



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

**Supreme Court/Court of Appeals
(New Candidate)**

Full Name: Deborah Brooks Durden

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1. Do you plan to serve your full term if elected?
Yes
2. If elected, do you have any plans to return to private practice one day?
No
3. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice?
Yes
4. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

The only circumstance in which I would tolerate *ex parte* communication is to deal with scheduling issues or urgent procedural matters when all parties are not available for a telephone conference at the same time and which could not be handled by a law clerk or administrative assistant. Of course I would immediately communicate the substance of the conversation to the other party(ies) and offer them an opportunity to respond.

5. 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 considerable deference to such a motion and would grant it unless I believed that it was made for purposes of delay or otherwise to gain an advantage in the matter rather than out of genuine concern about the potential of bias.

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

I do not accept gifts or hospitality which would give the appearance of affecting my impartiality in matters that might come before me.

7. 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 initiate a conversation with the affected lawyer or judge to hear from them concerning the circumstances of the situation. If, after such a conversation, I was convinced that misconduct had occurred or the individual was medically unable to perform the duties of the job, I would report the misconduct or infirmity to the appropriate authority.

8. Are you affiliated with any political parties, boards or commissions? If so, in what capacity are you serving?

No

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

No

10. How would you prepare for cases that were before you?

I would read all the briefs and review the record. I would then discuss the legal issues involved with my law clerk and formulate a plan for them to research and brief me on any caselaw or statutes not discussed in the briefs. I would read the relevant cases and statutes prior to hearing oral argument on the case. Following oral argument and discussion with my fellow judges on the panel I would work with my clerk to draft a decision. In appeals that I handle now my clerk and I generally exchange two to three drafts before I finalize an order. I would then have the draft order proofread for grammar and usage and to assure that all citations are accurate and properly formatted before circulating it to the other judges on the panel for review and discussion.

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

I do not believe that judges should engage in judicial activism, but should follow constitutional and statutory law and caselaw precedent. Such an approach promotes predictability of results and encourages the private settlement of disputes rather than protracted litigation. It also avoids judicial interference in the powers reserved to the legislative branch of government

12. 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?

I volunteer as a CLE speaker and conduct mock trials and mock legislatures with student groups. I also serve as a mentor for law students and recent graduates.

13. 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?

My service does not strain my personal relationships.

14. Please describe your methods of analysis in matters of South Carolina's Constitution and its interpretation by explaining your approach in the following areas. Which area should be given the greatest weight?
- a) The use and value of historical evidence in practical application of the Constitution:
 - b) The use and value of an agency's interpretation of the Constitution:
 - c) The use and value of documents produced contemporaneously to the Constitution, such as the minutes of the convention:

I believe the most important tools in interpreting our state constitution are the words of the constitution itself and the previous interpretations handed down by our South Carolina Supreme Court. While historical evidence and contemporaneous documents might, on a rare occasion, shed some light on the meaning of particular words and phrases, the overriding principle would be to give effect to the words of the constitution in keeping with the previous jurisprudence interpreting those words. While not impossible, it would be rare for an agency to have the type of expertise concerning a constitutional issue that would merit giving its constitutional interpretation great weight. However, if an agency has handled a given situation in a particular way for many years with the acquiescence of the legislature, the constitutional interpretation giving rise to that longstanding practice would merit serious consideration.

15. 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

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

Yes

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

A judge's demeanor should be patient, considerate, and firm. It is important for a judge to create a climate in which litigants have confidence that their concerns will be fairly heard by a judge who is competent in the law and procedure and impartial and fair in applying them. As a judge I am aware that my conduct at all times affects a litigant's confidence in my fairness and so I conduct myself accordingly at all times, not just in the courtroom.

18. Would there be a role for sternness or anger in meetings with attorneys?

I do not believe that displays of anger are appropriate on the part of a judge. Attorneys who believe that a judge is, or has been, angry with them would reasonably fear that the judge's impartiality in handling their case could be compromised. I do believe, however, that a judge must at times be firm with attorneys and litigants in expressing the standards of the courtroom and in refusing to tolerate inappropriate behavior.

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: _____