



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

Family Court
(Incumbent)

Full Name: Honorable Peter L. Fuge
Business Address: Post Office Box 1124, Beaufort, South Carolina 29901
Business Telephone: (843) 255-5669

- 1. Why do you want to serve another term as a Family Court Judge?
2. Do you plan to serve your full term if re-elected?
3. Do you have any plans to return to private practice one day?
4. Have you met the statutory requirements for this position regarding age, residence, and years of practice?
5. What is your philosophy regarding ex parte communications? Are there circumstances under which you could envision ex parte communications being tolerated?

according to the law. Therefore, I believe that ex parte Orders should be avoided if possible and ex parte communications should be limited to those instances expressly authorized by the Code of Judicial Conduct.

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

The Code of Judicial Conduct requires a judge to disqualify himself or herself in any proceeding in which her or his impartiality might reasonably be questioned. I cannot think of any instances when a judge should not recuse himself if there is some reasonable factual basis for a litigant to believe that the judge has a personal bias or prejudice concerning a party or a party's lawyer or the judge has personal knowledge of disputed evidentiary facts concerning the proceedings. Judges have a responsibility to conduct themselves in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

The Code of Judicial Conduct requires a judge to disqualify himself or herself in any proceeding where the judge served as a lawyer in the matter in controversy or a lawyer with whom the judge previously practiced law served during such an association as a lawyer concerning the matter, or the judge has been a material witness in the matter. Accordingly, if any of these criteria have been met, the judge should immediately recuse himself.

Once again, I can't emphasize enough how important it is for a judge to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. On the other hand, I do not believe that judges should be intimidated or threatened by litigants or attorneys who make unsubstantiated claims of a conflict of interest. A judge should always avoid any appearance of bias or prejudice if a reasonable man could infer from facts presented that the judge may be biased.

A lawyer-legislator is a more difficult issue, in that, oftentimes, lawyer-legislators often have to appear before a member of the judiciary for which they voted one way or the other. It is the duty and obligation of the legislature to elect the best possible judges to serve our state. It is the duty of all judges to provide our citizens with fair and impartial trial and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. A lawyer-legislator would never be able to earn a living in the practice of law if he wasn't free to practice before all judges of this state.

If a litigant or his counsel raises this issue, it should be thoroughly and openly discussed on the record so that the litigant receives a fair and impartial trial. I believe the complainant litigant has the responsibility of providing objective evidence that the impartiality of the judge should be called into question.

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?

If someone disclosed a fact that objectively and reasonably gave the appearance of bias and asked me to recuse myself, I would recuse myself even if I believed that the disclosed fact would not actually prejudice my impartiality. The appearance of bias or prejudice is just as damaging as the actual bias or prejudice.

There is usually more than one judge sitting in Beaufort County. It would not be difficult or inconvenient to have another judge hear the matter.

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

This issue is thoroughly dealt with in Canon 4 of the Code of Judicial Conduct. A judge should not engage in financial or business dealings that may reasonably be perceived to exploit the judge's judicial position or involve the judge in frequent transactions or continuing business relationships concerning those persons likely to come before the court on which the judge serves.

I believe that the Canons require a judge to conduct all of his extrajudicial activities so that they do not cast doubt on his capacity to act impartially as a judge or interfere with the proper performance of his judicial duties. I discourage members of my family from engaging in any dealings that would reasonably appear to exploit my judicial position. Section 3E(1) sets forth some very limited exceptions to this rule but I personally see no benefit of serving as a fiduciary or trustee unless it would be a family member's estate. Our legal system is based upon the principle that an independent, fair and competent judiciary will apply the laws that govern. As a public servant I do everything I can to insure that my immediate family do not engage in any dealings that would appear to exploit my judicial position. My spouse is a homemaker. My children are grown. I have explained the rules to each of them.

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

The Code of Judicial Conduct prohibits a judge from accepting any gift, request, favor or loan from anyone unless specifically authorized in Canon 4 D (5). The judge also has the responsibility to urge family members residing in his household not to accept a gift, request, favor, or loan from anyone. This is because a gift to a judge or his family member might be viewed as intended to influence the judge.

My children are grown. I reside with my wife in our home in Bluffton, South Carolina. We spend most of our free time with our children and grandchildren. Most of our vacations are with our grandchildren and children. I see no reason why I should accept a gift from anyone other than family members for birthdays, Christmas, etc. I do not accept any gifts from any third parties unless specifically authorized in Canon 4 D (5) because, once again, it is my belief that a judge should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

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

If I became aware of misconduct of a lawyer or a fellow judge, I would refer to the Code of Judicial Conduct and comply with the same. The Code of Judicial Conduct requires that any judge who receives information indicating a substantial likelihood that another judge has committed a violation of the Code of Judicial Conduct must take appropriate action. It would be my responsibility to inform the appropriate authority, that being the Commission on Judicial Conduct.

The same is true if I receive information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct which

raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer. I am duty bound to report the information to Commission on Lawyer Conduct and thereafter comply with all of their requests and directives.

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

No.

12. Do you have any business activities that you have remained involved with since your election to the bench?

No.

13. Since Family Court judges do not have law clerks, how do you handle the drafting of orders?

If a case is contested or complicated, I often draft my own Orders. I take handwritten or typed notes.

Sometimes I require both counsel to submit proposed Orders by computer disk or e-mail. The two proposed Orders can be edited and merged into one Order and can be easily revised by me.

Sometimes I issue an oral directive by conference call to both counsel or send a fax or e-mail to each counsel simultaneously giving my ruling and they can send a proposed Order to me after the other side has had a chance to review it. I keep a list of all outstanding Orders.

In simple cases that can be ruled upon immediately from the bench with limited findings of fact, I use form Orders and handwrite the details in the spaces provided.

14. What methods do you use to ensure that you and your staff meet deadlines?

I keep notes on every case listing when the order is signed. I also have my administrative assistant back up my system using a computer. She also keeps a list of outstanding orders to insure they are promptly executed. All deadlines are placed on a calendar which I review with my assistant several times a week.

15. What specific actions or steps do you take to ensure that the guidelines of the guardian ad litem statutes are followed during the pendency of a case?

Section 20-7-121 et. seq. of the Code of Laws of the State of South Carolina deals with what is commonly referred to as the Public Guardian ad Litem Program that is administered by the Office of the Governor. Section 20-7-122 et. seq. of the Code of Laws sets forth the responsibilities and duties of this type of Guardian ad Litem. Section 20-7-124 et. seq. of the Code of Laws charges the guardian ad litem, in general, with the duty of representation of a child's best interest and sets forth specific supervised acts. This is primarily used in DSS actions. In cases where a member of this volunteer Guardian ad Litem Program is appointed to represent the best interest of a child I make every effort to insure that all of the requirements set forth in the South Carolina Guardian ad Litem Program Statute are followed during the pendency of a case. I always question each Guardian ad Litem or review each case file to insure compliance.

Section 20-7-1545 et. seq. of the Code of Laws deals with the appointment of a private guardian ad litem in cases in which custody or visitation of a minor child is an issue. This Statute sets forth the requirements and qualifications of the guardian ad litem. In all such cases I require private guardian ad litem to comply

with this Statute. For example, upon appointment to a case, a guardian ad litem must provide the court with an affidavit attesting to compliance with the statutory qualifications. In most instances, the guardian ad litem is a licensed attorney at law, but if there is a lay guardian who has met the statutory qualifications the court is authorized to appoint an attorney for him. I always make sure that the guardian strictly complies with Section 20-7-1549 et. seq. which sets forth the guardian's duties and responsibilities. I insure that all guardian ad litem attend all hearings except when their attendance is excused or their absence is stipulated by all parties and I make sure the guardian ad litem provides a written report to the court and all parties in a timely fashion as required by Section 20-7-1549 et. seq. I make sure that the written report complies with the time requirements and insure that the guardian not include a recommendation concerning which party should be awarded custody. There are exceptional circumstances which require the court to request such a recommendation. In my tenure on the bench I have not made that request. I always make sure that the parties are given the opportunity to cross-examine the guardian ad litem at the final hearing and, from time to time, I have left the record open for a short period of time so that both parties can question the guardian once they have had an opportunity to thoroughly review the report and compare it to the evidence adduced at trial.

In summary, I do everything I can to insure that the court complies with the Private Guardian ad Litem Statute and the Public or Lay Guardian ad Litem Statute by reviewing these Statutes and the case files and/or by questioning the attorneys and the guardians about compliance.

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

I believe in the separation of powers between the judiciary, executive and legislative branches of government. It is not the province of the judiciary to create laws. It is the responsibility of the judiciary to enforce the law and to apply the law to the facts in each case. It is not the province of the judiciary to meddle in the executive or legislative branches of the government.

17. 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 always been very active with Continuing Legal Education. I am the former Chairman of the South Carolina Commission on CLE and Specialization. I have spoken at more than 30 seminars. I helped start the Beaufort County Juvenile Drug Court which I preside over in the evenings at no charge. I am very active with the Supreme Court Commission on Lawyers Helping Lawyers.

18. 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?

No. I lead a relatively quiet life. My wife and I have been married for 45 years. I work more than 40 hours per week. Our children are all grown. We are very close to our children and we devote most of our free time to our grandchildren. I sincerely enjoy being a judge. I don't feel any strain in my personal relationships.

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

- No.
20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?
The Code of Judicial Conduct defines *de minimis* as an insignificant interest that could not raise reasonable question as to a judge's impartiality. Canons 3E(1)(c) and 3E(1)(d) discuss the requirement that a judge disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned. Because of the subjective nature of the term "de minimis", I believe that I would probably recuse myself in almost any case where I knew that I or a member of my family residing in my household or a member of my family within a third degree of relationship, had a financial interest. This would be on a case by case basis. The safest thing to do is to announce on the record any possible conflict I might have as a result of any "de minimis" financial or personal interest in the subject matter and the parties and lawyers can, out of my presence, decide whether to waive this disqualification. If they believed this is a conflict of interest or that the Court cannot act in a manner that promotes public confidence in the integrity and impartiality of the Court, I would recuse myself and transfer the case to another judge. On the other hand, there must be a reasonable basis for the claim and I will not recuse myself because of baseless claims.
21. Do you belong to any organizations that discriminate based on race, religion, or gender?
No.
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?
I believe that a judge should always try to be patient, dignified and courteous to all litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity and require similar conduct of lawyers, staff, court officials and others within the judge's direction or control. A judge should at all times act in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
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 believe that the Code of Judicial Conduct applies seven days a week, twenty-four hours a 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 a pro se litigant?
No, to both questions.
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?
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/ Peter L. Fuge

Sworn to before me this 4th day of August, 2015.

William R. Phipps

Notary Public for South Carolina

My commission expires: 02/17/2021