



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

Circuit Court
(Incumbent)

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1. Why do you want to serve another term as a Circuit Court Judge?
During his confirmation hearing to be Chief Justice, John Roberts described judges as being like umpires. Chief Justice Roberts stated,

Umpires don't make the rules, they apply them. The role of an umpire and a judge is critical. They make sure everybody plays by the rules. But it is a limited role. Nobody ever went to a ballgame to see the umpire.

While I agree with the Chief Justice's use of the umpire analogy in describing the role of a judge, I would disagree that the umpire analogy is a complete description of the role of a judge in American Society. I suggest that when we narrowly view the role of a judge as solely an umpire, then we have lost sight of a judge's obligation as a public citizen and have missed the valuable opportunity for judges to be advocates for the rule of law and for the wonderful justice system we have in America.

If allowed the privilege of another term as Circuit Judge, my pledge is to fulfill the oath of loyalty to the United States and South Carolina constitution to the best of my ability, but also to continue my individual efforts of promoting the rule of law and being an advocate for the judicial system. My intent is to continue the annual Law Day Essay Contest for 9th, 10th, 11th and 12th grade level students. The project began as a local contest for Spartanburg and Cherokee County students. Subsequently, the Senior Division of the South Carolina Bar Association extended the program to be available to all high school aged students in South Carolina. An estimated fifteen hundred (1,500) students have participated in this program. As a result, these students have become more civically engaged by having a better understanding of the rule of law. A hopeful by-product is that these students will be better citizens.

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

3. Do you have any plans to return to private practice one day?
None at present.
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 communications are allowed in only limited circumstances. The general rule that I apply is not to engage in ex parte communications. Most notable the exceptions to the general rule require a judge, in his/her administrative capacity, to approve fees and costs in indigent criminal cases, through ex parte means to protect the constitutional rights of an accused. Also, as authorized by statute and to promote public safety while protecting the constitutional rights of the suspect, a judge must approve certain types of extraordinary search warrants by use of ex parte communications. Also, SCRCP Rule 65 authorizes ex parte approval of a temporary restraining order in a civil case when the verified facts require immediate judicial action. Other than those instances where ex parte communications are required or allowed, my philosophy, again, is to not engage in such communications.
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?
In such a situation, appropriate deference would be given to the party who requested my recusal after, as stated in the question, I disclosed the appearance of bias. Thus, while I may believe it would not actually prejudice my impartiality, I have probably also concluded that the potential bias is of such a degree, that one party or the other could reasonably find an appearance of impartiality exists due to the bias. Given the importance I place on the litigants having faith and confidence that the judicial system is fair, if either party requested the recusal, there would be a significant likelihood the motion would be granted. If both parties agreed for me to hear the matter, I would place their consent on the record.
7. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?
In such situations the financial or social matter would be disclosed on the record before the parties. If I had any reasonable doubt that the issue would cause me to question the decisions I may be required to make in the case, I would recuse myself without input from the parties. Otherwise,

- I would hear from the litigants and most likely recuse myself if one of them had a reasonable belief that the appearance of impropriety existed.
8. What standards have you set for yourself regarding the acceptance of gifts or social hospitality?
My personal standard is to accept gifts or social hospitalities only from family members or friends, and when such matters are not being extended to me for a reason associated with my position. Moreover, my personal standard is not to accept any gift or social hospitality which may be perceived as creating an appearance of impropriety or conflict.
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 conform the situation to be consistent with S.C. Appellate Rule 407, Rules Governing Professional Conduct 8.3, which requires a lawyer having knowledge that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness, or fitness as a lawyer and other respects shall inform the appropriate professional authority. This same rule applies to the reporting of judges when the wrongful judicial conduct raises a substantial question as to the judge's honesty, trustworthiness, or fitness for the office and other respects. If the misconduct or appearance of infirmity did not rise to the level of substantial question of the lawyer's or judge's fitness, I would consider encouraging the lawyer or judge to seek assistance from such programs as the Lawyers Helping Lawyers Committee or an equivalent entity to address needs related to alcohol, drug abuse, depression or management assistance.
10. Have you engaged in any fund-raising activities with any social, community, or religious organizations? Please describe.
No.
11. Do you have any business activities that you would envision remaining involved with if reelected to the bench?
No.
12. How do you handle the drafting of orders?
Generally, I issue a brief statement by letter or email stating my ruling and a brief statement of my rational in reaching the decision. Simultaneously, I request a proposed formal order from one of the lawyers who can be considered successful. Once the proposed order is submitted, I also accept remarks from the opposing party. In civil cases, I encourage the lawyers to communicate consistent with the spirit of cooperation underlying the case of Fishburne v. State, 427 S.C. 505, 832 S.E.2d 584 (2019). After reviewing the submissions, they are edited by me, finalized, signed and filed with the Clerk of Court.

13. What methods do you use to ensure that you and your staff meet deadlines?
My administrative assistant maintains an office calendar where deadlines are registered. Also, after conducting hearings I maintain dockets that contain matters pending. Monthly, my law clerk reviews with me any open or pending matters. He is also responsible for filing the monthly report with court administration of all matters pending in excess of 30 days.
14. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?
My belief is that judicial restraints from the bench should be observed in regards to judicial activism. Public policy is best set by the publicly elected officials and great deference should be given to setting public policy as directed by the General Assembly.
15. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities do you plan to undertake to further this improvement of the legal system?
I plan to author more articles and to perform more public speaking events either through legal educational programs or lectures. As discussed in response to question one (1), I plan to continue promoting the annual Law Day Essay Contest both locally and statewide. My sincere belief is that seeds of citizenship are being planted in each student who participates in studying and writing the essays. The harvest of these seeds will be better citizens.
16. Do you feel that the pressure of serving as a judge strains personal relationships (i.e. spouse, children, friends, or relatives)? How do you address this?
The pressure of serving as a Circuit Court judge has not caused any personal strain in my life. I credit this in large part to the support and many prayers from my family and friends, and I plan to continue to seek their support and prayers.
17. 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:
My sentencing philosophy is to examine prior sentences and determine what new approaches may be used so that the pattern of re-offending stops. By being a "repeat" offender, the defendant generally has demonstrated an inability to conform his or her behavior to society's norms. As a result, the subsequent sentence

imposed will most likely be considered more harsh as it involves incarceration.

- b. Juveniles (that have been waived to the Circuit Court):
Juveniles present opportunities to explore sentencing options, such as the Youthful Offender sentences that are specific to the young age of the offender. My belief is that such sentences enhance the ability to rehabilitate the young offender. The United States Supreme Court through Miller v. Alabama and the South Carolina Supreme Court through Aiken v. Byars, requires an individual examination of juvenile characteristics when imposing a sentence on a young offender.

- c. White collar criminals:
White collar criminals are treated no differently than other offenders. However, the issue of restitution usually is more significant with white collar crimes because the damage to the victim and society more frequently is determined by the monetary amount of the crime. Therefore, the sentence in white collar cases should include making the victim whole monetarily. Nevertheless, all sentences should be evidence based and consistent with statutory requirements.

- d. Defendants with a socially and/or economically disadvantaged background:
For every person that comes before me to be sentenced, a plea summary sheet is prepared which contains some basic information about the person. Historically, it is not uncommon for me to sentence approximately 1,200 to 1,500 individuals a year. From the past information collected, a few common threads exist in these individuals. First is a lack of formal education; second, the relatively young age at which these individuals are having children; third, the fact that these individuals are not married but yet are having multiple children; and fourth, the lack of employment or, if employed, the apparent lack of substantial employment in relation to the obvious family responsibility as represented by the existence of one or more children. Frequently, a defendant's social and/or economic status is considered by me in attempting to prevent recidivism by crafting a sentence that requires them to obtain a GED or finish their high-school education, or require the offender to make an effort of improving his/her economic standing in the community. Again, all sentences should be evidence based and consistent with statutory requirements.

- e. Elderly defendants or those with some infirmity:
Generally, it is the nature of the criminal offense and the evidence related to offense which substantially drives the sentence imposed. However, the age of the defendant, especially if elderly, can be evidence that will influence any active incarceration, given that an elderly person may spend the remainder of his or her life in jail as a result of the offense. I am also mindful of an offender's individual infirmities and the resulting strain that may be placed on the Department of Corrections. If appropriate, alternative sentencing rather than lengthy incarceration in the department of corrections are considered, including, but not limited to home detention.
18. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?
No.
19. Would you hear a case where you or a member of your family held a de minimis financial interest in a party involved?
Even though the canons may allow a judge to continue to hear these types of matter, I would disclose such de minimis financial interest and obtain the parties consent before proceeding with hearing the case.
20. 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.
21. Have you met the mandatory minimum hours requirement for continuing legal education courses for the last reporting period?
Yes.
22. What do you feel is the appropriate demeanor for a judge and when do these rules apply?
An even-tempered demeanor that enhances confidence in the judicial process is best. A judge should demonstrate this demeanor while on the bench and in chambers. Given the significant role a judge has in shaping public confidence in the judicial system, a judge should strive to exhibit this same demeanor when in public non-judicial settings.
23. 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 a pro se litigant?
No. One of my first law partners taught me a very important adage about "anger" that I have incorporated into my professional and private life. The adage is "whom the God's destroy, they first make angry".

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: _____