

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

Supreme Court/Court of Appeals
(New Candidate)

Full Name: David Garrison Hill

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1. Do you plan to serve your full term if elected? Yes.

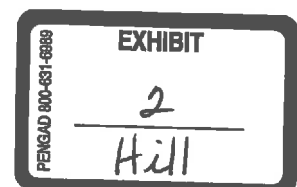
2. If elected, do you have any plans to return to private practice one day?
No.

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?
I follow Canon 3 (B)(7). Other than for routine scheduling matters and situations where such contact is statutorily permitted, I do not tolerate *ex parte* communications. Even where permitted, care should be taken to ensure no side gains advantage from an *ex parte* contact and that all parties are given appropriate notice of the communication and an opportunity to respond

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 adhere to Canon 3(E) on recusal, and have recused myself in situations when my impartiality might reasonably be questioned due to my relationship with a lawyer, party or subject matter of the case.



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?

I would defer to their request, unless there was a compelling countervailing reason not to, such as the rule of necessity.

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

I will at times accept ordinary social hospitality to the extent permitted by the Canons. I look askance at and typically decline such offers from people with whom I had no social relationship with before becoming a judge. As to gifts, I follow Canon 4(D).

8. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge? I would follow Canon 3(D).

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?

I would read and study the briefs, relevant precedent and do my own research. I would prepare carefully for and listen attentively to the oral arguments of counsel, and ask pertinent questions. I would discuss the issues with clerks and other judges when permitted.

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

Judges should not set public policy. I do not engage in "judicial activism," which I understand to mean situations where judges attempt to make rather than merely interpret and apply the law.

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 would plan on accepting invitations for occasional speaking engagements, offer to support improvements in civics education in schools, and contribute articles on the legal system to enhance public awareness of the role of the judiciary and promote the rule of law.

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?

Yes it can cause such strains, as any public service does. I attempt to address it by relying on the support of my family, friends, faith and personal dedication to duty and fairness.

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:
- b) The use and value of an agency's interpretation of the Constitution:
- c) The use and value of documents produced contemporaneously to the Constitution, such as the minutes of the convention:

My method of analysis would be what our supreme court has held must be followed. Accordingly, contemporaneous documents such as minutes would have the greatest weight, as they were accorded in Sloan v. Sanford. Historical evidence of intent can be valuable. An agency's interpretation of the Constitution is to be given little if any weight.

17. Is the power of the South Carolina General Assembly plenary in nature unless otherwise limited by some specific Constitutional provision?

It is plenary.

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?

All flows from the State level.

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?

While I am not sure they can be described as "scholarly" works, I have written the following:

- (a) "Back to the Future: United States v. Jones and the search for Fourth Amendment Coherence," May 2012 South Carolina Lawyer
- (b) "Celebrate the Bill of Rights and act as its Guardian," December 12, 2010 Op-Ed column in The Greenville News (article also published in The State)
- (c) "Celebrate That We're a Nation of Laws, Not Men," May 2, 2008 Op-Ed column in The Greenville News.
- (d) "Lay Witness Opinions," September 2007 South Carolina Lawyer at 34.
- (e) "Rule 30(j), Charlie McCarthy and The Potted Plant," September 2005 South Carolina Lawyer at 26.
- (f) Doing the Public's Business, (2001) (book authored with Leo H. Hill).
- (g) "Recent Changes to the South Carolina Freedom of Information Act," South Carolina Lawyer May/June 1999.
- (h) "The Fourth Amendment, Substance Abuse and Drug Testing in the Public Sector," South Carolina Lawyer, May/June 1997
- (i) "Mayhem," 7 S.C. Juris. 213 (1991)
- (j) "Direct Criminal Contempt," South Carolina Lawyer, Sept/Oct 1992

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

Above all, patience. A good and active listener. Dispassionate, open-minded and even-keeled. Courteous to everyone in the courtroom, regardless of their station in life. Firm when necessary but never hostile. A good judge accords everyone dignity and respect. He or she should have a sense of humor when appropriate, but never use it to embarrass or belittle. His demeanor should also be reliable; there are few things worse than a moody judge. A judge should remember that the addition of a robe does not make one omniscient; rather it requires one to be ever-mindful not to abuse his position. A judge should be sensitive to the pressure the litigants, witnesses and lawyers are laboring under in the courtroom. He should let the lawyers present their case without undue interference, while efficiently maintaining control of the courtroom and the dignity and decorum of the proceedings

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?

Seven days a week, twenty four hours a day

25. Would there be a role for sternness or anger in meetings with attorneys?

Benjamin Franklin said it best: "What begins in anger ends in shame." Anger is never appropriate for a judge. There may be times when a judge can be "righteously indignant," but not outright angry. Anger is corrosive. It clouds judgment and destroys objectivity.

A judge should however be firm, and even stern when circumstances require it, to the extent necessary to promote respect for and confidence in the judicial system and obedience to its rulings

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

Man Li

(Candidate Signature)

Sworn to before me this 27th day of July, 2016.

Dawn V. Koffsky

(Notary Signature)

Dawn V. Koffsky

(Print name)

Notary Public for South Carolina
My Commission Expires: June 30, 2019