



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

Circuit Court
(New Candidate)

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1. Why do you want to serve as a Circuit Court judge?

It is an opportunity to serve the public and give back to both the profession and the judicial system after 35 years of practicing law. As a trial lawyer for all 35 years, I feel I can contribute to the system based on my experience, especially with my many years of trial experience in the courtroom.

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 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?

First and foremost, any philosophy has to be based on the rules of law and canons of ethics. Generally, *ex parte* communications are improper and are to be discouraged, but there are certain situations where it is proper and tolerated. *Ex parte* communications are permitted when authorized by law such as a case involving the possible issuance of a TRO or writ of supersedeas. It is also proper to get involved in settlement negotiations in a case as long as you obtain the consent of all parties and attorneys. In my career, the most frequent situation where it has come up is in scheduling, whether it be motions or trial. When that does occur, I would immediately notify the other side of the communication, the details of the

communication and then give that side the opportunity to respond. As a judge, I would have my administrative assistant or law clerk make the contacts to put me further removed from the 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?

I believe you have to give deference to the party requesting recusal. My opinion on this issue is that the analysis is an objective one, not a subjective one. In other words, would a reasonable person, after hearing the circumstances, perceive the situation as unfair, thereby necessitating recusal. Not whether you personally feel you could be impartial and fair. However, the request must have a reasonable basis and cannot nor should not be a ploy to simply remove me by making up unreasonable and unfounded issues. But before making the decision, you must explain clearly to all of the parties and attorneys the nature of the potential bias and require the attorneys to consult with their respective clients outside your presence. And if you are on the bench, you must leave the bench and the courtroom to allow them to consult. It would not be proper, in my opinion, to remain on the bench in the courtroom while they consult at counsel table. And they must be given as much time as they need and not be rushed. It is an important issue. I feel that if the Judge remains in the courtroom, or gives a time parameter, it is not proper. If, after consultation, all parties and attorneys consent, I would then proceed. However, if there is no consent, then I would recuse myself and grant the motion.

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

First of all, I would immediately inform the parties and attorneys of the financial or social involvement of a spouse or close relative. If my spouse, child, or parent has a financial interest in either of the parties or in the subject matter, I must disqualify myself and disclose the basis of the disqualification. That also goes for any member of my family that lives in my household. After disclosing the basis for the disqualification on the record, I can still hear the case if all parties and attorneys consent and I am willing to hear the case.

As for the social involvement of a spouse or close relative, I believe the same rule applies because the issue is whether my impartiality "might" be reasonably questioned and even though it may be social and not economic, the

proper road to take is disclosure and possible disqualification. The social involvement may be minimal, but it should be up to the parties and attorneys to inform the court if they consent to go forward.

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

I would follow the standards set forth and defined in the canons, specifically Canon 4. I would not accept any gifts or social hospitality unless identified in the exceptions. The important factor in deciding whether to accept a gift or social hospitality is whether it can be reasonably perceived by anyone that acceptance could influence my decision making. The analysis, in my opinion, is again an objective one and not based on my personal belief.

I would accept invitations from associations connected to the legal profession, such as the South Carolina Defense Trial Attorneys Association and the South Carolina Association for Justice when all judges are invited as well.

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?

This is perhaps one of the most difficult decisions we may have to make, whether as a lawyer or as a judge. The decision definitely rests on the facts and circumstances and the degree of misconduct or appearance of infirmity plays a role. If the situation is somewhat minor, it may warrant a personal discussion with the person in an effort to see if I can help the lawyer or judge who may be having issues. If the conduct or condition is at another level, then a different approach may be needed and that would be to contact the person's partner or another judge if the person having the issues is a judge, in order to help get assistance to them. Referral to an assistance program is always available in all situations, with the point being to help the lawyer or judge get help. The final action that may need to be taken, if the conduct or health of the person warrants it, is to report the person to the appropriate disciplinary authority. A drastic step, but one that may be required of me if the situation presents itself.

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 a member of the Cottillion Club, which is a local club in Greenville that has only male members. It puts on a dinner/dance once a year for its members and their wives or significant others. That is the only event and it does not practice invidious discrimination in any manner at all.

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

None other than high school booster club for my children. I have been the vice president the last two years.

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

I do have an interest in some rental property, but I have no involvement in the running or management of the properties. It is solely an investment.

13. If elected, how would you handle the drafting of orders?

It depends on the case, but in most cases I would request the prevailing party to draft a proposed order for my review. Require the draft be sent to opposing counsel for review and for them to make comments or objections to the proposed language. I would review in detail, make necessary corrections and consider objections from the non-prevailing party. There will be times when I will draft the order myself and there may be times where I will have both parties submit proposed orders. At the end of the day, whether I personally draft the order or have the order drafted by counsel, it is my order and I am responsible for the end product and its content. It is incumbent upon me to make sure the facts and law are correct and that all issues raised have been addressed and ruled upon.

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

I would use the system I have used for 35 years. Although, the mechanism has evolved from the index card system to case management technology, the concept is the same. It's a diary system. I and my staff will keep detailed records of every outstanding motion that needs to be handled and ruled upon. Both myself, my law clerk and administrative assistant will be part of the record keeping system. It is in effect a triple check system. So even if one person misses something, there are two others to make sure nothing falls through the crack and deadlines are met. With technology, it is much more fool proof as tasks will pop up every day and must be checked off as completed before being deleted. I will review my task list on a daily basis.

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

The role of the court is not to set or promote public policy. That role is primarily for the legislature. The court does not make law, but interprets and applies the law, and must apply the law fairly. The court must decide cases based on the public policy set forth by the legislature, unless the court is required to determine whether a specific policy is constitutional.

16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal system?

To me, a very important issue is the improvement of the legal profession’s reputation as a whole in the eyes of the public. From the media to lawyer jokes, it can be a difficult situation, but as a judge I think it would provide me the opportunity to help work to create a better perception. As judges and lawyers we all have to work to contribute to promoting our profession and the judicial system itself. I think I can do this through lectures/speeches to organizations, attending seminars, speaking and/or participating at CLEs as well as writing articles in legal periodicals to promote civility and fair justice to all. Civility is at the heart of it all and by getting involved through speaking and lecturing, as well as writing I can hopefully make a difference in the improvement of the law.

17. 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 address this?

I do not feel it will strain my personal relationships. I have a strong support system with my wife and children. Our children are very involved in the family dynamics and will remain. So, the key, in my opinion, is to keep a strong support system with my family. And that will continue. It has worked my entire career as a lawyer, which is of course is very stressful as well, and will continue in my career as a judge if I am fortunate to be elected. I will also constantly maintain professionalism in my personal relationships as well, and not let personal friendships influence my decision making.

18. 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:

I believe the nature of the crime must be analyzed and the defendant's prior criminal history. The legislature has created greater penalties for repeat offenders, but the specific crime must be considered to determine the appropriateness of the sentence for a repeat offender. Having said that, I do believe in second chances and the importance of rehabilitation, but if you continue to violate the law, you have to pay a greater price. Rehabilitation is an important part of the criminal justice system and strong efforts must be made to reach that goal for every defendant. However, at some point, rehabilitation may not be working despite the effort. Victim impact is important and must be taken into consideration as well as the impact on the community, especially where the crimes took place.

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

As with most crimes, the type and severity of the offense must be considered. If the juvenile has been waived to the Circuit Court, it is most likely a significant crime. Although, the age of the juvenile is an important part of the sentencing process, I believe the individual's maturity must be strongly considered as well. Two juveniles the same age may not have the same maturity level. In my opinion, rehabilitation really comes to the forefront in juvenile sentencing, since this is the time where a difference can be made. Was the juvenile offered opportunities, and if so, did he or she take advantage of those opportunities? If they are still in the system after having been offered reasonable opportunities, then the sentencing must reflect that.

c. White collar criminals:

My response on this mirrors my philosophy on this. Short and to the point. They should be treated no differently than any other criminal defendant. However, if the victims of the crimes have suffered financial hardships as a result of the actions of the defendant, than restitution needs to be a part of the sentence and should be taken into account. It is a balancing process, taking into account the penalties the defendant deserves and the financial hardship of the victim or victims.

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

The background of the defendants must be a part of the consideration but it cannot excuse the crime. The gravity and seriousness of the crime is the most important element in the decision making process, but the background of all defendants should be taken into consideration.

e. Elderly defendants or those with some infirmity:

In my opinion, these defendants must be given more consideration and it is important to evaluate their physical health, mental capacity and their age. However, these considerations must still be balanced against the gravity of the offense and the impact on the victims. Importantly, if the defendant is a repeat offender, that may outweigh the age or infirmity element in handing down the sentence.

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

No. I do have an investment with others in some rental property, but I do not feel it will impair my appearance of impartiality. I also have regular stock and retirement investments, but I will disclose to all parties that come before me if any of the companies are involved.

20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?

My inclination would be to not hear the case. However, I would disclose in detail the *de minimis* financial interest I or a member of my family have to the parties and counsel, and if all consent then I would consider hearing the case.

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

Yes

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

The appropriate demeanor of a judge is absolutely essential and necessary. A judge must remain cool at all times, never raise his or her voice at anyone, be patient always, listen to all sides of an argument, have compassion and show respect to everyone in the courtroom including court personnel. And the rules apply the minute you walk in the courthouse, not just the courtroom. For that matter, you should have and exhibit those qualities outside the courthouse as well. It's a 24/7 responsibility in my opinion. I have worked hard to do that as a lawyer and I will work just as hard as a judge.

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 pro se litigants?

Not under any circumstances.

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: _____