



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

Supreme Court/Court of Appeals
(New Candidate)

Full Name: R. Keith Kelly

Business Address: 125 East Floyd Baker Blvd., Gaffney, SC 29340

Business Telephone: 864-487-2581

1. Do you plan to serve your full term if elected? Yes
2. If elected, 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? In accordance with Judicial Canons, a judge is allowed to engage in *ex parte* communications for emergencies where exigent circumstances warrant such communications as long as the opposing party has the opportunity to be heard and neither party will gain a tactical advantage by such action. I understand *ex parte* communication is permissible to seek emergency restraining orders, to apply for search warrants or wiretaps, to obtain default judgments when a party has notice but fails to appear, consultation with a disinterested expert on the law, consultation with other judges, consultation with court personnel and scheduling purposes. *Ex parte* communication is prohibited by the canons with the exception of these circumstances.
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 would exercise recusal in a manner consistent with the ethical canons in order to avoid improprieties and the appearance of improprieties. A judge's decision concerning recusal should be cautiously entered into to avoid frivolous attacks which are meritless. I would follow the Code of Judicial Conduct and recuse myself if my impartiality might reasonably be questioned. I would not recuse myself merely because a lawyer-legislator is counsel of record. I am a former legislator myself. As to former law partners and associates, I would decline to hear any matter in which my former law firm was involved.

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? Yes. If a judge's impartiality might reasonably be questioned, recusal is mandatory.
7. What standards have you set for yourself regarding the acceptance of gifts or social hospitality? Acceptance of the above items is governed by Canon 4 D (5) of the Judicial Code of Conduct. I have in the past and will in the future comply fully with the Canon.
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 any violation of the Judicial Canons.
9. Are you affiliated with any political parties, boards or commissions that need to be evaluated? No
10. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations? No
11. How would you prepare for cases that were before you? Calendaring events is and has been my method of preparation. I schedule time to read and research the issues of law in advance of hearing matters. Routinely, I ask lawyers to send motions and supporting case law or statutes prior to the call of the case.
12. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy? The power of the General Assembly is plenary in nature unless limited by a specific Constitutional provision. The General Assembly establishes the law and the Court follows the intent of the law. I have not and will not engage in judicial activism. I am a former member of the General Assembly of this state. It is the province of the General Assembly to create the law of South Carolina, not the Judiciary. The Judiciary does not legislate.
13. 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 am a member of the Access to Justice Committee and as such I have presented as part of a panel at a CLE. As a lawyer legislator, several times I presented at the Annual Public Defender's Conference, and I continue to be invited to do including this fall (2016) on a panel with fellow judges. I participate in the young lawyer mentoring program and the judicial observation program.

14. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you plan to address this? No. I was in private practice for over twenty-five years while simultaneously balancing my professional and private life. Additionally, I have served as a Circuit Court Judge for three years.
15. Are you currently serving on any boards or committees? If so, in what capacity are you serving? Yes, Access to Justice. I serve as the Circuit Court representative.
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, including past interpretations by the courts, together with acts of the General Assembly, assist me in interpreting the Constitution and applying that interpretation to all facts.
 - b) The use and value of an agency's interpretation of the Constitution: I have never considered how an agency interprets our Constitution.
 - c) The use and value of documents produced contemporaneously to the Constitution, such as the minutes of the convention: Contemporaneous documents and minutes of the convention are extremely important and helpful in understanding the context and meaning intended by the drafters of the Constitution. I would give great weight to those documents.
17. Is the power of the South Carolina General Assembly plenary in nature unless otherwise limited by some specific Constitutional provision? Yes. The power of the General Assembly is plenary in nature unless limited by a specific Constitutional provision. The General Assembly establishes the law.
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? Local government has its powers given to it by our State Government through the Constitution or statutory law.
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, I have exceeded this requirement regularly.
22. Have you written any scholarly articles? No
23. What do you feel is the appropriate demeanor for a judge? A Judge should be courteous to all persons who appear before the court. A Judge should remember that he is a representative of the State of South Carolina and conduct his behavior accordingly, both personally and professionally.
24. 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? The rules apply every day, all day.
25. Would there be a role for sternness or anger in meetings with attorneys? Anger is a human emotion but there is no place for anger in a courtroom either by a judge, lawyer or litigant.

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

R. Keith Kelly
(Candidate Signature)

Sworn to before me this 24th day of July, 2016.

Cynthia J. Kelly
(Notary Signature)

Cynthia J. Kelly
(Print name)

Notary Public for South Carolina
My Commission Expires: 8-11-2016