

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

Circuit Court
(New Candidate)



Full Name: Brian M. Gibbons
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1. Why do you want to serve as a Circuit Court judge?
I have always aspired to be a circuit court judge. The primary forms of my general law practice consisted of trial court work, both in the Circuit and Family Court. I have enjoyed my 8 years on the Family Court Bench and Circuit Court is the logical step in my career.
2. Do you plan to serve your full term if 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 them at all. Only to consider scheduling matters or in emergency situations.
6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?
If there is an appearance of impropriety, recusal is always the best option.
7. 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.
8. 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.
9. What standards would 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 not been an issue in my 8 years on the bench.
10. How would you handle a situation in which you became aware of misconduct 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.
11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be re-evaluated?
No.
12. Do you have any business activities that you would envision remaining involved with if elected to the bench?
No.
13. If elected, how would you handle the drafting of orders?
I instruct lawyers to prepare the orders. If I take a matter under advisement, I issue detailed instructions. I have form orders for pro se litigants, if they do not have them. In addition, I would use my law clerk in this capacity. I have not had this opportunity being on the Family Court.
14. If elected, what methods would you use to ensure that you and your staff meet deadlines?
My secretary has been with me for approximately 20 years. I very rarely have matters under advisement for more than 30 days. My secretary has developed a good system of making sure orders are signed and filed timely. Having a law clerk will also help in this regard.
15. 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.
16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal system?
Drug 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.
17. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you address this?
Yes. Sometimes, when you are assigned far away. Frequent phone calls and emails.
18. 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.

Many circumstances are considered prior to sentencing various 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 their 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 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.

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

No.

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

No.

21. Do you belong to any organizations that discriminate based on race,

- religion, or gender?
No.
22. Have you met the mandatory minimum hours requirement for continuing legal education courses?
No.
23. What do you feel is the appropriate demeanor for a judge?
Nice, approachable and evenhanded. Always courteous to litigants and court staff. Command of the courtroom.
24. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?
24/7.
25. 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 pro se litigants?
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.
26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees?
None.
27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office?
No.
28. Have you sought or received the pledge of any legislator prior to this date?
No.
29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening?
No.
30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released?
No.
Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?
No.
31. Have you contacted any members of the Judicial Merit Selection Commission?
No.
32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted?
Yes.

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

Brian M. Gibbons

Sworn to before me this 13th day of February, 2013.

Anna Beard

Notary Public for S.C.

My Commission Expires: 2/23/16 _____