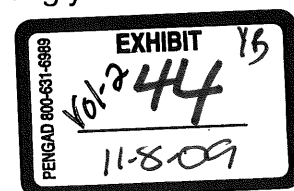


JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings
Administrative Law Court
(New Candidate)

Full Name: Christopher McGowan Holmes
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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
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 between a judge and one party without the knowledge and participation of all parties are unacceptable. Even if the matters discussed do not go to the merits and are not "prejudicial," they raise the specter of bias and lack of impartiality in the mind of the absent party.
5. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you? My philosophy on recusal is that if any party feels grounds for recusal exist and timely moves for recusal before the tribunal, the motion should be granted.
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 give strong deference to any party seeking my recusal; however, whether the motion would be granted would depend on a number of factors such as at what stage of the proceedings the disclosure and motion are made. It would seem that the earlier in the process the disclosure and motion are made, the less potential there would be for prejudice to the other parties in obtaining a timely hearing if recusal was granted. However, if I only became aware of the information leading to the disclosure just prior to a scheduled hearing, I would have to consider the prejudice any delay would have on the non-moving party, the reason the information was late in being disclosed and the reasons for, and sincerity of, the objections.
7. If elected, what standards would you set for yourself regarding the acceptance of gifts or social hospitality? If I felt the invitation was extended solely because of my position (and was not a general invitation extended to all ALJ's), I would decline to accept. As far as gifts are concerned, at my age I know who gives me gifts on special occasions. Gifts from any others would be declined or returned.
8. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge? I would first consult with the person to see if I had correctly perceived the conduct as improper and explain why I felt so. If the person agreed that misconduct was involved, I would strongly counsel disclosure



to the appropriate authority or oversight board with the understanding that if not self reported I would have a duty to report it. If the person disputed that the conduct was improper, I would seek counsel from an attorney or judge to confirm that I was correctly construing the conduct as improper, and if there was concurrence I would repeat my advice to the person involved.

9. Are you affiliated with any political parties, boards or commissions that, if you are elected, would 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 would you handle the drafting of orders? If the issues were clear, the facts not disputed and my decision apparent to me at the conclusion of the hearing, I would ask the prevailing attorney to prepare and submit a proposed order with a copy to the opposing counsel who would be given an opportunity to make any suggested revisions. I would then determine if the proposed order correctly reflected my reasoning and correctly stated the law, and if it did, I would sign it. Otherwise, I would make my own corrections. If the facts or applicable law (or both) were in dispute, I would ask both parties to prepare proposed orders which I would then use to help reach a final decision and as a framework to craft an order.
12. What method would you use to ensure that you and your staff meet deadlines? I would keep a regular calendar and a computer log which would contain all cases assigned to me and their current status and deadline. My assistant would also keep a calendar and we would meet at least once a week to go over the calendar and schedule upcoming activities and tasks.
13. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy? I firmly believe that each branch of government has its functions and should refrain from intruding into those of the others. While the term "judicial activism" is somewhat ambiguous, I tend to prefer Black's Law Dictionary definition as a "[j]udicial philosophy which motivates judges to depart from strict adherence to judicial precedent in favor of progressive and new social policies which are not always consistent with the restraint expected of appellate judges." An Administrative Law Judge's duty, primarily, is to apply statutes and regulations to the facts as he finds them to be. I believe the promotion of public policy is, as a general rule, more properly left to the legislative branch for codification and to the executive branch for implementation.
14. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities would you plan to undertake to further this improvement of the legal system? I would continue to actively participate in the Bar's Administrative and Regulatory Law committee and to interact with the SC Administrative and Regulatory Law Association. I would make myself available to speak at public functions on the role of the Administrative Law Court in particular and the judiciary in general.
15. Do you feel that the pressure of serving as a judge will strain personal relationships (i.e. spouse, children, friends, or relatives)? No. How would you plan to address this? I cannot conceive of how my service as an ALJ could strain personal relationships.

16. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality? No
17. Would you hear a case where you or a member of your family held a de minimis financial interest in a party involved? Not unless the parties were informed and agreed to my going forward.
18. Do you belong to any organizations that discriminate based on race, religion, or gender? No
19. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes
20. What percentage of your legal experience has dealt with cases that appear before the Administrative Law Court? Please describe to the Commission your experience in these areas. Since establishment of the ALC, approximately 90% of my practice has been before that tribunal. Since the creation of the Administrative Law Court, I have appeared at least once before every current and previous Administrative Law Judge. With the exception of one tax appeal, all matters I have handled have dealt with DHEC's coastal zone, water quality or air quality permits. Approximately half of the time my client's position has been allied with the agency and the other half in opposition. Over the last five (10) years, I have averaged approximately four to five contested case hearings annually before the ALC and an equal number that settled before hearing.
21. What do you feel is the appropriate demeanor for a judge? A judge should at all times be fair and objective and enter each proceeding with an open mind as to the merits of all parties' positions. All parties, witnesses and counsel should be treated with courtesy and patience. However, a judge must be in control of his courtroom, which requires firmness at times.
22. 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
23. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you? No. Is anger ever appropriate in dealing with attorneys or a pro se litigant? No. I believe a judge can be firm without exhibiting anger.
24. How much money have you spent on your campaign? Zero. If it is over \$100, has that amount been reported to the House and Senate Ethics Committees?
25. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? N/A
26. Have you sought or received the pledge of any legislator prior to this date? No.
27. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No.
28. 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.

29. Have you contacted any members of the Judicial Merit Selection Commission?
No.
30. 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/ Christopher McGowan Holmes

Sworn to before me this 14th day of August, 2009.

Notary Public for S.C.

My Commission Expires: 03-09-2019