



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

Family Court
(New Candidate)

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

My experience as an attorney for the State and people of South Carolina, at both the Solicitor’s Office and DSS, qualifies me for this position. I believe I am prepared to step into the large gap created by Judge Sinclair’s retirement and would aspire to continue his legacy of serving Spartanburg County and the State with the highest degree of competence, professionalism, and courtesy. Underlying this is my desire to serve and assist families in crisis and, in particular, to protect and help the most vulnerable in our community, especially elders and children.

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 statutory 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?

During my career as a government attorney, I have taken care to avoid *ex parte* communications, especially in cases against self-represented litigants in order to avoid the perception of unfair advantage and to maintain confidence in the judicial system. There are authorized exceptions for these communications, of course, such as when a prosecutor helps law enforcement obtain a search warrant or a DSS attorney obtains an inspection warrant or applies for emergency *ex parte* removal of a child. Communications to resolve scheduling or administrative matters (e.g. the status of an order) may also occur, but these should not reach the substance of a case. Overall, I would be mindful of and bound by Canon 3(B)(7) of the Code of Judicial Conduct and only allow *ex parte* communications as delineated therein. My role model in this area would be the Hon. James F. Fraley, Jr., before whom I practiced for fifteen (15) years. I always noted his scrupulousness in ensuring every party was present during substantive discussions with the Court.

6. 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 weigh the relevant facts, nature of the appearance of bias, and purpose and scope of the hearing and then consult Canon 3(E) of the Code of Judicial Conduct. Under that rule, if the moving party's belief of partiality is reasonable, then the judge must ("shall") disqualify himself (unless, as the commentary to the rule states, there is a necessity or emergency basis to proceed with the hearing and, presumably, no other judge is available to hear the matter). Because the subjective belief lies with the moving party, it deserves some deference and should only be discounted if unreasonable.

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

I would weigh the relevant facts, nature of the appearance of impropriety, and purpose and scope of the hearing and then consult Canon 3(E) of the Code of Judicial Conduct. This kind of conflict could, however, be waived by the parties under Canon 3(F), so unless it were a significant conflict of interest, I would have the option of placing all the pertinent factors on the record and then allowing the parties to discuss privately whether to waive the disqualification. If they wished to waive it, and the nature of the conflict would not actually influence my judgment or otherwise make me

uncomfortable hearing the case, then I could hear the case. If any party objected, I would not hear the case.

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

I would be mindful of and bound by the provisions of Canon 4(D)(5) of the Code of Judicial Conduct.

9. 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?

I would weigh the specific facts and consult Canon 3(G) of the Code of Judicial Conduct, the commentary to which lists several possible actions that I could take. Because the language in the Canon is mandatory ("shall"), I would choose one of the options presented, considering the person's privacy and reputation and the integrity of the justice system to make the most appropriate choice.

10. 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 not a member of any such organization. To answer the question within its broadest possible scope, my family and I attend an Episcopal Church. Technically, to be a "member" of the church, a person has to be a baptized Christian. However, people of all races and faiths (or of no particular faith) are invited and welcome to attend its services and functions, and there is no invidious discrimination.

11. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations? Please describe.

I have engaged in some fund-raising activities for our children's soccer club. My wife and I donate to a number of charitable, religious, community, and political entities. I have not had a leadership position in any fund-raising activities.

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

No.

13. Since Family Court judges do not have law clerks, how would you handle the drafting of orders?

In cases involving attorneys, I would ask one of the attorneys, likely the attorney for the prevailing party, to draft, circulate, and submit a proposed order (as discussed in the Commentary to Canon 3 of the Code of Judicial Conduct) within a reasonable time not to exceed twenty (~20) days.

In a case with self-represented litigants, I would generate the order myself, possibly with the help of my administrative assistant, and would keep a number of electronic and printed templates available to expedite this process.

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

I believe in keeping an organized, detailed calendar with reminders of upcoming deadlines. This has been an important practice for me over the years in managing voluminous caseloads and meeting filing deadlines in appellate practice.

With regard to orders, which should be filed within thirty (30) days of the hearing, per Family Court Rule 26(c), I would use and keep each daily docket as a checklist and note beside each case when an order was received from the responsible attorney and when I had signed it. About twice per month, likely the second and fourth Fridays, my administrative assistant and I would review recent dockets and follow up as needed to ensure that my orders were processed timely.

15. 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?

In a private domestic action, I would appoint a qualified guardian when required by Section 63-3-810; and if I felt a guardian's opinion were needed on an ultimate issue of custody, I would specifically make findings on the record explaining that necessity, as required by Section 63-3-830(A)(6). I would ensure that all parties, including the guardian, understood the importance of a thorough investigation and cooperation

therewith in order to provide as much information as possible to determine the best interest of the child.

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

Judges are not legislators. The function of the judiciary is to interpret and apply the law as written, guided by principles of linguistic and statutory interpretation and common sense. Accordingly, I believe judges should not be “activists” in the sense of attempting to write new laws into opinions or twisting laws to satisfy their personal beliefs. Family Court judges should determine the facts and then apply the laws, as written by the Legislature and interpreted by the Courts, in order to reach the proper or most equitable decision in any given case.

As to public policy, my answer is similar, with the exception that it is proper for judges to play a more active role in discussing and overseeing court operations to facilitate efficiency and high standards.

Family Court cases are incredibly personal and fact-specific. The best and most equitable results arise from the ground up, by finding the facts and listening to the parties’ positions, not from trying to impose regulation or agendas from the top down.

17. 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?

Certainly, I would always discuss concerns and ideas with my colleagues and stakeholders, such as the Clerk of Court. Our administrative judges in Spartanburg County have scheduled periodic meetings with all of the stakeholders in the juvenile and DSS systems, and I believe those are beneficial for organization and relationship-building.

As time and opportunity allow, I would also be willing to participate in activities that help educate the next generation of attorneys, such as Moot Court competitions and legal essay contests.

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 plan to address this?

I do not believe this would happen because, for twenty years now, I have been a trial lawyer handling stressful criminal and child abuse cases. I have developed a “thick skin” and strategies for coping with stress, and I rarely let that follow me home anymore. In addition, my children are fast approaching adulthood and will soon seek their own lives and independence. It is important to acknowledge stress and the toll this work takes on you, and I would continue to decompress by spending time with my family and dogs, walking outdoors, reading, watching movies, and so on.

19. Would you give any special considerations to a pro se litigant in Ffamily Ccourt?

I would not give “special” consideration to a self-represented litigant. Someone who is competent may freely choose to represent himself or herself and would then be held to the same standard as an attorney in terms of following the rules of evidence and civil procedure. However, it is important to question that person and ensure he or she is competent (i.e. having adequate reason, education, and experience) and understands the right or opportunity to obtain counsel. This is particularly important in cases in which the person is facing the State and the stakes are high, such as in a termination of parental rights case. In addition, I would not allow a juvenile, allegedly vulnerable adult, or someone with an evident impairment to represent himself or herself.

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?

I would determine the relevant facts and financial interest and then consult Canon 3(E) of the Code of Judicial Conduct (and the Code’s definition of “economic interest”). On its face, that rule does allow for the judge to hear the case if the interest is only *de minimis*. However it would be a good and necessary practice to disclose the interest fully, field responses from the parties, and then give the parties the opportunity to waive the potential conflict as allowed by Canon 3(F). Other factors would include the type of hearing and relief sought. Ultimately, if after all considerations, my hearing the matter would create an appearance of impropriety, I would not hear it unless the rule of necessity (or emergency) demanded it.

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

Yes.

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

The appropriate demeanor of a judge can, and perhaps should, vary, depending on the nature of the hearing. A judge could, for example, give the appearance of being more cheerful during an adoption hearing or of being more engaging, inquisitive, and/or encouraging during a juvenile hearing.

Those specific possibilities aside, a judge should project a demeanor that is serious, competent, and respectful. His or her demeanor on the bench is representative of the State and indeed the high ideal of Justice, so that demeanor should promote the utmost confidence in the legal system and our government.

These principles are always applicable, per Canon 4(A) of the Code of Judicial Conduct.

24. 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?

In my experience, there are rare occasions when a judge can, and perhaps should, be angry with someone. Most often, this happens when someone's behavior, despite warnings, completely fails to comply with courtroom expectations. And it is only natural for a judge to be angry if someone is having an outburst, blatantly lying or being evasive, or accusing the judge of bias or misconduct. However, there is an important distinction between being angry and venting anger. It is not inappropriate for a judge to feel anger and yet continue to preside with civility and decorum. It is inappropriate for a judge to lose control of his or her words or actions. Canon 3(B)(4) requires a judge to be "patient, dignified and courteous." I interpret "dignified and courteous" as mandatory traits. I interpret "patient," though, in this context as "slow to anger"—not "incapable of anger."

As to attorneys specifically, even they can trigger anger if they keep acting in unprofessional ways. Care must be taken, though, not to vent that anger during the hearing in order to avoid discrediting them with their clients and, more importantly, to avoid creating an appearance of judicial bias against their clients. Certainly, I would want to become a judge who inspires attorneys to achieve their highest standards, not one whose courtroom they fear.

As to criminal defendants, I will speak with regard to juveniles because they are the criminal defendants who appear in Family Court. A case by case approach is best. Some juveniles may benefit from some appearance of anger and disappointment; more often though, because so many of them have already endured more adversity than befits their years, they need to hear that they have value to our community and real hope for the future. As a father, when my kids mess up, I want them to know I am disappointed and possibly angry, but ultimately, they need to be motivated to put things right and to know that I still love them and only want the best for them.

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 _____, 2020.

(Signature)

(Print name)

Notary Public for South Carolina

My commission expires: _____