



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

**Circuit Court
(Incumbent)**

Full Name: Brian M. Gibbons

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

I have really enjoyed my experience on the Circuit Bench for the past eight years. I would like to continue to serve my community and my State in this capacity.

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?

Yes, if I am able to at the age I cease serving on the bench.

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?

I do not tolerate *ex-parte* communication at all. Only in emergency situations, or for scheduling matters, is when *ex-parte* communication may be tolerated.

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 would most probably recuse myself due to the appearance of impropriety, because there should be no question at all about the impartiality of the presiding Judge

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 disclose any potential conflict. I would also confer with my spouse or close relative to rectify the situation.

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

I confer with other Judges and refer to the Canons of Judicial Conduct. I do not accept them if there is an appearance of impropriety. This has never been an issue in my sixteen years on the bench.

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 speak with the individual, follow up on his or her corrective action, and if required, I would report it to the appropriate authority.

10. Have you engaged in any fund-raising activities with any social, community, or religious organizations? Please describe. None

11. Do you have any business activities that you would envision remaining involved with if reelected to the bench? None

12. How do you handle the drafting of orders?

Typically, I instruct lawyers to prepare proposed orders which I review prior to signing and filing. I also instruct my law clerk to draft orders.

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

My Administrative Assistant calendars matters for me as well as myself and my law clerk. I very rarely have matters under advisement.

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

My job is to fairly and impartially interpret, apply and enforce the law of South Carolina. Proper enforcement and application of the law is the best public policy there is. It is the Legislature's job to make the laws.

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?

Drug and Veteran's Court, Mock Trials, CLE Instruction. I have also been involved and will continue to be on staff of the American Legion Palmetto Boys State Program where I teach a law school for participants. I have also taught at the Charleston School of Law for the past eight years and anticipate doing that in the future.

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?

Yes. Sometimes, when you are assigned far away. Frequent phone calls, texts and emails alleviate the situation.

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:

In general, I would probably hand down a harsher sentence for a repeat offender than for a first time offender.

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

These would have to be very serious offenders due to their waiver from Family Court. As such, I would carefully look at all the **Kent v. US** factors such as age, maturity level, threat to society, and family issues. I would also carefully consider the victim(s).

c. White collar criminals:

I would try to be consistent in my sentencing of white collar criminals as my sentences are for any other individuals convicted of

a crime. I would look into prior record, the seriousness of the crime, the crime's effect on the victim(s) and/or society, and would consider any recommendations made.

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

I would consider, of course, their prior record if any and the seriousness of the crime. A defendant's background is vital information in sentencing and while that background may mitigate their punishment, it certainly does not mitigate their responsibility. There are many law-abiding citizens who are socially and economically disadvantaged. The "culture of crime" the defendant may have come from is just one of the many factors to consider.

- e. Elderly defendants or those with some infirmity:

Crafting a just and merciful sentence can be the best justice for these types of individuals. Certainly, their age or health may mitigate a sentence, but it would not mitigate their responsibility to answer for their crimes. Mental health treatment and less secure commitments could be an answer. Perhaps even probationary sentences. However, some serious offenses will obviously require a prison sentence regardless of a person's age or health.

- 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? No

- 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? No If so, please identify the entity and explain if this organization practices invidious discrimination on any basis.

- 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 always be nice, approachable and evenhanded in his/her temperament. A judge should always be courteous to staff, litigants, jurors, and attorneys. A judge should always have command of the courtroom and the situations.

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?

It is human to have one's patience tested, and it is human to become angry sometimes. This has never compromised my impartiality and fairness however. I attempt to control the courtroom without anger and at the same time be firm and consistent.

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

David W. Childers

Sworn to before me this 7 day of July, 2021.

Douglas J. Atkinson

(Signature)

Douglas J. Atkinson

(Print Name)

Notary Public for South Carolina

My commission expires: 5-24-2031