

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

**Court of Appeals**  
**(New Candidate)**

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1. Do you plan to serve your full term if elected?  
Yes.
2. Do you have any plans to return to private practice one day?  
No. If elected, I plan to spend my entire professional career as a public servant in the court system.
3. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice?  
Yes.

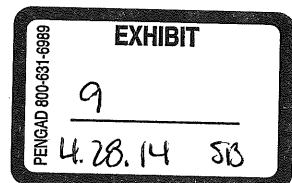
4. What is your philosophy regarding ex parte communications? Are there circumstances under which you could envision ex parte communications being tolerated?

Consistent with Canon 3B of the Code of Judicial Conduct, I do not and would not permit ex parte communications except for the limited exceptions that are recognized as appropriate by law. Some events—emergency temporary restraining orders, for example—contemplate limited ex parte communications, but there special rules for such circumstances. See Rule 65(b), SCRPC; see also Canon 3B(7), Commentary, Rule 501, SCACR. If I found myself in such a circumstance, I would strictly follow the applicable rule of law.

5. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

Pursuant to Canon 3E of the Code of Judicial Conduct, I would disqualify myself in any proceeding in which my impartiality might reasonably be questioned. I would not automatically disqualify myself if one of the lawyers was a lawyer-legislator, but consistent with the applicable Canon, I would automatically disqualify myself in any matter that involved my former law firm and a client that was represented by my former firm during our association. See Canon 3E(1)(b), Rule 501, SCACR.

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?

My own view of my ability to be impartial would not control my decision. If a party could reasonably question my ability to be impartial, Canon 3E would mandate that I disqualify myself.

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

I would not accept gifts from lawyers who appear in front of me as a judge. If I were invited to a conference, I would accept lodging, but I would otherwise pay my own way. I would follow the letter and spirit of Canon 4D.

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

If I knew that a lawyer or judge committed a violation raising a substantial question as to that person's honesty, trustworthiness, or fitness, my own sense of ethics would compel me to immediately, but respectfully, inform the offending lawyer or judge that I was aware of the misconduct. I would advise him or her of my duty to report that misconduct, and I am certain that I would encourage the offending lawyer or judge to self-report. I would then make my own report to the Commission on Lawyer (or Judicial) Conduct, regardless of whether the offending lawyer or judge self-reported. I believe my own report would be necessary to satisfy my duty under Rule 8.3 of the RPC. See Rule 407, SCACR.

9. Are you affiliated with any political parties, boards or commissions that need to be re-evaluated?

No. If elected, I would resign from the City of Conway's Board of Zoning Appeals, of which I am currently a member.

10. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations?

I donate money to my church and to other charitable organizations, and I am currently involved in my church's capital campaign. Beyond this, I am not engaged in any fund-raising activities. If elected, I would follow the letter and spirit of Canon 4C(3)(b), which gives the standards that govern a judge's involvement in fundraising activities.

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

I believe that there are two overriding goals which are present in every case. The first goal is to treat each case as if it is the most important case in the world. This is because to the litigants who are involved, the case in question is the most important case in the world. The second goal is to make the right decision in each case, and always for the right reasons. This philosophy guided my work while I was a law clerk, and it has continued to guide my work while I have

been in private practice. This philosophy is not of my own creation. It was taught to me by others.

My method of preparation is relatively simple. As a law clerk, I began a case by reading the parties' briefs and the record (or the appendix). I paid particular attention to the argument sections of the briefs and to the reasoning of the lower tribunal's order. After completing this initial stage of research, I would read all of the cases cited in the briefs, and I would conduct my own legal research in an effort to make sure that the parties had not overlooked any relevant authority. Once I felt like I had a firm grasp of the history of a particular case as well as the controlling legal principles, I would develop an outline of the questions that I believed the court needed to resolve in order to decide the case.

My approach in private practice has been much the same, though as a practicing lawyer, my role has involved writing the briefs for the court rather than reading them. I still begin each case by learning the case's history. I pay particular attention to the lower tribunal's decision and to the authorities cited in that decision, and I continue to conduct independent research to make sure that no one has overlooked any relevant authority. I have always strived to write briefs that are honest and trustworthy. I have tried to avoid arguments in which I did not have genuine and heartfelt belief, I have tried to be accurate in how I represent case holdings and disputed facts, and I have tried to be helpful to the court as it searches for a resolution in each case. I am certain that I have not executed these goals perfectly in every instance, but I am equally certain that I have endeavored to give each case my very best effort.

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

The judge's role is to enforce the law as it has been written by the Legislature—not to make law of the judge's own design. The role of a judge is a limited role, and the judge must have the humility to understand and embrace this principle.

The task of setting and promoting public policy is primarily a legislative function. Judging does not generally involve setting or promoting a view of what the law ought to be. The exception to this principle relates to the common law. The common law is court-made law, and under the separation of powers doctrine, the Supreme Court possesses the power to declare the common law of our State. My own view is that any evolution in the common law should proceed slowly and narrowly, and that the court's common law powers ought to be rarely and cautiously invoked. Legislating is the job of the Legislature—not the court system.

13. 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 would continue to speak at continuing legal education programs and I would continue to be involved with bar-related events and projects. I enjoyed my time serving on the judicial qualifications commission and my involvement in the young lawyers division. I would look to continue these sorts of activities.

I also believe it is important to remain active in your community. I live in a community that some might refer to as a "small town," and the biggest impact that I am likely to have on how others view the court system will relate to how the people in my community see me acting. If my neighbors see me as an honorable person who puts others ahead of himself, that will reflect positively on the legal system. If they see me as dishonorable and self-serving, the opposite will be true. I love my community and I am committed to community involvement. I believe that a lifetime of such service would reflect positively on the legal system.

14. 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?

I would ensure that serving would not strain these relationships.

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

I am currently a member of the board of directors for the Young Lawyers Division Foundation, which is affiliated with the South Carolina Bar. I am also a member of the legislative steering committee of the South Carolina Association for Justice, the judicial affairs committee of the Injured Workers' Advocates organization, and the board of zoning appeals for the city of Conway. I additionally serve as the chair of the church council for the First United Methodist Church of Conway.

16. 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:
- b. The use and value of an agency's interpretation of the Constitution:
- c. The use and value of documents produced contemporaneously to the Constitution, such as the minutes of the convention:

Under South Carolina law, the primary goal in interpreting any writing is to determine the writing's original intent. As applied to the

Constitution, this means that the court's foremost goal is to determine what the authors of the Constitution intended when they wrote the provision in question.

The plain language of the Constitution might be clear. If so, there is generally no need to use secondary materials like historical evidence or documents produced at the same time as the Constitution.

If the plain language does not make the original intent clear, courts have frequently used historical evidence to aid in interpreting the Constitution. Where the federal Constitution is involved, courts have also studied the actions of the first Congress; presuming that this Congress' actions may illustrate how the Constitution was intended to apply because this Congress served in the early stages of the Constitution's ratification.

My own view is that secondary sources should be used cautiously. Depending on the contents of these materials and the degree of the Constitution's ambiguity, they may prove to be a useful resource. This will obviously depend heavily on the individual circumstances in question.

It is unlikely that I would afford deference to an administrative agency's interpretation of the Constitution. Administrative agencies are members of the Executive branch, and while the Executive must necessarily interpret the Constitution in the course of its mandate to execute the law, separation of powers requires that the ultimate responsibility for interpreting the Constitution fall to the Judicial branch.

17. Is the power of the South Carolina General Assembly plenary in nature unless otherwise limited by some specific Constitutional provision?

Yes. The Supreme Court has held this on several occasions. Its decision in *Hampton v. Haley* is a recent example. See 403 S.C. 395, 403-04, 743 S.E.2d 258, 262 (2013).

18. Presuming that the three branches of government have plenary power for their responsibilities, do any other levels of government (i.e. local governments) have plenary authority, or do all grants of authority to other levels of government flow from the state level in our Constitution and statutes?

All other levels of government possess only the authority that has been granted to them by the Constitution and by statute. See *Williams v. Town of Hilton Head Island*, 311 S.C. 417, 429 S.E.2d 802 (1993) (discussing the home rule amendments to the South Carolina Constitution).

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

No. I have some stock holdings, but they are quite modest.

20. Do you belong to any organizations that discriminate based on race, religion, or gender?

No.

21. Have you met the mandatory minimum hours requirement for continuing legal education courses?

Yes.

22. Have you written any scholarly articles?

I have not written any articles or publications that I consider to be "scholarly."

23. What do you feel is the appropriate demeanor for a judge?

The foremost quality that I believe a judge should possess is humility. All other desirable qualities are traceable in some way to this characteristic. Humility ensures that the judge's overriding goal is to help the parties adjudicate their dispute, not to try and prove that he or she is the smartest lawyer in the room. Humility drives the judge to ask thoughtful questions when he or she does not understand and to seek first to understand the views of others before having his own views understood. Humility will compel a judge to treat others with respect, to appreciate that the judge's role is limited to interpreting laws (not making laws), and to be driven by the desire to serve others and honor the legal system. A judge should not be driven by ambition or ego.

I believe this is critically important at the appellate level. Our system wisely requires that appellate courts reach consensus before they can take any affirmative action. An appellate judge must therefore work well with others and be willing to listen to other people as a panel works to reach a collective judgment. This requires a working environment that is constructive and collegial, and my own view is that a humble and respectful demeanor will always lead to such an environment.

24. Do the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or do these rules apply seven days a week, twenty-four hours a day?

The rules always apply. I believe that the impact we have those around us is not based on whether we say the right things or believe the right things. Instead, our impact is based on whether we consistently follow through on the commitment to always taking the right actions.

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

I do not believe that there is ever an appropriate place to exhibit anger with anyone in a professional environment, regardless of whether such person is an attorney. I would strive to treat everyone with the utmost respect and courtesy. The circumstances might call

for firmness, but I believe that there is a way to be respectful in any situation.

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?

Approximately \$200. I have made the required reports.

27. While campaigning for this office, have you used judicial letterhead or the services of your staff for your campaign?

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? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? If so, give details.

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.

s/Blake A. Hewitt

Sworn to before me this 5th day of March, 2014.

Tonya C. Lewis

Notary Public for S.C.

My Commission Expires: 11/17/16