity:

I believe elderly defendants and those with some physical or mental infirmity require additional consideration. The judge should weigh the hardship to an elderly or infirm defendant of serving a prison sentence, along with the nature of the offense, the person's background and criminal history and all of the relevant facts and circumstances before sentencing these individuals to prison.

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

No.

- 21. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?

The Canons of Judicial Conduct do not require recusal where the financial interest is *de minimis*. However, I believe the interest must be disclosed to all parties so that they can be given an opportunity to object.

- 22. Do you belong to any organizations that discriminate based on race, religion, or gender?

No.

- 23. Have you met the mandatory minimum hours requirement for continuing legal education courses for the past reporting period?

Yes.

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

A judge is required by the Canons of Judicial Conduct to be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers and anyone else he or she deals with in an official capacity. However, I believe these rules should also apply outside of the courtroom any time a judge interacts with the public. A judge's demeanor in a restaurant or other public setting should reflect the dignity of his or her position and should reflect positively on the judge and the judicial system.

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 feel that anger is an appropriate emotion for a judge to exhibit in court proceedings. As a judge, I should exhibit self-control at all times and a show of anger in the courtroom tends to give the impression of a loss of self-control. I do, however, think that there are times when it is necessary to exhibit a very frank or stern demeanor with a criminal defendant, or to admonish the individual on the seriousness of his conduct. When dealing with attorneys or members of the public, the judge can express his or her frustration in a calm and rational manner without resort to an outburst of anger.

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
My Commission Expires: _____