



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

Retired Judge

Full Name: Joseph Derham Cole

Business Address: 168 Ivy Street, Spartanburg, S. C.

Business Telephone: 864.542.4403

1. Have you met the mandatory minimum hours requirement for continuing legal education courses for the past reporting period? Yes.
2. Do you have any plans to return to private practice? No.
3. Are you engaged in any legal activities other than your service as a retired judge, such as acting as an arbitrator or mediator? No.
4. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality? No.
5. 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.
6. Have you engaged in any partisan political activity since your retirement? No. Please describe.
7. What do you feel is the appropriate demeanor for a judge? When do these rules apply?

A judge should be patient, dignified, and courteous to all litigants, lawyers, jurors, witnesses, court personnel, and any others with whom the judge comes into contact with in his or her official capacity as well as any other public or private setting so as to promote confidence and trust in the judiciary and legal system generally. A judge should never by words or conduct manifest any bias or prejudice towards anyone on the basis of race, sex, religion, national origin, disability, or age.

8. In your position as a retired judge, what methods do you employ to ensure that deadlines for the timely issuance of orders are met?

I maintain the dockets of cases that have been heard by me in separate notebooks and a list of any matters which have been taken under advisement and review at least monthly to ensure that dispositional orders are completed and filed in an appropriately timely fashion.

9. 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?

Anger is not a virtue nor is it conducive to a successful conflict resolution. A judge should never display anger towards a criminal defendant, a lawyer, a pro se litigant, or any other member of the public, nor may a judge allow any degree of anger to affect or influence a judge's decision in any matter. A judge may be stern and objectively judgmental in dealing with those enumerated above when the circumstances necessitate such behavior in order to emphasize an appropriate point when the message being conveyed appears to be lost or the person being addressed is being deliberately obtuse or in an effort to maintain proper order and decorum in any proceeding before the judge.

10. How would you handle a situation in which you became aware of misconduct or appearance of infirmity of a lawyer or fellow judge?

Where I have personal knowledge or receive information indicating a substantial likelihood that a judge or lawyer has committed a violation of the applicable Code of Conduct that reasonably raises a substantial question as to the judge's fitness to continue in his or her office or reasonably raises a substantial question as to the lawyer's honesty, trustworthiness, or fitness as a lawyer, I have an obligation to report that conduct to the appropriate authority.

11. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

I do not initiate, permit, or consider an ex parte communication relating to a pending matter, except as to those that might be necessary for scheduling or administrative purposes, or emergencies that do not deal with any substantive matters or issues regarding the merits of a case, and so long as I am satisfied that no party would gain an advantage thereby and so long as all parties know about or are notified of the fact of the communication and the substance of it, and except as to those that are permitted by rule or statute such as; conferencing separately with the parties with their consent to aid in mediating or settling of a case; seeking advice from a legal scholar on a matter with notice to the parties; issuing temporary restraining orders pursuant to Rule 65(b), SCRCR; in determining fees and expenses for capital defendants pursuant to S. C. Code Section 16-3-26; the issuance of search warrants pursuant to S. C. Code Section 17-13-140; and the issuance of administrative inspection warrants pursuant to S. C. Code Sections 41-15-260, 44-53-500, and 44-53-1400.

12. 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 give great deference to a party having a reasonable basis and honest belief that I could not be fair and impartial in a matter before me. I believe that lawyers and litigants should have confidence in the impartiality of a judge and the fairness of the outcome and therefore would recuse myself, even if my impartiality is not actually impaired by any perceived bias, when requested to do so, if such would not unduly burden another judge or unreasonably interfere with a prompt, fair, and efficient disposition of the matter scheduled before me.

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

I generally do not accept any gifts or favors from any person or entity that might be reasonably expected to come before me except those that might be described as ordinary social hospitality including those incidental and attendant to a particular bar related function or activity which is sponsored by an organization or an association or a group of lawyers such as those provided by the South Carolina Bar Association at the annual meeting; the South Carolina Association for Justice at their annual summer conference;

The South Carolina Defense Trial Attorneys Association at their annual winter meeting; the South Carolina Solicitors Association at their annual conference; or the South Carolina Public Defender Association at their annual conference. I have also accepted food, drink, and entertainment provided by a county bar association or a group of lawyers in conjunction with a bar related function and similar hospitality attendant to and in conjunction with the South Carolina Association of Circuit Judges annual meeting held in various venues around the State.

14. In order that we might advise court administration on steps that need to be taken, are there any limitations on your sight, hearing, or mobility that should be addressed by the court administrator? None.

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

Jessica A. Clellard

Sworn to before me this 24th day of August, 2025.

K. S. Clellard

(Signature)

Kyle S. Clellard

(Print name)

Notary Public for South Carolina

My Commission Expires: 11/1/31