



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 want to serve as a Circuit Court Judge because I believe that judges are the ultimate guardians of the Constitution. I firmly believe in the greatness of our Constitution which allows us to live in a country with more rights and liberties than anywhere else on earth. I recognize that it is a tremendous responsibility to serve as the protector of the Constitution as well as the arbiter of the law for the general public. However I believe that as a person who both appreciates the significance of our Constitution and our system of laws as well as having a genuine love for people and the general public I am well suited to be that arbiter.

2. Do you plan to serve your full term if elected?

Yes I plan to serve the full term if I am elected.

3. Do you have any plans to return to private practice one day?

I have never been in private practice. I do not envision myself in the future as a lawyer in private practice.

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 regarding *ex parte* communications is derived from Rule 501 of the Appellate Court Rules, canon 3(B)(7). The rule states that a Judge shall give every person, or their lawyer, who has a legal interest in a proceeding the right to be heard in that proceeding. As a judge, I would not initiate, consider or take part in *ex parte* communications. I would not consider any communications made to me if the other parties to the case were not present.

However I do recognize that in some limited circumstances *ex parte* communication may be necessary for either administrative reasons, like court planning, or in emergencies such as temporary restraining orders. In all cases I, as the judge would make sure no party gains an advantage as a result of the communication and that all efforts are made to give notice to the other party as expeditiously as possible. Otherwise I would only engage in *ex parte* communications with the express consent of the parties and their lawyers in an effort to mediate or settle a matter pending before me in situations where the communications are expressly authorized by law.

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

Judicial Canon 3(E) stands for the proposition that a judge should always avoid the appearance of impropriety and should disqualify himself or herself in any situation where the judge's impartiality could be reasonably called into question. As a judge I would adhere to this principle and recuse myself in any matter where any party could reasonably question my impartiality. I would make it a practice to err on the side of caution both in disclosing any and all information to the parties which could be interpreted as creating a bias and in recusing myself to avoid even the appearance of impropriety.

In the specific situations outlined above, certainly former law partners or associates appearing in front of me would give the appearance of impropriety and warrant recusal. However having never worked for a law firm that situation would not arise. I have always worked for public defender or prosecutor offices and government agency lawyers are not assumed to have an association with other government agency lawyers. Nor do I believe there exists any inherent conflict with a lawyer-legislator appearing before me. In those type situations I would apply the general rule and recuse myself whenever there was a reason for my partiality to be reasonably called into question and again I would construe this broadly to avoid even the appearance of impropriety.

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 give that motion great deference and recuse myself. The integrity of the Judiciary is of the utmost importance and thus any situation where my impartiality could be called into question, whether said impartiality was actually impacted or not, would warrant recusal. Society's confidence in the integrity and impartiality of the judiciary should always be paramount.

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

A judge should recuse himself or herself anytime his or her impartiality could reasonably be called into question. Clearly any case or situation in which a spouse or close relative had either financial or social involvement could impact the judge's impartiality and would certainly give the appearance of impropriety. As a judge I would recuse myself if confronted with that situation.

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

Judicial Canon 4(D)(5) sets the standard for judges regarding the acceptance of gifts and hospitality. In broad terms judges should not accept, nor should members of the judge's family accept gifts, bequests, favors, or loans from anyone. The purpose of this is for the judge to not put himself or herself in a position where his or her impartiality could be affected or the appearance of impropriety could be created by the acceptance of the gift. I would maintain a policy consistent with this prohibition. Although there are numerous exceptions outlined in the Canon for things such as social hospitality, gifts from family members for a special occasion, loans from lending institutions, etc., I would always be extremely careful before accepting anything to not only make sure the gift fit into a delineated exception, but also to ascertain that the gift did not create an appearance of impropriety in any way.

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?

Judicial Canon 3(D) governs the disciplinary responsibilities of judges. The rule requires judges to take "appropriate action" for violations of the Judicial Code by judges or violations of the Rules of Professional Conduct by lawyers. Further the rule requires judges to report to the appropriate authority judges whose violations raise questions as to their fitness for

office or lawyers whose violations raise questions as to their trustworthiness or fitness. Thus if I were to become aware of a less serious violation, I would talk with the lawyer or judge and discuss the situation which I perceived to be the problem. I would give what advice I could both to remedy the situation and prevent its reoccurrence. I would also be more vigilant with that lawyer or judge to make sure the situation did not happen again. In light of the more serious violations involving fitness to serve and/or a lawyer's trustworthiness I would report the situation to the appropriate authority.

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.

I have been a member of the Social Concerns Committee at Saint Mary Catholic Church in Rock Hill for roughly the past ten years. The committee runs a program two days a week that helps meet the needs of impoverished people in the community. The program provides: eyeglasses and prescription medication, Kerosene for heat in the winter, money for power bills, rides to doctor's appointments and job interviews etc. Additionally it helps with GED registration and resume building, finding affordable housing, and enrolling for benefits for those eligible. All of the work is done by volunteers but the ministry spends between \$15,000 and \$20,000 a year paying for prescription medication, glasses etc. to accomplish its work. I have served in the role of fundraiser for the ministry during most of my time on the Committee.

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?

As a judge I would handle the drafting of orders on a case by case basis. If the order involved an issue that was basic and not dispositive of the case I would probably ask the moving party to draft the order and I would review it carefully. However if the order involved a complex issue or

was going to be dispositive of a case I would draft the order myself so that the reasoning behind the decision was abundantly clear.

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

Judicial Canon (3)(C) discusses the administrative responsibilities of judges and includes the fact that judges should diligently discharge their responsibilities and require the same diligence from their staff and court officials. Personally I would keep a detailed calendar which I would coordinate with my administrative assistant to insure that no dates or deadlines were missed. Additionally in my experience as Deputy Public Defender managing staff and helping to organize court I have learned that clear, consistent communication is the key to helping people to recognize and fulfill their responsibilities. I would utilize my communication skills with all staff to make sure all work is accomplished in a timely manner.

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

The job of judges, particularly circuit court judges, is to base their decisions on what the law says. It is not the judge's role to promote any particular policy point of view or allow oneself to be influenced by any political or personal considerations. In short at the circuit court level judges should have no effect in setting public policy.

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 would volunteer to be on committees that were created to study issues facing the legal system or make recommendations as to how to improve any aspect of our legal system. I would also volunteer to speak or sit on panels that would help teach young lawyers about any aspect in the law at which I am proficient.

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?

I do not feel the pressure of serving as a judge would strain any of the personal relationships in my life. I have been married for twenty years and have a strong marriage. I have been blessed with four wonderful children.

My family has always been a source of strength to me in all the years working as a trial lawyer in the criminal justice system. I truly do not believe there would be any issue with pressure for me at all.

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:

The prior criminal record of a defendant is always a factor to be considered when trying to fashion the appropriate sentence. The more prior offenses a person has the less likely it becomes that the person has any true desire to be rehabilitated. Of course the nature of both the instant offense and the prior convictions should be accounted for as well. Repeat violent offenders may be anti-social and in need of long prison sentences to protect the public from their actions. Repeat offenders with minor drug or property crimes might be indicative of a treatable drug problem which may warrant the exploration of a drug court type resolution to try to fix the underlying problem. As a general rule the more prior record a person has the greater consequences the person will face for repeated violations.

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

Fashioning the appropriate sentence for juvenile offenders is a tremendous responsibility. By virtue of the fact that their case had been waived to Circuit Court presupposes that the underlying crime is serious and deserving of serious consequences. Yet I am also aware of the amount of research which indicates the brains of juveniles are not fully developed which leaves a much greater potential for rehabilitation for juveniles than in similarly situated adults. Furthermore the United States Supreme Court and the South Carolina Supreme Court have recently recognized that age is an important consideration in the sentencing of the most serious cases. I would always try to fashion a just sentence while availing myself of all of the tools in the system for a juvenile to be rehabilitated.

c. White collar criminals:

Although white collar crime may not be as devastating to an individual victim as violent crime, the impact on society is tremendous. By white collar crime I am not talking about minor property crime like a fifty dollar forgery, I am talking about the con-artists and charlatans who run Ponzi schemes or convince elderly people to invest their money with them and disappear. Particularly egregious are the people who take advantage of their position in government, or banking, or the stock market to defraud large groups of people of large sums of money. Although I recognize most crime of that sort is prosecuted in Federal Court and would not come before me as a judge, I think any crime of that type which hurts large groups of citizens at a time deserves

serious punishment.

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

I believe that a person's background is relevant in attempting to determine an appropriate sentence for a crime whether that background is socially and/or economically disadvantaged or privileged or somewhere in between. Clearly a person who steals a loaf of bread to eat because he has no food should not be punished as severely as the wealthy person who steals just to see if he can get away with it. That said poverty is not an excuse for crime nor is wealth an aggravating factor for crime. A person's background is just one of a multitude of factors that should be considered in fashioning an appropriate sentence.

- e. Elderly defendants or those with some infirmity:

I think this question touches upon two issues: first did the infirmity play a role in the defendant committing the crime? If so then I believe that the infirmity or the advanced age should be another variable considered in weighing the criminal action versus a just amount of punishment. The second issue deals with how that particular infirmity or advanced age will affect the impact of the sentence on the defendant. In other words if a person has stage four cancer and committed a shoplifting for which a healthy person might receive a six month sentence, the practical considerations of the person needing so much medical attention as well as the humanitarian considerations of the fact that the person only has six months to live may mitigate the situation to a home detention punishment being appropriate. Again a person's age/ physical infirmities are an appropriate factor to be taken into consideration in determining an appropriate sentence.

As an additional note I would like to add that although I have done my best to address each of these five situations in an informative fashion, I do believe the question is flawed to a degree. After practicing in the criminal justice system for twenty-two years I firmly believe that each case and each defendant is unique. I believe judges should listen intently to the lawyers for the state and the defense and fashion a sentence that accounts for all of the information presented. I do not believe a judge should bring any preconceived notions regarding an appropriate sentence to a case simply because the defendant can be slotted into a category of offender.

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 would not hear a case where even a *de minimis* financial interest was involved for my family or myself as I believe it would create the appearance of impropriety.

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 for the past reporting period?

Yes.

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

A judge should be patient, dignified and courteous. I believe a judge should maintain such a demeanor at all times.

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 pro se litigants?

A judge should never display anger towards any member of the public including a criminal defendant. As previously stated a judge should base his or her decisions on the law and to display anger could give the impression that a decision was made based on emotion which would be improper. Furthermore to be angry in demeanor would be in direct conflict with the appropriate judicial demeanor of being patient and courteous.

For similar reasons a judge should not display anger towards attorneys or pro se litigants. As a trial attorney for many years I have had the good fortune of appearing in front of many judges with patient and kind dispositions as well as the displeasure of appearing in front of a couple of angry judges. I know the importance of judicial temperament and if I were to become a judge I believe every person to leave my courtroom would feel like they were treated with respect.

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

Bryson J Barrowclough

Sworn to before me this 24 day of July, 2017.

(Signature)

(Print Name)
Notary Public for South Carolina
My Commission Expires: _____