



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

Circuit Court
(Incumbent)

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

First, I am honored to have been entrusted with this responsibility for the last 11 years, and I remain genuinely thankful for the trust placed in me by the General Assembly

The work which the judiciary does is crucial in maintaining ordered liberty, and public trust in the judiciary is essential in our mission. In my time on the bench, I have tried every case imaginable, from minor car wrecks to medical malpractice, from larceny to murder, and every case I have tried or handled contains one constant: I have endeavored to treat those appearing before me with the utmost respect. The average citizen may appear in court only once in their life, and they are in court because something bad has happened to them. Accordingly, a judge must treat each case as the most important case they are handling because, to any individual member of the public, their case is exactly that. I take genuine pride in my reputation for patience, deliberation, and courtesy, and I am confident that the manner by which I perform my job builds public confidence in the judicial branch.

When I last sought reelection, I wrote: "At its core, the justice system is nothing more than a means of resolving disputes – judges are merely problem solvers." At the time I wrote this, no one anticipated the pandemic which dramatically affected all of us and especially our court system. In the last 16 months, through innovation, creativity, and hard work, we learned how to solve problems, adjust operations, and continue to provide a forum for resolution of disputes in our state. For the last 2 years, I served as Chief Administrative Judge (Criminal) in the 11th Circuit, and because of the hard work of all stakeholders, the 11th Circuit was one of the first circuits to transition to videoconferencing. By doing so, we prevented the backlog of cases in the 11th from growing as dramatically as compared against other circuits. Significantly, many of the changes forced upon us during the pandemic should become permanent, such as remote video court for non-dispositive criminal matters, settlement hearings, and practically any hearing which does not require a jury. Simply stated, the pandemic forced us to become more

efficient and to abandon many of our arguably anachronistic court rituals; in doing so, justice became more accessible, affordable, and efficient. These changes have been beneficial to all concerned, and I hope to help implement them on a permanent basis now that the pandemic is almost behind us.

This job is not for the faint of heart, and the obligations of our judiciary should not be entrusted in those who fail to appreciate the requisite level of dedication, demeanor, and diligence required of a judge. Having served as a judge in one capacity or another for the last 22 years, I remain honored and humbled to serve our citizens and to do so with a full appreciation for the rigors of this job.

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? Not in the foreseeable future.
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 to be avoided except in those rare instances when they are allowed under the rules, such as for an emergency TRO. Even in such instances, however, every effort should be made to contact the other party. Scheduling issues generally do not fall within *ex parte* communications, but with email's ability to communicate with all sides simultaneously, and the recent utilization of WebEx for hearings, the need for *ex parte* scheduling communications has practically been eliminated.

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 have generally found that, if a judge discloses something which may indicate an appearance of bias, the parties are often satisfied that such forthrightness demonstrates a desire to keep everything above board. Correspondingly, they then trust my assurances as to impartiality and do not request my recusal. However, if asked to recuse myself after such a disclosure, I would seriously consider the request, especially if the request appears sincere, is not made out of a desire to delay the proceedings or judge shop, and the other

side would not be harmed by any delay. In short, I would still seriously consider recusal, even if I knew I could be fair, because the moving party might doubt the underlying integrity of the judicial system and the outcome if I were to hear the matter and rule against them.

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

If my spouse or close relative had an interest in the outcome of the litigation, regardless of whether that interest were financial or social, I would recuse myself.

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

Under the rule, gifts from lawyers who appear before you are inappropriate. Social hospitality, which I have always considered synonymous with common courtesy, may be accepted if not provided with the intention of influencing the judge.

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 question deals with two possible scenarios: first, one involving actual knowledge of misconduct, and second, where I merely suspect misconduct.

If I possessed actual knowledge of misconduct which reflected upon the person's fitness or honesty, I would speak with that individual, tell them that I have become aware of the misconduct, and explain that disciplinary counsel would have to be informed. Contemporaneously with my informing them that the issue would have to be reported, I would then recommend that the lawyer self-report the matter.

If I merely suspected misconduct, I would speak with the attorney and get their input as to my understanding of the facts. If I was completely satisfied that my suspicions were unwarranted, I would proceed no further. If I still harbored suspicions, I would take appropriate action as required under the rules. For example, if I was concerned that an attorney was developing a drinking problem but was confident no harm had befallen his clients as yet, I would likely confront the attorney, get the lawyer involved in Lawyers Helping Lawyers, and make reasonable efforts to monitor the situation.

Of course, any serious or substantial matters which reflect upon the lawyer's trustworthiness or fitness must be reported.

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, aside from continued responsibility for my father's trust.

12. How do you handle the drafting of orders?

Typically, I prefer to draft my own orders, especially for any cases taken under advisement. I have found doing so to be more efficient and better reflects my findings and the tenor of the decision. However, in some circumstances, I do request that prevailing counsel draft the order, especially if the case is extremely fact-intensive.

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

My law clerk, secretary, and I all keep up with any matters under advisement. Although I truly do not like taking cases under advisement, sometimes it is necessary especially when the law is unfamiliar, the facts are very complex, or legislative or judicial clarification of the law would be forthcoming. Even then, however, I do not like having matters under advisement for an unreasonably long period of time absent compelling reasons. With so little under advisement, it is fairly easy to keep up with orders.

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

Judicial activism is inappropriate for a judge in that judges should merely administer the law as written. Judges are charged with overseeing application of the law, not making it. Should a problem be noticed which requires correction, however, a judge also has an obligation to discretely point out that problem to those who have the power to improve upon a law or procedure.

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 also support our local high school moot court programs, and I frequently speak to school groups, local organizations, and bar organizations about the role of the courts in our society.

In terms of recommending improvements to the law or procedure, contacting the Chief Justice's advisory committee is the preferred method to communicate those suggestions.

Prior to the pandemic, I also worked with the Solicitor and Public Defender in the 8th and 11th Circuits in implementing plans to clear the backlog of pending cases; these program were working well prior to in-person court being suspended due to the COVID

pandemic. However, I anticipate continuing and encouraging practices such as videoconferencing of non-dispositive hearings and motions (bond motions, settlements, etc.) because I have found virtual court to be extremely efficient in resolving such matters.

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?

My personal relationships have not been strained in any meaningful way, although I do miss my wife (and she professes to miss me) when I'm away from home because of my duties. Truly, I am in awe of my wife, I love the people my children have grown to be, and my family knows how much I care for them.

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 sentence them more harshly than I do first time offenders. Repeat offenders have been through the criminal justice system and have usually had ample opportunities to reform their ways and conform their conduct. Therefore, they are generally more deserving of a harsher sentence.

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

Candidly, I have not addressed many such cases due to recent changes in the juvenile code. Generally, however, juveniles have to answer for their crimes, but so long as a genuine possibility for rehabilitation exists, a sentence should be crafted which speaks justice for the victim while still maximizing opportunities for rehabilitation and redemption.

c. White collar criminals:

I am aware that many do not consider financial crimes as serious or deserving of sanction as "blue collar" crimes. I disagree in that financial injury is often more devastating than physical injury. Bones heal, but taking a person's life savings is likely something from which they can never recover. Under the proper facts, therefore, the argument could be made to treat such crimes more severely.

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

Being from a disadvantaged background cannot excuse culpability, but it is appropriate to consider in mitigation. In such circumstances, I attempt to craft a

sentence which minimizes the likelihood of reoffending, such as requiring job training or getting a GED. Similarly, drug treatment is often an appropriate component of sentencing regardless of whether an active or probationary sentence is required.

e. Elderly defendants or those with some infirmity:

Again, being elderly or infirm does not excuse criminal conduct, but it is a factor to be taken into account at sentencing. Common sense dictates that a ten (10) year sentence for a 70 year old is not the same as it would be for a 20 year old. However, I would still take into account various factors as I would for any defendant, such as criminal history, previous incarceration, severity of the crime, victim's input, and any mitigation.

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

No. All of my investments are publically traded companies, and the value of these investments would not be affected by any ruling I make.

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

Generally, a *de minimis* interest is not grounds for disqualification so long as my impartiality could not reasonably be questioned. I have heard such cases in the past on rare occasion, but my usual practice has been to disclose those facts on the record, reassure the parties as to my objectivity, and give counsel an opportunity to discuss the matter privately with their client. Frequently, all concerned agree that no conflict exists in my hearing the case.

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?

Patient, thoughtful, wise, and knowledgeable. At times, a sense of humor is very helpful, too. Most importantly, a judge must always try to maintain their

composure and avoid losing their temper or becoming visibly frustrated. Every party must receive, and hopefully feel as if they have received, a full and fair hearing. The ability to listen, reason, and apply wisdom remains the most essential traits of a good jurist.

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?

The nature of this work means that judges may become frustrated at times, but anger or acrimony should never be demonstrated. Sometimes judges must be firm or resolute, and they have an obligation to keep a case moving along, but demonstrations of anger only damage the reputation of the bench as neutral ministers of justice. This rule applies regardless of whether the party appearing before the court is represented or *pro se*.

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 July, 2021.

(Signature)

(Print Name)
Notary Public for South Carolina
My commission expires: _____