



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

**Circuit Court
(Incumbent)**

Full Name: David Craig Brown

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1. Why do you want to serve another term as a Circuit Court Judge?

I have lived in South Carolina all of my life. This State has afforded me many opportunities and multiple life experiences. These opportunities and life experiences have created a desire within me to give back and serve this State that has been so gracious to me. My desire to serve and my life experiences give me an opportunity to continue to have a positive impact in my community and throughout this State.

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? 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?

Ex parte communications are improper, except under certain circumstances. *Ex Parte* communications are governed by Rule 501, Code of Judicial Conduct, Canon 3(B)(7). All parties, or their attorney(s), should be included in communications with a judge. However, there are circumstances where *ex parte* communications may be proper for such matters as scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits.

Even in these situations, such contact is improper unless the judge reasonably believes that no party will gain a procedural or tactical advantage and the judge makes provisions to promptly notify all other parties of the substance of the ex parte communication and allows everyone an opportunity to respond.

Ex parte communications are expressly authorized in certain situations such as the issuance of a temporary restraining order, determination of fees and expenses for indigent capital defendants, and the issuance of a seizure order regarding delinquent insurers.

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?

Rule 501, Code of Judicial Conduct, Canon 3, requires that I perform the duties of judicial office impartially. The rule further requires that I uphold the integrity and independence of the judiciary. My actions should promote confidence in the integrity and impartiality of the judiciary.

If what I disclosed had the "appearance of bias or prejudice," I would grant the moving party's motion to recuse myself if my conduct would create, in reasonable minds, a perception that my ability to carry out my judicial responsibilities with integrity, impartiality, and competence was impaired.

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 first address the issue with my spouse or close relative and inform them again of the relevant ethical restraints that apply to judges and their family members to ensure that it does not happen again.

If the matter involved a case that was before me, and such financial or social involvement of my spouse or close relative raised questions about my impartiality and the integrity of the judiciary, then I would disqualify myself from the matter. However, prior to disqualifying myself, I would disclose on the record the basis of my disqualification and ask the parties and their attorneys to consider, out of my presence, whether they wished to waive my disqualification. If, following full disclosure of the basis for disqualification, the parties agreed that I should not be disqualified and I was willing to participate, then I would do so and put the agreement on the record. See, Rule 501, Code of Judicial Conduct, Canon 3.

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

The standards that I have set for myself regarding the acceptance of gifts and social hospitality are governed by Rule 501, Code of Judicial Conduct, Canon 4(D)(5)(a)-(i). I do not accept gifts or social hospitality that might reasonably be perceived to exploit my position as a judge or that could reasonably be perceived to influence me in any way.

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 be guided by Rule 501, Code of Judicial Conduct, Canon 3(D)(1)&(2). If the conduct of a lawyer or judge raised a substantial question as to their honesty, trustworthiness or fitness as a lawyer or judge, then I would comply with my duties under our rules and report them to the appropriate professional authority, the Commission on Lawyer Conduct or the Commission on Judicial Conduct.

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?

Ordinarily, I have attorneys submit proposed orders in a format that I can review, alter if necessary, and then sign. However, there are occasions that I draft my own orders, but that typically depends on the posture of the case. Prior to signing any order though, I give all attorneys of record an opportunity to review the order that I intend to sign and submit any proposed changes or additions.

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

I use a calendaring system, electronically and hard copy, to ensure that deadlines are met even if computer systems are down.

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

"Judicial activism" is improper. Judges are required to uphold the integrity and independence of the judiciary. This requires full compliance with all statutes, case law and applicable rules. The function of the judiciary is not to set or promote public policy. Therefore, the personal feelings of a member of the judiciary should not be promoted.

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?

Since being elected to the Circuit Court in 2010, I have spoken at continuing legal education seminars. I have also served as a panelist at a number of continuing legal education seminars pertaining to ethics. Furthermore, I previously served on the Supreme Court's Commission on Alternative Dispute Resolution and currently serve on the Supreme Court's Commission on the Profession. I will continue to serve in these capacities and others when called upon to do so to improve the law, legal 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?

No. My wife and I have been married for twenty-six years. We were married in June 1994; I started law school in the fall of 1994; I went into the private practice of law in May 2001; and, was first elected to the Circuit Court in February 2010. My wife, children, friends and family have seen the demands of the legal profession and have continued to support me throughout my career.

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:

I would want to know the reason for such conduct and how the judicial system could help them. For example, if there are addiction issues that cause them to reoffend, I would want to sentence them in a manner that would give them an opportunity to deal with their addiction and hopefully prevent them from reoffending.

Furthermore, our legislature, in a number of situations, has passed laws enhancing the penalties for "repeat offenders." I would look at

the facts and circumstances of each case as presented by the State and victims, if any, along with mitigation presented by the defense attorney and the defendant. I would then impose a sentence within the parameters established by our legislature.

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

If a juvenile appears before me, after having been waived to the Circuit Court, it would be a serious offense. I would look at those factors established by our Supreme Court in Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572 (2014), prior to imposing a sentence. In addition, I would look at whether or not the juvenile had a prior criminal record and any other relevant factors applicable to the particular case. After hearing from the State, victims, defense attorney(s) and defendant, I would impose a sentence that would provide just punishment for the offense and rehabilitate the juvenile, with the goal of keeping her/him from becoming a "repeat offender."

c. White collar criminals:

The manner and sophistication of the offense does not minimize its effects. Therefore, I would look at the nature and sophistication of the offense, the sophistication of the offender, the number of victims involved, the impact of the offense on the victims, the offender's prior record (if any) and the defendant's ability to pay any required restitution. I would then impose a sentence within the parameters established by our legislature for the particular crime.

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

Having grown up in a socially and economically disadvantaged area, I believe that I can relate very well to the circumstances of these cases and these offenders. I would sentence these individuals in a way as prescribed by our legislature and avail them to opportunities that would assist them and help them out of their socially and economically disadvantaged situation. These tools might include such opportunities as job corps, vocational rehabilitation, or adult education.

e. Elderly defendants or those with some infirmity:

In dealing with elderly offenders or offenders with some infirmity, I would look at the facts and circumstances of the case, along with the prescribed penalties established by our legislature. I would also consider the offenders health, work history, and prior record (if

any), before imposing a sentence that would adequately, fairly and justly address the offense for which the offender was charged.

In conclusion, I would treat each group of offenders with the same dignity and respect that I would want them to treat me if I were in their situation. Each case with each class of offenders would have to be looked at individually, since each person and each case is separate and distinct from the next.

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?

I would advise the parties and their attorneys of the situation and allow them to confer, out of my presence, to decide whether or not they would like to waive such potential disqualification. If the parties agreed that there was no basis for disqualification, I would probably hear the case after incorporating the agreement on the record. If my impartiality might reasonably be questioned, then I would not hear the case. See, Rule 501, Code of Judicial Conduct, Canon 3(E)(d).

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?

I believe that the demeanor of a judge should be courteous, dignified, disciplined, humble, patient and grateful. I believe that judges should treat others with the same dignity, honor and respect as they want to be treated. Judges should be honest and trustworthy in all of their dealings, so that the integrity and independence of the judiciary is upheld. Finally, I believe that judges should be conscientious, diligent, and hardworking, remembering that we have been elected to serve the people of our community and State.

The rules set forth in the paragraph above should apply at all times. As a judge, you are being watched at all times. Therefore, it is of utmost importance that the impact you have as a judge is positive.

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 never appropriate when dealing with the public, criminal defendants, attorneys or pro se litigants. A judge is supposed to be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals. Anger could affect a judge's ability to be fair and impartial and this could, in turn, affect the integrity and impartiality of the judiciary.

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: _____