



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

Family Court
(New Candidate)

Full Name: John Rogers Kirven

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1. Why do you want to serve as a Family Court Judge?

I have served as a Municipal Judge for many years. I have practiced law since 1995. I have enjoyed serving my community. I would like to further my service to the citizens of South Carolina by becoming a Family Court Judge. I feel that I could use my experience to serve the citizens of South Carolina.

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

Yes, I plan to serve my full term, if elected.

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

If elected and I am able to serve out my full term and be re-elected, I do not plan to return to private practice.

4. Have you met the statutory requirements for this position regarding age, residence, and years of practice?

Yes, I am forty-nine years of age. I am a lifelong resident and I have been practicing law close to twenty-two years.

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 potentially could undermine the integrity of the judiciary and could give the appearance of impartiality on the part of the Court and could interfere with fair trial or hearing, and should not be tolerated. In Family Court, there are certain *ex parte* orders

that are granted under very limited circumstances and only for a limited time until a hearing can be held on the matter.

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 would fully disclose all associations and relationships. In order to preserve the integrity of the Court, I would recuse myself from anything which would weaken the appearance of impartiality by the Court.

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 deference to the party requesting a recusal. The appearance of bias in the mind of a litigant or attorney may have a negative impact on their perception of the judicial process. I would be inclined to grant such motion.

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 disclose any financial or social involvement of myself, my spouse, or a close relative, which tends to relate to the matter at hand with the litigant before the Court. If such involvement would impact my impartiality or would interfere with trial or hearing, I would recuse myself.

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

I would not accept gifts or social hospitality, no matter how minor, from attorneys or litigants that would appear before me.

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?

First, I would counsel with that individual and, if it truly impacted their service to the bench or service to their client, then I would have no other choice than to report to the proper commission.

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?

If elected, current business activities would cease.

14. Since family court judges do not have law clerks, how would you handle the drafting of orders?

The common practice of the Family Court is that one of the attorneys is instructed to draft the proposed order and submit the same to the judge, after opposing counsel has had the chance to review. Once submitted to the judge, the proposed order is reviewed by the judge to ensure it properly details the ruling. I would continue this practice. However, I am certain there are certain circumstances where I would draft the order and potentially have both attorneys draft proposed orders.

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

I would have dual calendars for myself and my assistant, with hard copy, as well as electronic notifications prior to deadlines, to ensure we have adequate notice.

16. If elected, what specific actions or steps would you take to ensure that the guidelines of the Guardian Ad Litem statutes are followed during the pendency of a case?

When dealing with an attorney/guardian ad litem, that individual is an officer of the Court and I would expect them to carry out their duties

appropriately. Attorneys for litigants should call to the Court's attention any issues concerning lack of performance of duties in following the statutes. Supplemental temporary hearings could be used, and have been used, to gauge whether the guardian ad litem statutes are being complied with, as well as performance of the guardian ad litem. An order appointing a guardian ad litem should detail the statutory duties clearly and should be utilized in all issues concerning a guardian ad litem.

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

My philosophy on "judicial activism" is that the Court should follow the law, be it statutory or case law, and the rules and procedures of the Court. Unless there is a legitimate basis in the law, a judge should not engage in "judicial activism". I understand that public policy promotes most of our statutory law and our case law. However, the trial court may not be the appropriate venue.

18. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities would you plan to undertake to further this improvement of the legal system?

Within the bounds of judicial Canons, I would be willing to participate in continuing legal and judicial education with members of the bar.

19. 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 plan to address this?

Being a sole practitioner, as well as having a spouse and children, I have experienced immense pressure trying to balance my personal and professional life. Historically, I have been able to allot time for each. Occasionally, there is a conflict between the two. I feel I have been able to handle this well and will continue to do the same, if elected.

20. Would you give any special considerations to a *pro se* litigant in family court?

It is my opinion that once a *pro se* litigant has been qualified and found to be capable of representing themselves, they should be held to the same standard as an attorney, regarding the rules, procedures and evidentiary matters.

21. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?

No

22. 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 whether either myself or a member of my family held a *de minimis* financial interest.

23. 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

24. Have you met the mandatory minimum hours requirement for continuing legal education courses for the past reporting period?

Yes

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

My opinion is that the appropriate demeanor for a judge is to be temperate, fair, impartial, and open minded. By this I mean a judge should listen attentively, give each party his attention, be slow to anger, and maintain impartiality. These rules should apply whether on the bench or off the bench.

26. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or a pro se litigant?

I do not feel it is appropriate to allow anger to influence a judge's decision. As a part-time Municipal Judge, I deal with a lot of pro se parties and I have developed a strong sense of patience and ability to understand their testimony. I do not feel that it is appropriate to allow anger to come into the equation when dealing with individuals before

the Court, or members of the bar. To do otherwise, would negatively impact the appearance of fairness.

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: _____