



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?

Serving as a Circuit Judge has been a remote goal for many years and the depth and breadth of my legal experience can now fulfill the requirements of the position. I have had direct exposure to the S.C. Judiciary since my undergraduate days and have been able to observe and learn from many esteemed jurists. We have recently lost the service of many long-time Judges, not only through ascension to appellate courts but to retirement and/or death. In the past year I have attended at least three CLE functions where sitting jurists and/or members of the General Assembly have invited the attendees to seek service on the bench and undertake a more direct role in our administration of justice. Upon the recent passing of Judge Pyle (who I had known from before I was sworn as a member of the Bar) our Greenville Bar Newsletter reflected on Judge Pyle's "lasting legacy" and challenged us to consider whether we were living our lives in similar fashion. While I am proud of my efforts thus far, I do desire to resume public service and further follow the example set by Judge Pyle and others (previously and presently) by contributing to the high standards maintained by the Thirteenth Judicial Circuit Court bench.

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 plans, but would prefer to have that as a valid option, if desired.

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?

True ex parte communications (issues of substance being put forth/discussed without opposing counsel) should never occur.

Literal/technical ex parte "communications" COULD be envisioned, but solely for emergency situations or for scheduling or administrative means. Often, these should merely be a first step in obtaining the presence of other counsel for a needed conference call/"group" discussion on the eve of or during a trial or at other times (late in day or week) when normal means of communication/scheduling are compromised. No further discussion of any substantive issue would be allowed and any attempted deviation would not be tolerated.

Finally, there ARE some times when ex parte communications are authorized, including some temporary/emergency orders and when determining the allowance for fees and expenses (needed experts) in indigent capital litigation cases. Even in these circumstances, the other side either knows and understands the need for the ex parte nature of the communication or will soon thereafter have the ability to appropriately respond. See Canon 3 B. (7).

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

I will assuredly recuse myself from any matter involving friends, family, close business associates or former: law partners, employees or clients (including any who happen to be lawyer-legislators) if I determine that an impropriety or the appearance of impartiality truly cannot be avoided. A Judge must always be able to serve independently, without bias or prejudice.

If a disqualifying factor seemingly exists (but I am confident I can act independently per my oath) my administrative duties and the required judicial economy of our court system will require that the disqualification be fully disclosed on the record. If all parties, after discussion outside my presence, agree to waive the disqualification, their agreement will be incorporate into the record and the hearing will proceed. See Canons 3 E. and 3 F.

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?

ALL deference would be given to any party concerned with even the appearance of bias or impropriety, where reasonably questioned. As mentioned above, I would always seek to disclose such matters and would do so for the specific purpose of granting any such request/motion, where reasonably questioned. Only if the rule of necessity (great hardship might occur by recusal) was raised by the opposition, would the matter further be discussed, to ensure the preference. Even then, all effort would simply be made to assign to an alternative Judge, as quickly as possible, if the desire for recusal persisted. See Canon 3 E. (1).

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

I would recuse myself as disqualified if other than de minimis. I cannot even envision how such could knowingly come before me, but if surprised by such a matter, recusal would immediately ensue. See Canon 3 E. (2).

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

I will decline any gifts and seek to ensure my spouse and children do the same. I perhaps need a better definition of "social hospitality" since such might encompass just about any normal and customary exchange amongst friends and neighbors (or college football fans). I will certainly seek to avoid any appearance of impropriety, but believe, from my understanding and research that "ordinary social hospitality" (the "normal" interactions shared throughout one's life) need not require drastic change. See Canon 4 D. (5)

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?

If personally observed, immediate action would be taken, initially via direct communication with the subject lawyer or judge to determine the cause. Thereafter it may be necessary to additionally contact those affected by the conduct in supervisory authority. Finally, the observation may require a report to the appropriate authority (which may include the Judiciary Committee, the SC Bar or an assistance program).

If provided credible information from others regarding an infirmity, I would seek to gain additional information/confirmation. If corroborated/proved, would proceed in a similar fashion as above to

address. See Canon 3 D.

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.

Not in any formal manner. I have assisted family (primarily kids) and friends/neighbors in their various fund raising efforts.

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

No. I do have some ongoing contingency matters and at least one matter with an outstanding petition for fees and costs. Other than determining an appropriate accounting (which should not be unusual for practicing attorneys concluding practice before assuming a judicial seat) no other matters are recalled or envisioned that would remain outstanding upon assumption of judicial service.

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

I would expect to have base/form Orders for routine matters. With regard to more complicated matters, I can envision an invitation to all involved parties to submit proposed orders. However, I would strive to normally render swift, determined decisions, inviting prevailing counsel to draft the proposed Order (with the opportunity for comment/opposition by opposing counsel prior to execution).

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

We will strive to schedule appropriately from the outset and strictly adhere, with full knowledge that SOME exceptional circumstances may not be avoidable. I will utilize staff to ensure reinforcement (at least dual entries), but will comfortably schedule as I have throughout my legal career using largely electronic scheduling with additional paper calendaring of some matters.

16. What is your philosophy on "judicial activism," and what effect should

judges have in setting or promoting public policy?

I cannot envision any allegation of true "judicial activism" in my courtroom. Judicial restraint is required to maintain the needed Separation of Powers and to ensure government of, by and for the people (which act through their legislative representatives and create the laws that govern us). Judges should attempt to interpret and apply the law, not "make" the law. Vague and/or conflicting statutes must be identified and best efforts made to interpret the intent of the legislature, but utilizing the bench to set or promote individual notions of public policy can lead to judicial tyranny, which must and will (by me) be avoided.

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 have no developed plan for "improvement" of the legal system, but DO plan, as has been my practice, to ensure that all proceedings within my control are done to best secure the just, speedy and inexpensive determination of actions. Those unfortunate enough to be involved with the judicial system deserve just determinations within a reasonable timeframe. My goal, day by day, will be to competently and fairly ensure a palatable experience by anyone involved (litigants, defendants, jurors, witnesses, onlookers) so that each of them gains (and hopefully shares with others) confidence that our judicial system actually provides justice and assists to civilly resolve disputes.

Extra-judicially, I would hope to continue involvement, as appropriate, in those Bar/Legal forums that promote the above goals, inviting discussion of any observed concerns and potential methods of improvement. To the extent my experience on the bench provides greater insight into attainable improvements, I will do all I can to appropriately encourage the same from those who appear. Bench/Bar meetings have been utilized successfully in the past. Mutual communications with varying entities or organizations (Solicitor and Public Defender Offices, GACDL, Bar in general) can be fruitful and will be utilized as appropriate.

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 don't foresee any strain with spouse, children or non-attorney friends. Relations with attorney friends will change, but I cannot foresee any

“strain;” this will simply be the further evolution of those personal (and professional) relations.

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.

Per Canon 5 A. (3) (d) I will decline to suggest I have any pre-conceived determination regarding sentencing of those in the listed categories. I will assess ALL cases on a case by case basis, taking into account the agreed/proven facts and history, input from any victims and actions taken to remediate/rehabilitate prior to appearance. The existence of ANY of these categories will not result in my PRE-JUDGMENT of any such defendant. I will uphold the law. Any sentence levied will be with the primary goal of ensuring subsequent adherence to the law from as productive a citizen as possible. I will continually attempt to meet those goals with as little needed expenditure by the State and its citizenry as is possible.

The following comments merely note my experiences and observations thus far as a prosecutor, defense counsel and citizen. The Bar and the citizens of this state should have full comfort that every sentence will be levied on a case-by-case basis, with the previously stated goals in mind.

- a. Repeat offenders:

Depending on past history, sentencing options may already be restricted/framed.

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

Additional options will likely exist (YOA, etc.) and will be considered.

- c. White collar criminals:

Having represented both victims and defendants and served as prosecutor, options may exist with regard to a restitution component.

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

Specialized programs may exist that provide expanded sentencing

options.

- e. Elderly defendants or those with some infirmity:

If infirmity is a mental capacity issue, then those conditions, if proven, will result in a wholly separate handling of the matter.

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?

Though I would rather not and would ensure all were made aware of and AGREED that the interest was *de minimis*, such designation, when accurate, denotes an insignificant interest that could not raise reasonable question as to a judge's impartiality. Accordingly, I would independently, competently and fairly hear the matter.

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 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. While actually on the bench it is important for all litigants, victims and others appearing for proceedings to view a composed, impartial, engaged, thoughtful and just jurist. Most parties merely wish to voice their complaints/defenses as fully as possible and receive a determination with a reasoned basis; I will strive to do so. In all other aspects of life, a judge should be cognizant of his position and continue to maintain a demeanor worthy of respect by his fellow citizenry.

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?

The thoughtful, respectful and reasoned administration of justice, with no display of anger, will be my goal. "Ever" is a strong word. If, like in Atlanta years ago, a defendant wrestled a gun from a court officer and went on a shooting spree, or someone's actions otherwise initiated a potentially dangerous atmosphere, some show of "anger" may be wholly appropriate for the protection of all in the Courtroom. However, we have ample and competent security in all S.C. courts, so exhibitions of true "anger" will likely never be necessary or appropriate.

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: _____