



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?
In years past, I have strived to expand my legal practice and my knowledge of many types of law and causes of action. I have never wanted to feel that my job is stale or bland. The position of a Circuit Court Judge would alleviate this concern by providing exposure to a constant stream of different fact patterns, parties, and legal issues. It would offer me the opportunity to focus on study of the law and its application to a wide variety of situations and conflicts. A judgeship would provide a perspective of legal practice that no other job in the legal field can offer. Similar to my motivations to become a mediator and arbitrator, I would like to serve in the position of a Judge to experience a new role in the legal system. I also feel committed to the preservation of integrity, diligence, and fairness in our judiciary. In the position, I can ensure that the qualities and ideals that I believe are essential to our judiciary are maintained.
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? If I am elected to a Circuit Court seat, I have no plans to return to private practice other than returning to work as a Mediator upon retirement from my judicial office.
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?
Generally, *ex parte* communication is unnecessary and unacceptable. There are circumstances in which it is permitted, and these are set forth in Canon 3(B)(7) of the Code of Judicial Conduct, Rule 501 of the South Carolina Appellate Court Rules. In my experience, the most common,

acceptable use of *ex parte* communication is that utilized to aid in scheduling, such as coordination of the date and time of a status conference or a settlement approval hearing. However, the Judge must ensure that all parties and attorneys involved in the matter are provided with adequate notice of conferences or proceedings. This rule extends to the Judge's staff and Court officials. There are circumstances in which *ex parte* communication is expressly authorized by law, such as the issuance of a temporary restraining Order as provided by South Carolina Rule of Civil Procedure 65(d). Where the South Carolina Code of Laws and the rules of procedure explicitly provide for communications that are *ex parte*, they are tolerated; but all such communications should be made sparingly and with consideration of the rights of all parties to prevent any implication of partiality or unfairness.

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

Recusal is required whenever one feels that they cannot render an unbiased ruling or provide an unbiased opinion. Recusal is also required when the Judge's impartiality might be reasonably questioned. However, if the Judge believes that he or she can be impartial, the Judge must disclose the potentially perceived bias but can permit the parties and counsel to waive disqualification if they conference outside of the presence of the Judge and reach an agreement. My philosophy on the subject is that the Court must maintain impartiality and the perception of fairness at all times. Any circumstance that interferes with the unbiased application of justice or the appearance thereof requires recusal and disqualification of oneself as a Judge regardless of waiver by the parties and counsel. However, I understand that judicial economy and efficient movement of cases through the judicial system require that parties and counsel be given the opportunity to waive disqualification when the basis for recusal does not rise to the level of actual bias or prejudice to any party.

Disclosure of certain relationships that do not create bias but may be perceived as doing so is required, such as personal or business relationships. There may be times that such a relationship exists with a lawyer-legislator appearing before the Court due to a close, personal friendship or past political contributions that would require disclosure to the parties and their counsel. I have no such relationships that would require disqualification. If I ever developed one, I would disclose it. Legislators who are attorneys must be allowed to perform their work without exclusion from Court appearances, so the grounds for disclosure and recusal have to be more than mere familiarity or acquaintance to require recusal. The case law that I have reviewed

indicates that an allegation of bias or prejudice is not enough, and actual evidence of such is required to warrant disqualification. But, if a party or attorney made a motion for recusal upon grounds of a personal relationship and there was a justified perception to support it, I would grant the motion. While the Court cannot allow irrational or baseless requests to control the schedule and the docket, if there is any merit to a motion for recusal, it should be granted.

In the case of former associates or law partners, any bias towards their professional or financial success requires recusal. A simple business relationship should be disclosed but may not warrant recusal. I would disclose the relationship and permit those involved in any pending action to request disqualification or waive recusal. Additionally, I would recuse myself from any matters that I worked on before becoming a Judge and would recuse myself on matters that my former associates or law partners worked on while I was employed in private practice, as required by Canon 3(E) of Rule 501 of the South Carolina Appellate Court Rules.

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? Yes. If a party requested recusal following my disclosure of an issue creating the appearance of bias, a recusal would be granted. All parties are entitled to fairness and impartiality and must feel confident that they are receiving such. If I recognize a potential appearance of bias, it is expected that it would be perceived by others as well and would therefore justify recusal.
8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?
When applicable to a pending case or a matter before the Court, I would recuse myself as the Judge. I would also take immediate action to end whatever activity resulted in the appearance of impropriety. If the impropriety implicated some misconduct or breach of the Code of Judicial Conduct or the Rules of Professional Conduct on my part, I would report the issue to the Commission on Judicial Conduct or the appropriate authority.
9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?
Other than gifts for special occasions, such as wedding or shower gifts, I do not anticipate receiving gifts from anyone who may appear before the Court. I am aware that any such gifts are governed by Canon 4(D)(5), and would not accept any gift that was not incident to an award, lecture, or special occasion. These rules have applied to my

family for most of my life, and I am very familiar with the restrictions on gifts received by Judges. As to social hospitality, I anticipate a more reclusive lifestyle in any judicial position. If elected, I would continue to engage in minimal, ordinary social hospitality. With either acceptance of gifts or participation in social hospitality, if such activities created a perception of bias towards an attorney or party, I would recuse myself from hearing matters involving that person or entity.

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 I had personal, first-hand knowledge or observation of misconduct or appearance of infirmity rising to the level of required reporting, I would report it to the appropriate agency or commission. If suspicion of misconduct or infirmity of an attorney or a Judge was reported to me, I would communicate with that attorney or Judge and request that the person self-report the situation or circumstance whenever that person's fitness to conduct his or her job comes into question. I would follow the requirements for reporting set forth in Canon 3(D) and any applicable ethics or advisory opinions or the Rules of Professional Conduct. In matters involving impairment due to substance abuse or mental, emotional, or physical conditions, I would refer the attorney or Judge to the appropriate assistance program or agency, such as Lawyers Helping Lawyers, as provided for by Canon 3(G) and as encouraged by the South Carolina Bar.

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.
I am a member of the South Carolina Women Lawyers Association. I do not believe that this association practices invidious discrimination, as it is a professional organization devoted to the promotion of civic values and professional standards that apply to lawyers. The programs and classes offered by this association are open for participation by all individuals and are not limited to association members. I am also a member of Delta Delta Delta Sorority, which is a fraternal organization. Based on case law and precedent involving Canon 2(C), I do not believe that these memberships create any appearance of impropriety or diminish public confidence in my integrity or ability to be impartial as required by Canon 2(A).

12. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations? Please describe.
In years past, I have participated in the MDA Lock-up which is a Muscular Dystrophy Association fundraiser. My participation involved

online and in-person requests for and collection of charitable contributions to the MDA.

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 plan to draft them myself, but I will request proposed Orders from attorneys involved in actions to assist in expedited issuance of Orders. I will incorporate language and case law citations provided by the lawyers into my document. I anticipate occasional participation of my law clerk in drafting Orders. When appropriate, I will utilize Form 4 Orders to provide prompt rulings and to assist the Clerk of Court in moving cases along on the docket. I will provide in the Form 4 Orders that a more formal Order will follow should one be required to provide the Court's specific rulings or at the request of the parties.
15. If elected, what methods would you use to ensure that you and your staff meet deadlines?
If elected, I plan to incorporate electronic calendar scheduling into routine office operation. I would keep a list of all open matters accessible to me and my staff so that we are all aware of the pending matters requiring immediate attention. As a law clerk for a Chief Administrative Judge, I maintained folders and binders with outstanding matters and proposed Orders. Today, I would utilize some of those same methods of organization for myself and my staff, but I would also set email reminders and calendar appointments to ensure prompt issuance of rulings and Orders and responses to requests. I anticipate establishing a procedure for file sharing of draft Orders and research materials so that my clerk and I can coordinate completion and filing of Orders.
16. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?
Judges should apply and interpret the law as it exists and not infringe on the separation of powers that is at the core of our system of government set out in the U.S. Constitution. Judges are bound to the law and cannot impose the will of society or assert their personal, political agendas through their position. While evolution of the law is expected and appreciated, rulings must be consistent with current law. Our government structure imposes the separation of powers to hold order and eliminate tyranny, but public policy and the law go hand-in-hand. There are specific matters that may require consideration of public policy based on law, and in those instances (such as declaratory judgment actions and other actions regarding the validity of contract

language) consideration of the public policy of the State is permissible. However, Judges must refrain from imposing their personal will on a case if it conflicts with present statutes or case law. A Circuit Court Judge's duty is to apply and interpret the law, not to create new law. If one encounters a novel issue, the response is to apply current law free of the influence of social concerns. As stated in Canon 3(B)(2), "A judge shall be faithful to the law and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor or fear of criticism." Also, Judges must refrain from making any public statements regarding their personal views that may give the appearance of impartiality or imply an inability to apply current law.

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 currently a member of the Alternative Dispute Continuing Legal Education Committee of the Alternative Dispute Resolution Section of the South Carolina Bar. I would continue to work with the South Carolina Bar and the American Bar Association to improve the legal system by encouraging education and resolution of disputes in a reasonable and efficient manner to eliminate stress on the judicial system and the parties, including economic stress. I would work within the bar to promote the civility of attorneys and candor between attorneys and the judiciary. I would like to participate in continuing legal education courses, relying on my experience in transitioning to the bench, to offer guidance to attorneys as to which communications and actions aid in judicial economy and efficiency.

My service as a mediator has taught me to maintain neutrality while applying effective methods of dispute resolution to civil actions. I would use this knowledge to aid in speedy or alternative resolution of cases. I believe that certain issues and causes of action can be resolved by implementing my mediation abilities to the extent permitted by the Judicial Code of Conduct and as referenced in Canon 3(B)(7)(d) regarding use of *ex parte* communications. However, I would take extreme caution to avoid inappropriate *ex parte* communication or assertion of inappropriate influence. This would aid in the efficient administration of justice and would promote judicial economy.

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?

There would be no additional strain created in my relationships with relatives or close, personal friends. If elected, I do believe that I would be slightly more reclusive to avoid interaction with those who may

appear before the Court and am fully-accepting of this potential change. There are also certain social events that I will likely refrain from attending, but I do not anticipate the need for much alteration of my lifestyle or activities.

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: I believe that given the opportunity to correct or avoid a behavior, one should be open to doing so to avoid penalty. The fact that someone may repeatedly take that opportunity for granted to risk penalty is disappointing and not acceptable. Although I support efforts to diminish recidivism, I would not sentence repeat offenders lightly. I would follow any relevant sentencing guidelines to impose a sentence that I believe adequately corresponds to the crime committed. Discouraging future crimes would be my primary consideration but the severity of the crimes committed would also be considered. Violent crimes and crimes in which a weapon is used would be punished more severely than those not involving violence or weapons.

b. Juveniles (that have been waived to the Circuit Court): In my experience, juveniles are viewed as having a diminished capacity to comprehend the effects of their crimes or the penalties that they will incur. While I understand this perception, I believe that there are certain circumstances in which juveniles are able to comprehend the impact of their actions and commit crimes with callous disregard for the potential penalties. In these circumstances, I would sentence a juvenile as permitted by law without much deference to their age. I do believe that juveniles deserve a chance to mature and would not want to impair their ability to alter their behavior by imposing a severe, debilitating penalty when unwarranted. I would have to give consideration to the age of a minor and the circumstances of the crime before issuing a sentence.

c. White collar criminals: Although a non-violent offense is committed, the punishment should still be sufficient to deter the offender and others from committing such crimes. The penalty imposed must provide comparable hardship to that suffered by any victim of the crime committed or any negative impact on society or the community resulting from the crime.

d. Defendants with a socially and/or economically disadvantaged background: There must be consistency in application of the law. The purpose of criminal penalties is to punish the criminal and deter everyone from committing crime. While I am sure that it is sometimes difficult to apply

justice blindly while experiencing human emotion and empathy, the purpose of criminal penalties must not be forgotten. If punishment is not imposed or is lax, the behavior will continue. The exercise of compassion may play a role with certain offenses, but the sentence must be comparable to the crime and consistent with the law. I would work with the attorneys involved to ensure that any sentence imposed would not preclude the individual from efforts to improve their social or financial situation. To the extent possible, I would encourage continued employment to improve the social and economic disadvantages of those before the Court and to promote a decrease in recidivism.

e. Elderly defendants or those with some infirmity:
Consideration of their condition would be taken into account during sentencing. If their condition requires constant medical treatment, certain punishment may be cost prohibitive. A reasonable and fair means of punishment must be determined. I would take their condition, cost of treatment, likelihood of future crime, and recommendations of medical professionals into account in determining what sentence could be practically applied to adequately punish the offender and deter future offenses.

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? As to immediate family members, no. If I were aware of a *de minimis* interest of a relative outside of my immediate family, I would disclose my knowledge to the parties and permit them an opportunity to object to my hearing the case should they believe that bias exists.
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?
Judges should be calm and attentive during legal proceedings. A Judge should not communicate insults or become overly agitated when on the bench. Although Judges must maintain order in their courtrooms, they should practice patience. If the communication or activities of the parties or counsel before the Court incite anger, the Judge must take

action to remain composed and continue with his or her duties in a neutral manner. The practice of patience and respectfulness should extend to interactions outside of the courtroom. They should behave in a respectable and rational manner at all times. A Judge should lead by example in the courtroom and set the standard of decorum. They must exercise civility and diligence and encourage those around them to do so as well.

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?

Judges must maintain fairness and impartiality in judicial proceedings. Anger should not be expressed during Court proceedings. Such an expression results in embarrassment and the notion that the Court proceedings are no longer unbiased. If a Judge becomes angry, he or she must recess to collect their thoughts and communicate frustrations in a rational and calm manner. Judges should also refrain from publicly expressing anger with an attorney or party to any criminal matter or civil matter before them following conclusion of that matter. The expression could provoke suspicion of bias and prejudice in future Court proceedings involving those attorneys or parties.

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

s/Kyliene L. Keesley _____

Sworn to before me this ____ day of _____, 2017.

(Signature)

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