



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

Circuit Court
(New Candidate)

Full Name: Leah B. Moody

Business Address: 235 East Main Street, Suite 115, Rock Hill, SC 29730

Business Telephone: 803.327.4192

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

I have been practicing law in South Carolina for twenty-one years. Of those twenty-one years, I have practiced in my home county, York, for thirteen years. This is an opportunity that would allow me to continue to serve York County and South Carolina through my profession and to positively impact our legal system. I would personally enjoy the challenging work and working with other members of the bar. Lastly, it would certainly be an honor to serve my local community as a jurist.

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, not at this time.

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 must not engage in *ex parte* communications. Concomitantly, I would make reasonable efforts to insure that my law clerks or other personnel on the judge's staff not engage in *ex parte* communications.

Cannon 2A of the Code of Judicial Conduct, Rule 501 SCAR, provides “[a] judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.”

In addition, pursuant to Adjudicative Responsibilities, Canon 3 of the Code of Judicial Conduct, Rule 501 SCAR, “[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...” Canon 3B(7). To the extent reasonably possible, all parties or their lawyers must be included in communications with a judge. *Comm. Note to Canon 3(B)(7)*.

Under certain circumstances, I may be allowed to engage in ex parte communications and these exceptions are contained to Canon 3(B)(7)(a)-(e):

(a) Where circumstances require, scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized. This is provided that:

- (1) the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication; and
- (2) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication and allows an opportunity to respond.

(b) A judge may obtain the advice of a disinterested expert on the law applicable to a proceeding before the judge if the judge gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond.

(c) A judge may consult with court personnel whose function is to aid the judge in carrying out the judge's adjudicative responsibilities or with other judges.

(d) A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to mediate or settle matters pending before the judge.

(e) A judge may initiate or consider any ex parte communications when expressly authorized by law to do so.

As stated in subsection 3(B)(7)(e), the SC Code of Laws, SC Rules of Civil Procedure, and SC Appellate Court Rules expressly authorized ex parte communications. Below are some examples:

- (1) the issuance of a temporary restraining order under certain limited circumstances;
- (2) the issuance of a writ of supersedeas under exigent circumstances;
- (3) the determination of fees and expenses for indigent capital defendants;
- (4) the issuance of temporary orders related to child custody and support where conditions warrant; and
- (5) the issuance of a seizure order regarding delinquent insurers;

“In general, however, a judge must discourage ex parte communication and allow it only if all the criteria stated in Section 3B(7) are clearly met. A judge must disclose to all parties all ex parte communications described in Sections 3B(7)(a)

and 3B(7)(b) regarding a proceeding pending or impending before the judge.” *Commentary Notes to Cannon 3B(7)*. With regard to communication between the trial judge and the appellate court involving a proceeding, ex parte communication is permitted. A copy of any written communication or the substance of any oral communication must be provided to all 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?

Cannon 3(E)(1) provides that “[a] judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned...”

I would recuse myself from any matters that might reasonably question my impartiality. I would disclose on the record information that I believe the parties or lawyers might consider relevant to disqualification/recusal of myself. However, the “rule of necessity” may override the rule of disqualification. Guidance and examples are given in the Commentary notes of Cannon 3(E). There could be an insistence where I might be required (1) to participate in judicial review of a judicial salary statute; or (2) I might be the only judge available in a matter requiring immediate judicial action, such as a hearing on probable cause or a temporary restraining order. In example (2), I must disclose to all the parties, on the record, my basis for possible disqualification and use reasonable efforts to transfer the matter to another judge as soon as practicable.

Cannon 3(E)(1)(a)-(b) specifically provide for two (2) other situations that call for disqualification; however, disqualification is not limited to these two(2) situations. First, if I have a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning the proceeding. Secondly, if I have served as a lawyer in the matter in controversy, or a lawyer with whom I previously practiced law served during such association as a lawyer concerning the matter, or I have been a material witness concerning the matter.

Lawyer-legislators, former associates, or law partners:

First, I would treat all lawyers the same. “A lawyer in a government agency does not ordinarily have an association with other lawyers employed by that agency within the meaning of Section 3E(1)(b).” *Comm. Note to Cannon 3E(1)(b)*. However, I would disclose my relationship with those lawyers-legislators, my employment under the law firm partners/associates to all parties or their lawyers. Upon my disclosure, I would ask the parties and their lawyers to privately consider whether they desire to waive disqualification. If they decide to waive the disqualification and I desired to participate, I would have the parties execute in writing such waiver and incorporate the written waiver in the record confirming such agreement between the parties. If the parties and their lawyers, decide not to

waiver disqualification, I would disqualify myself. In the instance of disqualification on the basis for personal bias or prejudice concerning a party, the parties and lawyers, I would disqualify myself.

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?

After hearing the motion, I would recuse myself for something that had the appearance of bias despite my belief. The Canons goals mandate that I “shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” Canon 2 of Judicial Code of Conduct. I would grant the party’s motion for recusal.

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

As to financial involvement of my spouse or a close relative, I would recuse myself if I became aware of an appearance of impropriety. Canon 4D provides in part, “[a] judge shall not engage in financial and business dealings that: (a) may reasonably be perceived to exploit the judge's judicial position, or (b) involve the judge in frequent transactions or continuing business relationships with those lawyers or other persons likely to come before the court on which the judge serves.”

If elected and to prevent an appearance of impropriety from ever occurring, I would explain to and discourage my family members from engaging in dealings that would reasonably appear to exploit my judicial position. The overall goal being to avoid creating an appearance of exploitation of my office or favoritism, and to minimize the potential for disqualification.

As to social involvement of my spouse or a close relative, I would recuse myself if I felt the inference or appearance is suggested. Further, as a practice and if I had a spouse, I would not allow my spouse, close relative or others to convey or permit the impression that they are in a special position to influence me because of social involvement.

Canon 2B provides “[a] judge shall not allow family, social, political or other relationships to influence the judge's judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge.”

9. What standards would you set for yourself regarding the acceptance of

gifts or social hospitality?

I cannot accept gifts from anyone except in certain instances. There are exceptions such as ordinary social hospitality or gifts from a relative or friend for a special occasion, such as a wedding, anniversary or birthday. The gift must commensurate with the occasion and the relationship. 4D(5)(c) and (d). However, I can be prohibited from accepting gifts even with those instances. If a close relative or friend, whose “appearance or interest in a case would in any event require disqualification under Canon 3E.” 4D(5)(e). Because if a lawyer, family, client or a party is likely to come before or have an interest in a matter, it may be viewed as intending to influence me. Therefore, I would not accept the gift.

Canon 4D(5) further states “[a] judge...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...” Therefore, I must inform my family members of the relevant ethical constraints upon myself in this regard and discourage my family members from violating them. The Canons state that “[a] judge cannot, however, reasonably be expected to know or control all of the financial or business activities of all family members residing in the judge's household.” Comm. Note 4D(5).

I can accept something given in appreciation of service or achievement, books, tapes, and other resources material supplied by publishers on complimentary basis for official use. So long as the organization or publisher is not is not an organization whose members comprise or frequently represents the same side in litigation and the gift is in compliance with other rules. Likewise, I may accept a law-related function/invitation only if: the donor is not a party or other person who has come or is likely to come or who interest have come or are likely to come before me. (This would include an individual lawyer or group of lawyers/firms. The prohibition for those lawyers or firms that have come or are likely to come before me extends to their clients as well.) If the gift is one that can be accepted, then if the value of the gift/invitation was \$150 or more, I would have to report that gift in the same manner as I would report compensation. Canons 4D (5)(a); 4D(5)(h); and 4H.

I may accept a gift incident to my spouse or other family member residing in my household, including gifts, awards and benefits for the use of both the spouse or other family member and the judge (as spouse or family member) provided the gift could not reasonably be perceived as intended to influence me in the performance of my judicial duties. Canon 4D(5)(b).

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?

Lawyer:

I must report misconduct to the appropriate authority. (1) If I received information indicating a substantial likelihood that lawyer has committed a violation of the

Rules of Professional Conduct, should take appropriate action. (2) If I have knowledge that a lawyer has committed a violation of the Rules of Professional Conduct Code “that raises a substantial question as to the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate authority.” Canon 3D(2).

Fellow Judge:

I must report misconduct to the appropriate authority. (1) If I receive information indicating a substantial likelihood that another judge has committed a violation of the Judicial Code of Conduct, I must take appropriate action. (2) If I have knowledge that another judge has committed a violation of the Code “that raises a substantial question as to the other judge's fitness for office shall inform the appropriate authority.” Canon 3D(1).

Appropriate action may include direct communication with the judge who has committed the violation, or other direct action if available and reporting the violation to the appropriate authority or other agency or body.

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.

Yes.

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?

Yes. I would draft orders and would request proposed orders from counsel.

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

Myself and staff would use the Court Administration provided software and create a docket of all assigned cases. That would include monitoring, meeting and discussing weekly the cases on the docket.

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

A judge shall conduct all of the judge's extra-judicial activities so that they do not: (1) cast reasonable doubt on the judge's capacity to act impartially as a judge; (2) demean the judicial office; or (3) interfere with the proper performance of judicial duties. Cannon 4(A).

I must refrain from expressing bias or prejudice opinion. I am aware that even jokes or other remarks are demeaning individuals on the basis of their race, sex, religion, national origin, disability or age. I must be aware of my organizations practices and policies.

I cannot appear or consult with an executive, legislative body or official except on matters concerning the law, the legal system or the administration of justice or except when acting pro se in a matter involving myself or my interests.

I cannot accept appointment to a governmental committee or commission or other governmental position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system or the administration of justice.

I can represent a country, state or locality on ceremonial occasions or in connection with historical, educational or cultural activities. Lastly, I should not accept governmental appointments that are likely to interfere with the effectiveness and independence of the judiciary.

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 am active in the SC Bar, SC Black Lawyers, and SC Women's Lawyers. I plan to remain active and contribute to through these organizations.

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?

No. I would discuss my role as a judge with my family and friends as I do now as a lawyer. Of course, there is an even higher duty to make clear that certain conduct is unacceptable and my responsibility as a member of 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.

Each category of offenders requires a different response when mental issues exist,

which may require a different action regarding commitment or the ability to accept a plea or standing for a trial. Also, as to each, the fundamental goals of criminal law are retribution, deterrence, rehabilitation and protection of society. I would consider the above when sentencing all defendants.

a. Repeat offenders: The law, as provided by the General Assembly, mandates the sentencing ranges that a judge may sentence a defendant. As such, there are enhanced penalties that must be adhered to under the law. As a part of sentencing, I would have to hear the facts of each case, the prior record and any mitigation presented on behalf of the defendant. The defendant's sentence would be based on the above-listed factors to sentencing and the sentencing range for the offense.

b. Juveniles (that have been waived to the circuit court): The law, as provided by the General Assembly, mandates the sentencing ranges that a judge may sentence a defendant. As when waived to the circuit court. Therefore, I would need to hear the facts of each case, the treatment of juveniles that are waived up from family court are treated as adults, the prior record and any mitigation presented on behalf of the defendant. The defendant's sentence would be based on the above-listed factors to sentencing and the sentencing range for the offense.

c. White collar criminals: The law, as provided by the General Assembly, mandates the sentencing ranges that a judge may sentence a defendant. As a part of sentencing, I would have to hear the facts of each case, the prior record and any mitigation presented on behalf of the defendant. The defendant's sentence would be based on the above-listed factors to sentencing and the sentencing range for the offense.

d. Defendants with a socially and/or economically disadvantaged background: The law, as provided by the General Assembly, mandates the sentencing ranges that a judge may sentence a defendant. As a part of sentencing, I would have to hear the facts of each case, the prior record and any mitigation presented on behalf of the defendant. The defendant's sentence would be based on the above-listed factors to sentencing and the sentencing range for the offense.

e. Elderly defendants or those with some infirmity: The law, as provided by the General Assembly, mandates the sentencing ranges that a judge may sentence a defendant. As a part of sentencing, I would have to hear the facts of each case, the prior record and any mitigation presented on behalf of the defendant. The defendant's sentence would be based on the above-listed factors to sentencing and the sentencing range for the offense.

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?

Under the Canons, I am not required to disqualify myself. However, I would consider the matter may be a local matter and may present the appearance of impropriety. In addition, the "Rule of Necessity" may impact my decision. However, if after considering the matter, I would disclose the information to the parties involved. I would hear the matter if after the parties discussed the matter privately, and they decided that they wish to waive that disqualification.

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 so these rules apply?

The appropriate demeanor for a judge is patience, dignity, respectful, civil courtesy to all parties and court participants.

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?

No and No. Emotional intelligence is just as important as intellectual intelligence. I realize that the emotion I exhibit not only has an effect on myself but others as well.

As a judge, I must be aware of those external factors that would cause myself and others to have negative response. And because, I am cognizant of the emotions that may be provoke in criminal, as well as civil, matters, I will be able to control my courtroom and my own response to situations in an appropriate manner. Of course, demanding respect for the courtroom, all parties, and proceeding may require a judge to address individuals or groups in a firm manner.

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: _____