



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

Administrative Law Court
(New Candidate)

Full Name: Milton Gary Kimpson

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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 of any kind should be avoided. The only time that any *ex parte* communication on any matter may be appropriate is in the context of a properly filed ex parte motion or perhaps some emergency that did not allow time to hear from an opposing side.

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

Where there is an actual and direct relationship with a litigant that creates a conflict of interest, inhibits the judge from being impartial or raises an appearance of a conflict of interest, recusal must be weighed based on all the facts and circumstances. Absent some special relationship or connection between a judge and legislator, the fact that one of the lawyers is also a legislator does not create grounds for recusal. A judge should consider recusal when a former law partner is a litigant before him because of the inherent nature of a partnership or other close business relationship, although this may dissipate over time. The judge-former associate relationship does not in and of itself raise concerns about recusal absent some other 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?

A litigant must feel that he or she is before an unbiased and objective tribunal. If the issue is such that I believed disclosure was appropriate, I would most likely grant the recusal motion despite my belief that I believed the issue would not affect my impartiality. That also means that unless the situation does not become apparent until the litigant is before the Court, the disclosure should occur well before trial.

7. If elected, what standards would you set for yourself regarding the acceptance of gifts or social hospitality?

I would act in strict conformity to the Judicial Cannons. That being said, it is probably a good rule of thumb to simply not accept gifts of any kind, no matter how small (cups, pens, trinkets and the like) and further, to not accept any social hospitality being offered by any group other than a professional association with open membership. For instance, it is fine to attend a judicial reception hosted by the bar association where all members of the bar are invited while attendance at a reception sponsored by a trade group with interests that could come before the court should be avoided.

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

If there is reliable evidence of misconduct that requires reporting under the Judicial Cannons and/or ethics rules, a report is required.

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

Potentially. I have attended Saturday morning breakfast meetings of the Richland County Democratic Party and have made contributions to the party and to political candidates but will strictly adhere to Judicial Cannons with regard to continued activity. I am not aware that any of the boards or other organizations with which I currently participate may become problematic but I will review in light of the applicable standards.

10. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations?

I have been involved with raising funds for St. John Baptist Church, the National Kidney Foundation, Juvenile Diabetes Research Foundation,

Wofford College, Columbia Community Relations Council, Omega Men of Columbia – Omicron Phi, Inc., and Cooperative Ministries (the last three through Midlands Gives). I have not engaged in any political fundraising other than donating my personal funds.

11. How would you handle the drafting of orders?

On complex cases, I would ask the litigants to file proposed orders within a fixed time period (As a lawyer, I have appreciated the opportunity to submit proposed orders in certain types of cases.) For more straightforward cases, I will simply issue orders within an established period time.

12. What method would you use to ensure that you and your staff meet deadlines?

Calendaring all dates in a coordinated calendaring system with checks as the system allows well in advance of deadlines. It is also important to schedule time to complete tasks.

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

Judges at all levels must follow the law and should refrain from “policy-making” as this is the province of the Legislature. Nevertheless, judges do have a role in promoting the policies expressed in legislation by consistently following the law. The jurisdiction of the Administrative Law Court (ALC) is limited. ALC Judges must follow the law as written such that ALC decisions must conform to the existing law. Fact situations, whether novel or not, that come before the court must fit within the existing law to be covered by the law; the law cannot be “stretched” to encompass novel situations

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 will hope to continue to speak at CLEs and other seminars. I also hope to have an opportunity to write on legal topics.

15. Do you feel that the pressure of serving as a judge will strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you plan to address this?

No. I believe that my family, friends and relatives will respect my adherence to the law and any limitations that come with service on the

bench. It will be important, however, that I plainly explain these limitations so expectations can be properly managed.

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?

Probably not. Even if the interest were such that I felt I could be impartial, I would certainly disclose the matter to the parties involved and discuss my intention to recuse. Absent some dire need for the case to proceed before me, I would not hear the case. Again, this means that cases will need to be reviewed as early as possible for possible conflicts.

18. Do you belong to any organizations that discriminate based on race, religion, or gender?

No; however, I do belong to two fraternal organizations, Omega Psi Phi Fraternity and Sigma Pi Phi Fraternity.

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.

Approximately 90% of my current practice at the SC Department of Revenue pertains to matters that go before the Administrative Law Court (ALC). These matters – tax and regulatory issues – are covered under the Revenue Procedures Act. I have tried all kinds of tax cases, to include sales and use taxes, individual and corporate income tax cases, tax credits, refunds and exemption cases. My regulatory experience at the ALC is just as varied. I have also supervised young lawyers at the ALC sitting second chair in all kinds of case. This has been the state of my practice since joining the Department in 2003; between 1992 and 2003, while in private practice, I appeared at the ALC once and handled one regulatory case before the ABC Commission.

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

A judge should strive to remain even-tempered and thoughtful at all times. A judge should be polite, courteous to parties, litigants and witnesses and their lawyers, to include pro se litigants and should strive to behave in a way that befits the office to which he or she has been elected. This does not mean that a judge cannot be good humored or good-natured, only that he or she must try to exhibit the appropriate decorum at all times.

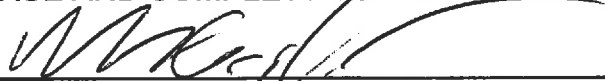
22. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?

I believe that these rules should guide a judge's behavior at all times.

23. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you? Is anger ever appropriate in dealing with attorneys or a pro se litigant?

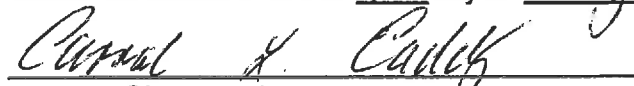
No. While we are all human and prone to frustration at times, it is important to remember that the integrity of the court system suffers when judges become angry with the public, lawyers and/or pro se litigants. Most lawyers are simply trying to zealously represent the interests of clients. Further, statements or decisions made in anger are generally poor.

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.



(Candidate Signature)

Sworn to before me this 1 day of August, 2016.



(Notary Signature)

CAROL L. EADY

(Print name)

Notary Public for South Carolina

My Commission Expires: May 14, 2017