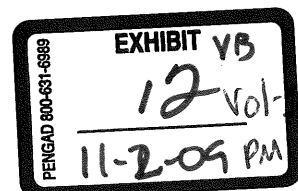


JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court
(New Candidate)

Full Name: Allen Oliver Fretwell
Business Address: 305 E. North Street, Suite 325
Greenville, SC 29601
Business Telephone: (864) 467-8789

1. Why do you want to serve as a Circuit Court judge?
I want to serve as a Circuit Court judge because I am proud of the American system of justice and I respect the rule of law. I believe I possess the strength of character to remain impartial and to treat people fairly. The life of a Circuit Judge demands constant travel and a strong work ethic and I have the energy and the inclination for both. As a prosecutor, I have spent a considerable amount of time in the courtroom. I have appeared before judges who exhibit the highest ideals of professionalism, fairness and integrity and I have appeared before those who do not. Trial judges are the "face" of the judicial system and greatly affect not only those appearing before them, but also the jurors whose limited interaction with the legal system forms a lasting impression. Most attorneys who are eligible to practice law in this state and have any experience in trial work can learn the rules, interpret the law and apply the rules and the law in any given situation. Character, however, is not something you pick up from a rule book. Integrity is not something that you put on or take off like a robe. Because I highly value character and integrity in my own life, I want to help maintain these crucial elements of the judicial system by becoming a Circuit Court judge. I understand the sacrifices judges must make to preserve their impartiality and the difficulty involved in treating all people fairly. I know what it means to place justice and fairness above self-advancement and popularity and I am prepared to conduct myself without bias or prejudice in the exercise of my judicial responsibilities.
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? No
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?
As a general rule, *ex parte* communications violate the very nature of legal advocacy and have no place in our system of justice. In limited circumstances, *ex parte* communications may be appropriate for



scheduling, emergencies, administrative functions, settlement resolution and where specifically authorized by statute. In all such instances, the judge should examine the wisdom and necessity of these communications and fully inform all parties involved.

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

I will recuse myself in any matter in which my impartiality could reasonably be questioned unless all parties to the action waive my disqualification after full disclosure. I have prosecuted cases defended by lawyer-legislators without respect to their office. As a circuit judge, I will treat all litigants and their counsel fairly and impartially.

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 will grant a motion for recusal where any appearance of bias exists.

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

I will grant any motion for recusal in this circumstance. I will maintain diligent efforts to be informed of these involvements and fully disclose them in every appropriate situation.

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

I will not accept any gift, bequest, loan or favor from anyone except as permitted by Canon 4D(5).

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

I would refer the misconduct of any judge that raises a substantial question as to that judge's fitness for office to the Commission on Judicial Conduct. I would refer the misconduct of any lawyer that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness for the profession to the Commission on Lawyer Conduct or the Office of Disciplinary Counsel.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be re-evaluated?

I am not currently affiliated with a political party in a leadership, fundraising or public advocacy role. Upon election to the Circuit Court, I would discontinue past practices of attending political gatherings.

I will resign my office with my neighborhood association and examine whether my continued membership in this association presents any conflict with my judicial responsibilities.

12. Do you have any business activities that you would envision remaining involved with if elected to the bench? No, other than our rental house.

13. If elected, how would you handle the drafting of orders?

After fully articulating its contents on the record, I would typically have the prevailing party draft the order and forward it to opposing counsel for review before I reviewed and signed it. Where circumstances are not practical to follow this procedure, either my law clerk or I would draft an order for review by counsel prior to issuance. If time restraints required, I would draft and issue an order without specific input by counsel as to its wording, but this would not be my preferred method of handling orders and would occur only in limited circumstances.

14. If elected, what methods would you use to ensure that you and your staff meet deadlines?

I would employ the use of electronic calendars with automatic reminders and back this system up to an archival network. I would periodically review the efficacy of this system and consider any suggestions by my staff, fellow judges and their staffs, or others for improving my calendaring system.

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

Judges have no role in setting or promoting public policy. The judge's responsibility is to simply interpret and apply the law within the constitutional framework.

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?

As a member of the SC Bar's Law Related Education Committee and as an attorney coach for mock trial programs, I have participated in many areas of law-related education for non-lawyers. As a judge, I would continue to engage in activities to educate and excite young people and non-lawyers about the practice of law and their legal rights and responsibilities. I would continue to speak to schools and civic groups about the law, its history and its practice whenever possible. I agree that the requirements of an independent judiciary do not include isolating members of the bench from the community in which they live and I believe it is important for judges, as well as other lawyers, to give back to the community in a positive way that engenders respect and appreciation for the judicial system.

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?

Although I cannot be certain how judicial service might strain my personal relationships, I know that my wife strongly supports my decision and is as committed to the successful fulfillment of my judicial responsibilities as I am. Should my personal life ever create an obstacle to the proper performance of my judicial responsibilities, I would take every step to alleviate the obstacle and, if unsuccessful, I would resign my judicial office.

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.
- a. Repeat offenders: Consistent with legislative enhancements for recidivism, repeat offenders would be subject to enhanced sentencing. I would evaluate each case, however, as to the nature and manner of the offense, the seriousness and longevity of the defendant's criminal history and other factors unique to the defendant, such as education, life experience and mental capacity. Additionally, the sentence should serve to protect present and future victims and members of society as a whole as well as properly addressing the consequences of the defendant's repeated actions.
 - b. Juveniles (that have been waived to the circuit court): With the exception of applying the Youthful Offender Act when appropriate, I would treat juvenile offenders the same as other offenders in circuit court. Their juvenile status becomes part of the analysis in considering their sentence, and rightly so, but will not serve as an excuse for criminal behavior.
 - c. White collar criminals: The sentencing of offenders for different types of crimes varies as provided by the legislature. Although often no mandatory minimum incarceration periods exist for "white collar" crimes, as opposed to some drug trafficking offenses, the effect of white-collar crime is no less harmful to its victims. I would sentence these offenders within the statutorily prescribed framework and consider the same factors I would for offenders of any other type of crime.
 - d. Defendants with a socially and/or economically disadvantaged background: Of any factor to consider in determining a defendant's sentence, I would expect this to be the least. Although a difficult circumstance or upbringing may mitigate the degree of sentencing in some respects, one's socioeconomic background should never be a factor in enhancing a defendant's sentence or treating that person adversely from someone without those disadvantages.
 - e. Elderly defendants or those with some infirmity: This category is similar to those of a young age or, to a lesser degree, socioeconomic disadvantage in that these are factors to consider in possible mitigation, but not excuse, for criminal conduct. This category, especially, requires a case-by-case analysis to determine what impact, if any, one's seniority or infirmity has on his or her conduct. Considering these factors, however, still requires careful attention to fashioning a sentence that serves the interests of justice and protects society.
19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?
My wife and I have a rental house. I would recuse myself if our renters were a party to any suit in Circuit Court, and I would disclose this

relationship in any case in which their employers were a party in any suit before me and offer to recuse myself if either party believed there to be a conflict of interest due to my landlord-tenant relationship with our renters.

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. Irrespective of my ability to act impartially, hearing a case under those circumstances could give the appearance of impropriety that Canon 2 expressly forbids.
21. Do you belong to any organizations that discriminate based on race, religion, or gender? Not of which I am aware; I would discontinue my membership in any organization that discriminated in this manner. Of course, membership in my church is limited to those of like faith in the same manner in which other churches and religious organizations prescribe the nature of their respective membership.
22. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes
23. What do you feel is the appropriate demeanor for a judge?
Pursuant to the judicial oath, a judge must "listen courteously, sit impartially, act promptly, and rule after careful and considerate deliberation." I believe a judge should treat anyone that comes before him or her with the same fair, impartial and consistent manner with which that judge would wish to be treated.
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?
A judge does not "give up" the responsibilities of his or her office when the robe is not on or when outside of the courthouse setting. The demeanor with which a judge, or anyone, should act applies every moment of every day.
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? No, anger is never appropriate in a courtroom setting, whether directed towards a litigant, attorney, court security officer, bailiff, juror, courthouse staff or anyone else. The judge should set the example for proper courtroom decorum and enforce this decorum through firm, yet reasoned, direction.
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?
I have spent \$10.51 on my campaign.
*For accounting purposes, "expenditures" occur at time of use, not purchase.
27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? N/A

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?
I have not asked anyone to contact members of the General Assembly on my behalf with respect to the seat I now seek. With the exception of contact properly made during my last candidacy when such contact was appropriate, no one has, to my knowledge, contacted any member of the General Assembly on my behalf.
31. Have you contacted any members of the Judicial Merit Selection Commission?
I have not contacted members of the Commission about my candidacy or my intention to become a candidate for the seat I now seek. My contact with Commission members during previous candidacies for judicial office was disclosed at that time.
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/ Allen O. Fretwell

Sworn to before me this 11th day of August, 2009.

Notary Public for S.C.

My Commission Expires: 03-30-2014