



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

**Circuit Court**  
**(New Candidate)**

Full Name: Andrew Burke Moorman, Sr.

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

I believe in the rule of law, and I believe that trial judges, especially circuit judges, are uniquely positioned to ensure that people are treated equally and fairly under the law. Circuit judges apply the law to the facts of cases before them, and in doing so have the opportunity and the obligation to reaffirm a bedrock principle of our democracy: we are a nation of laws, not people. I have had the privilege of appearing before trial judges in Greenville (including state circuit judges and federal district judges) repeatedly in the almost sixteen years that I have been a lawyer. My interactions with many of these great trial judges have taught me that the rule of law is not just a concept I studied in law school. The rule of law dictates how trial judges in this State make decisions that affect peoples' lives.

For this reason, I believe serving as a circuit judge is an incredibly noble and important public service. I am honored to have the chance to be considered for this office.

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?

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?

Ex parte communications undermine the public's confidence in the judiciary, and a judge should not engage in ex parte communications. Rule 3(B)(7), CJC, Rule 501, SCACR, permits a judge to participate in ex parte communications under limited circumstances. For example, Rule 3(B)(7)(a), CJC, Rule 501, SCACR, authorizes a judge to engage in ex parte communications "where circumstances require" when these communications involve "scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits." Even under these limited circumstances, I would avoid engaging in ex parte communications unless the communications were permitted by law and I believed my oath to "seek justice and justice alone" required it.

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

Rule 3(B)(5), CJC, Rule 501, SCACR, requires "a judge to perform judicial duties without bias or prejudice." If, as a judge, someone appeared before me, and that person's appearance jeopardized my ability to "perform (my) judicial duties without bias or prejudice," I would recuse myself.

If someone appeared before me and that person's appearance could give rise to an argument that I could not "perform (my) judicial duties without bias or prejudice," I would inform the parties of the facts that could give rise to such an argument. I would then give the parties an opportunity to make arguments for and against my recusal, and I would decide whether to continue to preside after carefully considering their arguments.

As a general proposition, I reject the notion that a judge must recuse himself or herself from hearing certain classes of cases. For example, if state court judges (whether they be family court judges, circuit judges, or appellate court judges) were to take a position that they could not preside over cases in which legislators were either parties or lawyers representing parties, it would have the effect of excluding citizens of this State from a branch of their government, the judiciary. I do not believe courts of this State have ever adopted this position.

I believe the issue of recusal must be decided on a case-by-case basis.

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 not automatically recuse myself because a party advanced an argument that I was biased and therefore should recuse myself. However, I would give some deference to the parties' wishes because the resolution of the case would most directly affect them. Ultimately, I would not recuse myself if I determined, after carefully considering the parties' arguments, that I could continue to preside over the case and my involvement was consistent with the obligations imposed on me by the Judicial Canons and other applicable law. If I decided, after carefully considering the parties' arguments, that my continued involvement in the case would cause me to violate my obligations pursuant to the Judicial Canons or applicable law, I would recuse myself.

The question also asks how I would rule on such a motion. Without more facts, I cannot answer. I believe recusal must be analyzed on a case-by-case basis.

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

Rule 2(A), CJC, Rule 501, SCACR, requires a judge to act "at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." The Commentary further states that "[a] judge must avoid all impropriety and appearance of impropriety."

I would take whatever steps available and necessary to avoid the appearance of impropriety. If the financial or social involvement of my spouse or close relative gave rise to the appearance of impropriety in the context of a specific case over which I was presiding, I would have to recuse myself. If the financial or social involvement of my spouse or close relative gave rise to the appearance of impropriety in a broader context, I would (1) not have anything to do with the financial or social involvement; (2) strongly encourage my spouse or close relative to terminate the financial or social involvement immediately; and (3) take whatever other steps I could to eliminate the appearance of impropriety.

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

Rule 4(D)(5), CJC, Rule 501, SCACR, states that “[a] judge shall not accept . . . a gift . . . .” It also lists some exceptions to this, including “ordinary social hospitality.” I would not accept gifts, and I would politely refuse most forms of “ordinary social hospitality.” A gift or a lunch is just not worth it.

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?

Rule 3(D), CJC, Rule 501, SCACR, imposes on judges the responsibility to “take appropriate action” when they receive “information indicating a substantial likelihood that another judge has committed a violation of (the Judicial Canons) . . . (or) information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct . . . .” The Commentary discusses in more detail what the phrase “appropriate action” includes. “Appropriate action may include direct communication with the judge or lawyer who has committed the violation, other direct action if available, and reporting the violation to the appropriate authority or other agency or body.”

My response after learning of the misconduct would be dictated in large part by the nature of the misconduct. I would likely begin by approaching the lawyer or judge directly for the purpose of expressing my concern. If I believed that the Judicial Canons and/or other applicable law required me to report the misconduct to a governing authority, I would encourage the lawyer or judge to self-report. If the lawyer or judge did not self-report, I would satisfy my obligations pursuant to the Judicial Canons and/or applicable law and report the lawyer or judge 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.

As a cub scout den leader since 2013, I have worked with my den and

pack to raise funds for our cub scouts. This fundraising typically takes the form of selling popcorn to raise money.

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 the drafting of orders is an extremely important function a judge performs. The Court's order becomes the law of the case, and the order needs to be drafted with precision to ensure that the Court's intent is clearly understood by the parties and by appellate courts that would review it. I would draft my orders.

In drafting my orders, I may allow the parties to submit proposed orders for my review, and I would enlist the help of my law clerk. However, I cannot envision a scenario in which I would merely adopt a party's proposed order. As a lawyer, I have drafted my own pleadings, and I would continue that practice as a judge.

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

I would establish standard operating procedures for my chambers that would control when tasks had to be completed. By way of a hypothetical example only, I may say that all orders emanating from post-conviction relief trials had to be drafted and filed within 14 days of the conclusion of the trial. I may then give myself 10 days to complete a proposed draft. After completing the proposed draft, I may circulate it to my law clerk for the purpose of proofreading and spading and to allow the law clerk to provide whatever input the law clerk has. After 4 days of collaborating with the law clerk and/or making whatever revisions needed to made to the order, I would sign a final order and file it.

I likely would ask my administrative assistant and/or law clerk to develop a system for tracking pending matters. For example, they may create and continually update an Excel spreadsheet that listed my pending cases for which orders had not been entered with the respective deadlines I had imposed for orders in each of the cases.

I likely would also help my administrative assistant develop similar tracking system(s) for other administrative tasks.

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

The legislature, the body of popularly elected representatives of the people, makes the law. Judges apply the law to the cases and controversies over which they preside. A judge who exercises judicial power in a way that exceeds what is necessary to resolve the particular case before the judge violates the law. “It requires no justification for a court to honor the constitutional limitation on judicial power—it is the law.” In the Matter of Chapman, 419 S.C. 172, 187, 796 S.E.2d 843, 851 (2017) (Few, J., dissenting).

I believe, as a general proposition, the only effect a court’s decision should have on people who are not parties to the case is the obligation stare decisis places on inferior courts to follow the decision when these courts decide future cases with very similar facts.

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 will continue to participate as an instructor in CLE courses to learn from others and to teach others about the law. I will invest in my law clerks and other young lawyers and strive to motivate them to view their legal careers as a vocation in service to others. I will learn from these young lawyers as they continue to grow as lawyers and as people. Finally, and perhaps most importantly, I will dedicate myself every single day to being the very best judge I can be.

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. My wife and I have had very demanding jobs during our almost sixteen years of marriage. During this period, we have been fully engaged with our children, volunteering in school activities and participating in their extra-curricular activities. We have made great friends along the way, and we have kept in touch with our extended families, each of which has members literally scattered throughout the United States.

Should the rigors of serving as a judge provide added stress, I would do my best to continue to achieve a healthy work/family life balance.

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.

I am not sure that it is wise for a judge to adopt guideposts in sentencing for classes of defendants. Every case is different. Every defendant is different. Every victim is different. A sentencing judge must apply and balance a number of different factors every time that judge sentences a defendant. Some of these factors may include the seriousness and nature of the offense, the history and characteristics of the defendant, the need to promote respect for the law, provide just punishment and adequate deterrence, to protect the public, etc. A judge would likely apply these and other factors differently in fashioning sentences in different cases. With this caveat, my answers are below.

- a. Repeat offenders: I would be very interested in understanding what type of sentences these offenders had received and for what offenses they had received sentences. As a general proposition, if a defendant continues to reoffend, I believe it is likely that whatever sentences the defendant served previously did not adequately deter the defendant from committing future crimes. Therefore, any sentence I imposed may be more severe than sentences the defendant had previously received.
- b. Juveniles (that have been waived to the Circuit Court): If the law provided for the adjudication of a juvenile as an adult, I would not assume that the juvenile was somehow less culpable than an adult would be who committed the same offense. Depending on the seriousness of the offense, I would likely ask the juvenile defendant more questions about the defendant's background to ensure that I fashioned the appropriate sentence in that particular case.
- c. White collar criminals: White collar crime is serious. I have seen white collar crime destroy families both as a prosecutor and as a defense attorney. One factor that would likely be more prevalent in sentencing a white collar defendant as opposed to another defendant (e.g. a defendant who possessed a small amount of an illegal drug) would be the white collar defendant's ability to make the victim whole.
- d. Defendants with a socially and/or economically disadvantaged background: Social or economic adversity is not an excuse for a person to commit crime. I do believe that a judge does have a responsibility, in fashioning the appropriate sentence, to try to

understand both the conduct that forms the basis of the offense for which the defendant is being sentenced and the defendant who committed the offense.

- e. Elderly defendants or those with some infirmity: Like many other factors, a judge should consider a defendant's health and age in fashioning an appropriate sentence. For example, a defendant who is 80 years old and cannot walk may not require as lengthy of a sentence to protect the public from future criminal conduct as a defendant who is in excellent health and who is 25 years old. Judges sentence people, and judges should consider a multitude of factors prior to imposing any sentence, including the history and characteristics of the defendant along with numerous other factors.

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?

If I believed I could not hear the case consistent with my obligations pursuant to the Judicial Canons and other applicable law, no. Regardless of my belief, I would disclose the *de minimis* interest to the parties, give them an opportunity to argue for or against my recusal, and make my decision after carefully considering the arguments of the parties.

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?

Rule 3(B)(4), CJC, Rule 501, SCACR, states that "[a] judge shall be



patient, dignified, and courteous to . . . (those) with whom the judge deals in an official capacity." I believe a judge who is "patient, dignified, and courteous" is most likely to create an environment in the courtroom that is conducive to the finding of the truth.

I also would add one more aspect of a judge's demeanor that is critical: humility. I have had the privilege of appearing before so many great state and federal judges in my career. In my view, what made these judges great was that they were patient with the lawyers and the parties, and they understood that they might not know everything about the law that applied to the case and/or the parties to the case. I felt these judges more often made the best decisions even when their decisions were not favorable to my clients. They allowed the lawyers to be the most effective advocates for the parties. They truly listened to the arguments the lawyers made instead of deciding before they had all the information they needed.

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, especially if that anger undermines the judge's ability to be "patient, dignified, and courteous" pursuant to Rule 3(B)(4), CJC, Rule 501, SCACR. Judges are people too, and they will have emotions about the cases over which they preside. However, I think a judge should always strive to create an environment in the courtroom that is most conducive to finding the truth. Whenever judges' emotions preclude the parties from having full and fair hearings on the issues and/or undermine the dignity of the courtroom, it is inappropriate.

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: \_\_\_\_\_