

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

Supreme Court/Court of Appeals
(Incumbent)

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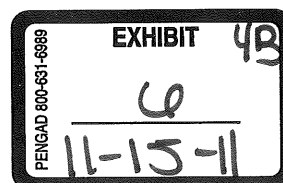
1. Do you plan to serve your full term if re-elected? Yes
2. Do you have any plans to return to private practice one day? No
3. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes
4. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

I will not engage in *ex parte* communications. It is such a destructive and corrosive act to the atmosphere of impartiality which should be a preeminent concern for the bench and the bar. I can't imagine a situation where it should be tolerated.

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

I served in the legislature for almost nineteen years and I am very aware of the debate and concerns raised by the press and the citizenry as it relates to lawyer-legislators electing the judges and then appearing before them. I do not, however, believe that should warrant an automatic recusal in every instance. The judge sits in a unique position as it relates to the trial and the appellate process. The judge must insure the fairness of the activity of trial, the impartiality of the opinion and the expectation of no undue delay in the resolution of the proceedings. A direct motion for recusal certainly brings a more focused consideration by the judge. The assertion by a party of a perceived bias is not a matter for a judge to brush aside or be offended to easily. If the attorney involved in a proceeding is a former associate or law partner then I would recuse myself immediately. If it is a lawyer-legislator then the response may or may not be as apparent nor the perception of bias always present. I can assure you whether raised by a party or not it is something that a judge should always be aware of and raised by the judge in some circumstances.

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?

If a party, after disclosure, felt it necessary to request a recusal I would give it much thought. I would take into consideration the appearance of bias, real or perceived, the financial burdens imposed on the parties by a continuance as well as the expeditious resolution of the case. In this case I probably would grant the request for a recusal.

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

I have set high standards in this area. I am mindful that this issue has caused much debate with the bar, the public and litigants. I refrain from accepting gifts or social hospitality from individual attorneys. I have accepted social hospitality from Bar Associations and foundations if they are found acceptable by the appropriate commissions, rules, canons and guidelines. The invitations that I have accepted generally have an educational or CLE component.

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

I would take the appropriate steps to insure that it was properly reported to the Commission on Judicial Conduct or the Commission on Lawyer Conduct.

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?

In this computer and internet age there is a vast array of legal research tools available to the court. I use them all as I read research and prepare for court. Naturally, I read the records and briefs of our chamber cases and those cases assigned to the other two judges who serve on our three judge panel. I also meet with my law clerks and we discuss all the cases prior to oral argument. Subsequent to our panel conference and oral argument we may do additional research and conferencing before the preparation of our chamber opinion. If we decide to dissent in a case that also may require additional research, writing and preparation

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

This question is one of the most perplexing and volatile issues facing the judiciary today. This question presupposes a problem may exist in South Carolina. I believe this has become more of a focal point for the federal level. It is an issue; however, that begs closer scrutiny and sensitivity by our courts. As a court system, we must be

constantly aware of the boundaries imposed by the separation of powers embodied in our constitution. We must equally recognize the roll of the legislature in establishing public policy thru legislative enactments as an elective body. As a court we should not be eager to trespass into their domain under the guise of statutory interpretation in an effort to accomplish some public policy more suitable to our determination.

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 have made presentations in a number of CLE events during my service on the bench which has hopefully assisted the bench and bar. I will continue to teach in our local high school program to provide an overview of the judicial system to our young people. I also will continue to speak to local civic organizations to provide information about the purpose and process concerning our judicial 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?

The appellate court requires a tremendous amount research, reading and preparation. There is constant interaction between other judges, law clerks and staff all of which is time intensive. It brings into our lives many stressors both professionally and personally. It calls for us to recognize that our lives must have balance and that our families can and should be a source of strength, support and peace. I also recognize that my faith has a critical place in maintaining clarity and perspective in my service on the bench. It also instills a clear understanding of why we call it the justice system. Finally, I try to maintain a strong social network of friends to enhance balance in my life. My service on the bench is a gift a responsibility and an opportunity all of which demands a commitment strengthened by faith, family and friends.

15. Are you currently serving on any boards or committees? If so, in what capacity are you serving? No

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 and writings can give perspective and understanding as to intent as well as context. It can give guidance and aid in showing purpose of grammatical structure.

- b. The use and value of an agency's interpretation of the Constitution:

While agency interpretation of a constitutional provision may make interesting reading and possibly elucidate a point, they are not forceful, compelling or controlling in my view. It is critical to be grounded in the original intent and purpose of the provisions. Prior court decisions, amendments and subsequent legislative enactments give a more precise pronouncement and interpretation of a constitutional provision.

- c. The use and value of documents produced contemporaneously to the Constitution, such as the minutes of the convention:

The value of historical perspective and practical application as explained by these documents should rank high in the factors of an interpretative hierarchy. The writings and expressions of the drafters which were produced contemporaneously and in proximity of time with the original documents can edify and guide in an understanding of the constitutional provisions.

- 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?

The plenary powers of local government, if any, flow as a natural consequence of constitutional mandate or statutory enactment.

- 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

- 22. Have you written any scholarly articles? Not at this time.

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

A judge in his or her service on the bench should consistently exhibit patience, intellectual understanding, appropriate firmness, humility, a willingness to listen and to inquire by respectful questioning and to remain at all time courteous to the attorneys. These are simply a few of the traits and skills that a judge should exhibit in daily service.

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?

I have tried as best I can to manifest these character traits and skills in my daily life. If they are not engrained in our living then they will not be evident in our service.

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

A judge should never show anger from the bench. It is the judges' absolute duty and responsibility to maintain a respectful and orderly court room environment but without anger. Firmness, directness and being prepared go a long way in maintaining control of the parties and the proceedings.

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. 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/Thomas E. Huff

Sworn to before me this 11th day of August, 2011.

Notary Public for S.C.

My Commission Expires: 12/15/2018