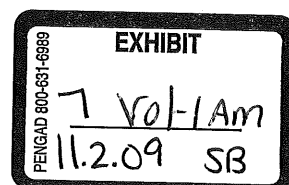


JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Supreme Court/Court of Appeals
(Incumbent)

Full Name: Donald W. Beatty
Business Address: 180 Magnolia Street
Business Telephone: 864-596-3450

1. Do you plan to serve your full term if re-elected? Yes
2. Do you have any plans to return to private practice one day? No
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? *Ex parte* communications are frowned upon and should be avoided. My staff screens my calls and advises callers that I cannot and will not discuss pending cases.
5. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you? Recusal is not taken lightly. I will recuse myself in any case where there is an appearance of conflict of interest or a personal relationship that causes a party to question my objectivity and impartiality. However, I will not recuse myself simply because a litigant or lawyer is judge shopping. Lawyer-legislators should be treated the same as any other lawyer. There should not be an automatic recusal because the lawyer happens to be a legislator. To do so is impractical and would deprive the lawyer of the right to practice law or deprive the lawyer of an opportunity for public service. In regards to former associates, partners and employees, the decision to recuse is influenced by the amount of time that has passed since the end of the relationship. The opposing party is made aware of the past relationship. I have generally recused myself in these situations.
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 would recuse myself.
7. What standards have you set for yourself regarding the acceptance of gifts or social hospitality? I only accept social hospitality and gifts from close personal friends.
8. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge? Report it.
9. Are you affiliated with any political parties, boards or commissions that need to be re-evaluated? No.



10. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations? No.
11. How do you prepare for cases that come before you? I read the record from the trial below, paying particular attention to the issues raised by the parties arguments and their supporting legal authority. I personally research the issues and applicable law and prepare my personal memoranda. Subsequently, I confer with my law clerks who have been assigned the cases for their review and research. After a thorough discussion, I identify any additional questions or issues that require resolution. A final memo is prepared. If the case is scheduled for oral argument, the questions are directed to the attorneys. After oral argument the case is discussed again and a final opinion is prepared.
12. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy? Judicial activism is simply inappropriate. The legislative branch makes the statutory law and the judicial branch has the responsibility to interpret the law in keeping with the legislative intent.
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? Limited public speaking engagements, participating in continued legal education programs, and work on the Sentencing Reform Commission.
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 have served on the bench for approximately 14 years. As a result, my circle of friends has become smaller. Any strain in personal relationships has come and gone. My family and remaining close friends fully understand the pressures of my position.
15. Are you currently serving on any boards or committees? If so, in what capacity are you serving?
 - (a) Task Force on Public Access to Court Records
 - (b) S.C. Sentencing Reform Commission
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: Historical evidence is very valuable in understanding the intent of the drafters of the constitution. Understanding the historical evidence facilitates a practical application of the constitution.
 - b. The use and value of an agency's interpretation of the Constitution: Under South Carolina Law an agency is not allowed to determine the constitutionality of a statute. Thus, it would follow that an agency's interpretation of the constitution would have little value. Our constitution grants the judicial branch the authority to interpret the constitution.

c. The use and value of documents produced contemporaneously to the Constitution, such as the minutes of the convention: Historical documents produce contemporaneously with the constitution are valuable in ascertaining the intent of the drafters., but should not be dispositive. These type of documents usually only reflect the thoughts of the drafter. When considering constitutional questions, I initially review prior decisions of the court on the question. My undergraduate degree is professional history. If I still have reservations about the correct interpretation then I will research the historical evidence, including contemporaneously created historical documents. When constructing or interpreting the state's constitution, the primary function is to ascertain and give effect to the intentions of the drafters. Clear and unambiguous terms must be given their plain and ordinary meaning without resort to a construction that will limit or expand the effect of the constitutional provision. Of the three areas given in the question, I believe the use and value of historical evidence, in practical application of the constitution should be given the greatest weight.

17. Is the power of the South Carolina General Assembly plenary in nature unless otherwise limited by some specific Constitutional provision? Yes
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? Home Rule act restored autonomy to local government. Local government has the authority to enact regulations for necessary governmental services such as health and security without specific statutory authority as long as these ordinances are not inconsistent with the Constitution and general law. However, local governmental authority does flow from the constitution and statutes.
19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality? No
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. I have always exceeded the CLE requirements.
22. Have you written any scholarly articles? No
23. What do you feel is the appropriate demeanor for a judge? A judge should be patient and respectful of those who appear before him/her.
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? Notwithstanding the inherent frailty of humanity, I attempt to maintain the appropriate demeanor at all times. However, sometimes I am not successful.

25. Is there a role for sternness or anger with attorneys? Sternness yes, anger no.
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? Less than \$100.00
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/ Donald W. Beatty

Sworn to before me this 10 day of August, 2009.

Notary Public for S.C.

My Commission Expires: 03-30-2010