



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

**Circuit Court
(Incumbent)**

Full Name: Edward Walter "Ned" Miller
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1. Why do you want to serve another term as a Circuit Court Judge?
Serving as a Circuit Judge for the past eighteen years has been the highest honor of my professional career. This service has been challenging and rewarding and I believe I have more to offer in this position enhanced by my experiences up to this point.
2. Do you plan to serve your full term if re-elected?
I plan to serve until statutorily required to retire.
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?
To protect the impartiality of the Court and fairness to participants before the Court, *ex parte* communications are avoided. In limited circumstances, including scheduling, administrative matters and emergencies, *ex parte* communications are acceptable provided that they do not prejudice a participant, and the communication is promptly reported to all other participants. Additionally, the law permits *ex parte* communications in limited circumstances including temporary restraining orders, payment of fees and expenses in capital cases, and writs of supersedeas in cases where irreparable harm might otherwise result.
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?

A judge is charged with the duty of diligently handling those matters assigned to the judge, fairly and without bias or prejudice. A judge may be disqualified from service in a matter in which his impartiality may be questioned and should recuse himself where there is actual partiality of more than a *de minimis* nature. If a reasonable question concerning a judge's impartiality is raised, the judge may continue in the matter if, after disclosure on the record of the circumstances which raise the question, all parties agree to allow the judge to proceed. The rule of necessity requires a judge to proceed in certain instances even though a reasonable question of impartiality may be raised. The issue of recusal is fact intensive and should be decided on a case by case basis.

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

The degree of involvement of the spouse or relative in the entity or matter under scrutiny is a controlling factor in making the decision of disqualification. If the spouse or relative has more than a *de minimis* interest in the entity or matter, then recusal is appropriate. Additionally, if the spouse or relative is a lawyer or witness, or is an officer, director or trustee of an appearing entity, recusal is appropriate.

After full disclosure of something that might give the appearance of bias, and the reasons that it would not actually prejudice the judge's impartiality, the complaining party should be given a full opportunity to express their concerns with respect to a motion for recusal. The judge must then weigh the reasonableness of the complaining parties' concerns against the judge's duty of diligent and efficient handling of judicial matters. The decision to grant or deny the motion for recusal should be based on a balancing of those factors.

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

It is appropriate for a judge to receive ordinary social hospitality and gifts for special occasions, such as birthdays or Christmas. However, a judge must always avoid the appearance of impropriety, or conduct that might tend to bring a judge's impartiality into question. Gifts of an excessive nature from persons not related to the judge should not be accepted.

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?

A judge who becomes aware of actual, substantial misconduct on the part of a lawyer or fellow judge is required to report the misconduct to the appropriate authority.

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?

I prefer drafting orders myself, however, the volume of work makes that impractical. I generally assign the drafting of orders to the prevailing party by providing instructions to the drafter. I require the drafter to share the proposed order with opposing counsel and allow objections to be interposed; I resolve any remaining conflicts prior to finalizing the order.

13. What methods do you use to ensure that you and your staff meet deadlines?

I employ a multiple calendar system in my office.

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

The legislature is the appropriate body to make laws which affect the citizenry. Judges should concern themselves with maintaining an independent and honorable judiciary, to ensure high standards of conduct and to protect the integrity of the Court system.

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 have participated with moot court competitions, local teen alcohol symposiums, and law student internships. I will continue to participate in activities that promote the judicial system and the administration of justice.

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?

I am fortunate to have very strong relationships with my family and my friends. I have not found the pressure of serving as a judge to have interfered with these relationships.

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:

The penal code, in many instances, addresses this issue through statutory enhancement for repeat offenders. Cases which are not specifically addressed by the code require an examination of the offenders on a case by case basis. The nature of the prior offenses, the length of time between convictions, the type of offense charged and the personal characteristics of the offender must all be considered in fashioning an appropriate sentence.

b. Juveniles (that have been waived to the Circuit Court):

The fact that a juvenile has been waived to the Circuit Court indicates that the nature of the offense must be serious. Each case must be examined on its' merits, taking into consideration the personal characteristics of the offender, the nature of the crime, the impact on the victims, and the likelihood of rehabilitation for the juvenile.

c. White collar criminals:

White collar crime has a serious impact on the victims, and the offender must be punished according to the level of the offense. Making victims whole through restitution is desirable. Each offender's background, culpability, remorse, and acceptance of responsibility are factors to consider in sentencing.

d. Defendants with a socially and/or economically disadvantaged background:

Regardless of the nature or level of an offense, an offender's background should receive serious attention in sentencing. A person's ability to appreciate the significance of their criminal behavior and their capacity to conform their conduct to acceptable standards are factors to be considered in sentencing.

e. Elderly defendants or those with some infirmity:

Defendants with significant infirmities and elderly persons present challenges to the sentencing judge. A sentence must be appropriate to the illegal conduct but also be sensitive to the physical impact on the offender and the ability of the criminal justice system to handle these unusual cases.

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?

After full disclosure of a financial interest to the parties and a determination that the interest is in fact *de minimis*, and would not affect impartiality, it is appropriate to proceed.

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?

A judge should be patient, courteous and respectful to everyone who appears before him. He should be efficient and diligent in disposing of matters before him. He should require Court to be handled with dignity and integrity and to be firm in requiring appropriate conduct from all participants in the Court. He should maintain professional competence in his legal abilities and avoid the appearance of prejudice in all matters.

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?

Anger is not an appropriate emotion in the courtroom. A judge must maintain control of proceedings before him which may require him to be stern and demanding. Anger represents a loss of control and could lead to a perception of prejudice and partiality.

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: _____