



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

**Supreme Court/Court of Appeals  
(Incumbent)**

Full Name: Kaye G. Hearn

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

I will have to retire on December 31, 2022 due to mandatory retirement.

2. Do you have any plans to return to private practice one day?

It is possible that I will return to private practice and specialize in appellate work.

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?

*Ex parte* communication is improper and should not be tolerated. We have procedures in place at the Supreme Court where attempted *ex parte* communications are forwarded to the clerk of court's office. I have also instructed my staff on how to appropriately handle these types of communications, although I have rarely, if ever, had to deal with them while serving on the Supreme Court.

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 defer to the party requesting it and grant the motion.

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

I accept only ordinary hospitality.

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?

If I became aware of possible infirmity or misconduct of a fellow judge or lawyer, I would discuss my concerns with the other members of the Supreme Court. If we as a group believed there was misconduct potentially violating the Rules of Professional Conduct, we would ask our Clerk of Court to contact the Office of Disciplinary Counsel for further investigation.

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

No.

9. How do you prepare for cases that come before you?

I carefully read the record and briefs in every case before me, whether or not I am the assigned author. My law clerks divide up the cases and read all of them. Prior to oral argument, my law clerks and I thoroughly discuss every case before the court that term.

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

There is no place for activism on the bench; rather a judge's responsibility is to follow the law, as enacted by the General Assembly. Public policy is set by the General Assembly through the enactment of statutes. See Nationwide Ins. Co. of Am. v. Knight, \_\_\_ S.C \_\_\_, 858 S.E.2d 633 (S.C. 2021) (discussing the notion of public policy and how it is set by the Legislature).

11. 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 think it is extremely important that we continue to improve our judicial system through education, not only with respect to our colleagues on the bench, but also with members of the Bar and the general public. To that end, I have devoted considerable time during my professional career speaking at CLEs, educational institutions, and civic and professional groups. I have been a presenter at Bar-sponsored CLEs well in excess of a hundred times, and have spoken to many judicial groups, such as the magistrates, probate judges, circuit court judges, and family court judges. At the request of the Chief Justice, I have planned and moderated the South Carolina Appellate Judges Conference every year since its inception in 2016. In addition to speaking to lawyer groups such as the South Carolina Association for Justice (SCAJ), the South Carolina Defense Trial Attorneys Association (SCDTA), and the South Carolina Injured Workers' Advocates (SCIWA), I spoke at Palmetto Girls State annually for many years and also taught a class at the Charleston School of Law as an adjunct faculty member. I am also frequently requested to speak on women's issues and my personal journey to the South Carolina Supreme Court by organizations like the South Carolina Senior Lawyers, Leadership Columbia, the South Carolina Women Lawyers Association, Women in Law at both law schools, and Women's Rights and Empowerment Network (WREN). I plan to continue this practice because it has been one of the most rewarding aspects of my professional life.

12. 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?

Any demanding job presents opportunities for stress on one's family. I am fortunate to have a lawyer-husband who is keenly aware of the demands of my position and completely supportive of me. We also have a daughter who practices with my husband.

13. Are you currently serving on any boards or committees? If so, in what capacity are you serving?

Chief Justice's Committee on Docket Management, Chair  
Guardian ad litem Study Committee, Member

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:

I would consider historical evidence in reaching any decision on the practical application of the Constitution because such evidence helps to reveal the drafters' intent; however, I would not consider historical evidence controlling.

b. The use and value of an agency's interpretation of the Constitution:

I would give an agency's interpretation of the Constitution little weight. Interpreting the constitution is a function of the judiciary, not an agency.

c. The use and value of documents produced contemporaneously to the Constitution, such as the minutes of the convention:

I believe that documents produced contemporaneously with the Constitution should be given the greatest weight because they may provide insight into the intention of the drafters. However, there is no need to consider these areas when the language of the Constitution is clear and unambiguous.

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

No.

16. 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.

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

Yes.

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

A judge should reflect sincere interest in matters before the court and should be extremely well prepared for every case. A judge should conduct himself or herself in a calm and dignified manner and should be polite and courteous to litigants, lawyers, court personnel, and the public. These rules apply both in and out of court, twenty-four hours a day, seven days a week.

19. Is there a role for sternness or anger with attorneys?

No.

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 \_\_\_\_\_, 2021.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print name)

Notary Public for S.C.

My Commission Expires: \_\_\_\_\_