



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

**Circuit Court  
(New Candidate)**

**Full Name:** David Shawn Graham

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

I believe that my twenty years as a prosecutor is evidence of my commitment to public service. It has been important to me to feel that I am doing my part to have a positive influence in my community. The job of a prosecutor has a lot of power, but I have always tried to be fair and reasonable and treat everyone with respect. Nevertheless, when a case couldn't be resolved without a trial I have been very successful in the courtroom. I feel that becoming a Circuit Judge is the next step to continue my public service. I believe that I have the right temperament, a strong legal background, a thorough understanding of the rules of evidence and procedure, and a sincere desire to learn new areas of the law. It would be an honor to serve the citizens of this State as a Circuit Court judge.

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

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 communication is generally inappropriate. Canon 3 B(7). However, there are certain circumstances such as scheduling, administrative purposes, emergencies that do not deal with substantive matters, by consent of the parties, and other limited exceptions where it is allowed.

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

As a judge, I would be required to hear and decide matters before me except where there is a disqualification. Canon 3 B(1). I would recuse myself if I believed that my impartiality might reasonably be questioned. Canon 3 E(1). As to lawyer-legislators, I do not believe that in and of itself would require recusal as no judge would be able to hear a case in that situation.

As a prosecutor, I have no former law partners or associates. "A lawyer in a in a government agency does not normally have an association with other lawyers employed by that agency ...." Canon 3 E (1)(b) Commentary.

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 ask the parties and their lawyers to discuss out of my presence whether they wished to waive any potential disqualification. If a party asked for my recusal, I would likely grant the request for a recusal. To do otherwise, would call into question a judge's duty to promote public confidence in the integrity and impartiality of the judiciary. Canon 2 A. If, on the other hand all lawyers and parties agreed to waive the potential disqualification, then the matter would proceed before me. Canon 3 F.

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.

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

The acceptance of gifts is generally forbidden except in limited circumstances. Canon 4 D(5). For example, the acceptance of gifts from a friend or relative is allowed if commensurate with the occasion and the relationship. Canon 4 D(5)(d). Additionally, ordinary social hospitality is permissible. Canon 4D(5)(c).

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 received information indicating or had knowledge that there was a substantial likelihood of misconduct or infirmity of another judge or a lawyer, I would take the appropriate action. Direct communication with the lawyer or judge might be necessary. In addition, reporting the matter to the appropriate disciplinary authority might be needed. Canon 3 D(1), (2) & Commentary.

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.

No

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 would generally draft my own orders. In more complex matters, I would likely make my decision known to both parties and ask the prevailing party to draft a proposed order. I would also require the prevailing party to copy opposing counsel and give that attorney the opportunity to suggest modifications or changes. I would then review and change as appropriate.

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

I would use a computer calendaring system that allows for the scheduling of events and reminders.

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

A judge should interpret and apply the law. It is not the role of a circuit judge to set or promote 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?

As allowed, I would serve on committees and boards sponsored by the bar association or other appropriate body whose purpose is to improve the law and the administration of justice.

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?

Yes. Every job comes with its own unique pressures and creates strains on relationships. While serving as a judge, I would continue to maintain friendships with family and friends and be cognizant of the pressure of the job on myself and my interactions with others.

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 would deal more harshly with repeat offenders than first time offenders. Of course, the types of the prior convictions are important.
- b. Juveniles (that have been waived to the Circuit Court): As the frontal lobe has not fully developed, I realize that juveniles are more apt to act impulsively without consideration for the consequences of their actions. That doesn't free them from responsibility but is an important factor in sentencing.

- c. White collar criminals: I would take into account the victim's thoughts, the amount of money taken, the reason the defendant took the money, and the defendant's prior record. I would most likely attempt to get the money back for the victim. Additionally, I would want to construct a sentence that would discourage the defendant from repeating a similar crime.
- d. Defendants with a socially and/or economically disadvantaged background: I would consider this as a factor to be weighed depending on the type of crime committed.
- e. Elderly defendants or those with some infirmity: I would look at the health and age of the defendant and the type of crime committed in sentencing a defendant. It would be relevant in determining an appropriate sentence for this individual while at the same time balancing the need to protect the public

Each of these offenders as well as all offenders deserves consideration for their individual circumstances. However, their individual situation is not controlling as to the sentence. The appropriate sentence depends on the law violated and the individual facts and circumstances of each case.

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?

The code of judicial conduct allows for a judge to hear a case where there is only a *de minimis* financial interest held by the judge or a family member. However, in these situations, I would notify the parties involved of the interest and if either party requested I would recue myself.

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?

A judge should be patient, dignified, and courteous. Canon 3 B(4). Those rules should apply on and off the bench. A judge should also be considerate, compassionate and firm when necessary.

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?

Anger is never appropriate with anyone.

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: \_\_\_\_\_