



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

Administrative Law Court
(New Candidate)

Full Name: Debra Sherman Tedeschi

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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?

Like attorneys, judges generally are required to refrain from *ex parte* communications in legal matters. A judge shall not initiate, permit or consider *ex parte* communications. An *ex parte* communication is any substantive communication concerning a pending or impending proceeding without all parties being present or included. There are, however, certain limited exceptions to the general prohibition on *ex parte* communications, such as when the law expressly authorizes a judge to accept and consider *ex parte* communications. Also, *ex parte* communications related to scheduling, administrative purposes, or emergencies that do not involve the merits or other substantive issues are permitted. A judge may also obtain the advice of a disinterested party, such as an expert, provided that notice is given to the parties; an *amicus curiae* brief is a preferred method of getting advice from an expert.

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 a judge should recuse herself when there is an actual or perceived conflict of interest. If a judge's impartiality might reasonably be questioned, then the judge should recuse. For instance, if the judge (or judge's spouse) has a financial interest associated with the lawyers or parties appearing, then that would constitute grounds for recusal. However, simply because a lawyer-legislator or a former associate appears before a judge does not automatically require recusal. I note also that a lawyer in a government agency does not ordinarily have an association with other lawyer employed by that agency, yet recusal could be called for if the judge's partiality could be questioned.

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?

It is imperative that a judge not exhibit any bias or prejudice, either by words or conduct. If a judge has any appearance of bias, this threatens the integrity of the judicial process. Upon my disclosure to the parties about an appearance of bias and a subsequent request for me to recuse, I would grant the recusal motion. All behavior that may be perceived as prejudicial must be avoided.

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

I would not accept any gifts or social hospitality, except to the extent that they are permitted under the Code of Judicial Conduct. I would caution my husband and family from accepting gifts, also. Yet, the Code expressly cautions against a judge becoming isolated from the community in which the judge lives. Therefore, an incidental gift or a gift from a relative or friend for a special occasion is permissible, as well as other types of gifts and hospitality outlined in the Code in Canon 4.

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

I would report the lawyer to the Commission on Lawyer Conduct or the judge to the Commission on Judicial Conduct. Alternatively, if appropriate, I would urge the lawyer or judge to self-report to the applicable Commission.

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?

I currently serve on the Board of Directors for the Tree of Life Congregation, a Reform Jewish temple in Columbia. I occasionally engage in fund-raising activities related to Tree of Life.

11. How would you handle the drafting of orders?

Generally, I would draft my own orders (with assistance as needed from a judicial law clerk). On occasion, I would ask a party to submit a proposed order and then edit as needed.

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

I would utilize a variety of calendars, both printed and digital. I would devise strategies to ensure that my staff and I consistently met any deadlines imposed. Even where no express deadlines are imposed, I would strive to decide all matters expeditiously.

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

I believe that any and every judicial decision is inherently a judicial action. Yet, it is not a judge's role to set public policy, but rather to interpret the applicable law and to apply the facts to the law. In the case of interpreting statutory law, the judge's first and foremost job is to render a decision on the law that is in accord with legislative intent, which is gleaned from the plain meaning of the statutory language. Equally important, the judge must be an impartial arbiter of the dispute presented by the parties.

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 undertake activities primarily associated with the South Carolina Bar and judicial conferences. I would hope to be invited to present at continuing legal education (CLE) seminars. In addition, I would work to preserve the independence of the judiciary because it is an integral part of our three-branch system of government.

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?

Preserving my personal relationships, especially those with my husband and children, is extremely important to me. Balancing a legal career alongside a home life is challenging, but I feel I have successfully maintained that balance during the 20 years I have been a practicing lawyer (who is also a wife and mother). I do not feel that serving as a judge necessarily will strain my personal relationships, but of course, judicial service is an even higher calling than being a lawyer, and it will certainly bring additional responsibilities. I have already begun my plan to address whatever pressures may come my way by discussing the decision to apply for a judicial office with my husband and assessing whether our family was in a position to handle that kind of public service. Together, we have decided that judicial service is worthy of whatever sacrifices would need to be made.

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?

First, I would disclose to the parties the de minimis financial interest. Canon 3(E) does not require disqualification when only a de minimis interest is at stake, but it does mandate recusal when the judge's impartiality might reasonably be questioned. Therefore, if after disclosure of the financial interest, a party requested that I recuse, I likely would grant that request.

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.

For almost five years now, I have worked in the Office of General Counsel for the South Carolina Department of Employment and Workforce (DEW), first as Assistant General Counsel and then promoted to Deputy General Counsel. Therefore, I consider my recent and current legal experience to be close to 100% administrative law. I have defended scores of DEW appeals to the ALC, which includes preparing the records on appeal, drafting briefs and motions, and occasionally hearings at the Court. I also directly supervise and manage other attorneys with cases before the ALC. Occasionally, DEW is also involved in contested cases related to the Setoff Debt Act, as well as regulatory rule-making activities which may include proceedings before ALC. On behalf of DEW, I have also participated as lead counsel in appeals to both the Court of Appeals and the Supreme Court. When I was in solo practice, I handled an appeal from the South Carolina Department of Labor, Licensing and Regulation. Additionally, in my almost ten-year tenure at the South Carolina Supreme Court (1998-2004 and 2006-2009), I reviewed many appeals from the ALC and prepared bench memoranda on administrative law issues.

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

The appropriate demeanor for a judge is to exhibit objectivity, high ethical standards, intelligence, and humanity. A judge should strive to make all lawyers and parties feel as though they have been treated fairly and have truly been heard.

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?

A judge is a judge, seven days a week, twenty-four hours a day.

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?

Exhibiting anger is generally inappropriate when dealing with attorneys or pro se litigants. I could, however, envision rare circumstances, for example, when a pro se litigant or attorney exhibits legally contemptuous behavior which properly might provoke a judicial response that could be characterized as angry. Usually, though, anger has no place in a courtroom.

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

Debra Sherman Peduch

(Candidate Signature)

Sworn to before me this 31st day of July, 2016.

Amy Proveau

(Notary Signature)

Amy Proveau

(Print name)

Notary Public for South Carolina

My Commission Expires: 12/5/2022