



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

Circuit Court

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1. Why do you want to serve another term as a Circuit Court Judge?

It is an honor and opportunity to serve as a Circuit Court Judge. It is an honor to be placed in such an important and esteemed position in this State. It is an opportunity to be able to seek to improve upon our judicial system by being diligent in my daily duties, by participating in and attending continuing education, by seeking to use technology to improve efficiencies within the system and by participating in evaluations of the system with the goal of short-term and long-term improvements. I feel my abilities as a judge improve with experience.

2. Do you plan to serve your full term if re-elected?

I plan to serve the full term if re-elected.

3. Do you have any plans to return to private practice one day?

I do not plan on returning to private practice.

4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice?

Yes.

5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

I always seek to avoid ex-parte communications. I will participate in ex-parte communications permitted by the Judicial Canons, the Rules of Practice and the laws of this state, including scheduling and administrative matters. I do not engage in ex-parte communications regarding substantive matters and do not permit others to engage in them. If I engage in permissible ex-parte communications, I attempt to notify opposing counsel/parties.

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

Generally, I disclose potential matters/situations which may require recusal prior to any hearings or trial in order for the attorneys and/or their clients to request my recusal before having to prepare for the hearing. If a matter arises during a hearing or trial, I will disclose the matter to the attorneys and/or their clients and offer to recuse myself. I thereafter afford the attorneys and their clients the opportunity to discuss my recusal outside of my presence (remittur). If requested, I will recuse myself. I have also recused myself without being requested to in situations where the perceptions of my impartiality or bias may be levied although I felt I could be fair and impartial. I refer to Canon 3(E) for guidance.

I would refuse to recuse myself based upon the mere allegation of the "appearance" of impropriety without evidence being presented (to avoid judge shopping) See Patel v Patel 359 SC515, 599 SE2d 114 (2004).

I would not recuse myself simply because of someone's station as a lawyer – legislator but would recuse myself if a recusal would otherwise be prudent under Rule 3(E).

I do not preside over matters involving one of my former law partners inasmuch as we are joint owners of a hunt club. I did not hear matters involving the other attorneys in my old firm for two years in order for the cases while I was there to have cleared through the system. I maintain a list of former clients for reference to determine whether I need to notify all parties of a prior representation and/or to recuse myself. If a prior client appears on my roster, I will notify all parties (preferable in advance) for them to request recusal or not.

If a former client appears at a hearing, I advise all parties on the record and then go through the remitter procedure in order for all parties to

discuss the matter out of my presence. If requested, I would recuse myself in a matter involving a former client.

In instances where a party may be improperly seeking to delay or to gain an advantage, I may decline to recuse if otherwise consistent with Rule 3(E).

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?

I would recuse myself. I give great deference to recusal requests.

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

I would recuse myself where my spouse, parent, child, family member residing in my house or within a third degree of relationship had an "economic interest" or social involvement in the case. If they simply had a de minimis economic interest or were more distantly related, I would disclose this fact and would recuse if my impartiality may fairly be questioned.

I would recuse myself in situations where my spouse, parent, child or family member, residing in my household or within a third degree of relationship were a material witness.

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

Other than occasional ordinary hospitality, I do not accept food, meals or gifts. I do attend bar related functions sponsored by the South Carolina Association of Justice, the South Carolina Defense Attorney Association and the Solicitors Conference where my lodging, food and course material are provided. I file the required financial disclosures reflecting the value of the expenditures in accordance with Canon 4(D) (5). These expenditures are also reported on my tax returns. I will accept gifts from relatives and close personal friends from whose cases I would disqualify myself from hearing in any event.

10. How would you handle a situation in which you became aware of

misconduct or appearance of infirmity of a lawyer or of a fellow judge?

I would take appropriate action if I felt that there was a substantial likelihood that a fellow judge violated the Code of Judicial Conduct or that there was a substantial likelihood that an attorney violated the Rules of Professional Conduct. Appropriate action may range from privately speaking with an individual to informing the appropriate authority. If I had knowledge that a fellow judge or any attorney violated their respective codes, I would inform the appropriate authority.

Knowledge is actual knowledge. If I had knowledge of a judge's or an attorney's infirmity, I would meet with them to have them voluntarily get the appropriate treatment. If they refused I would contact the appropriate authority.

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

No.

12. Do you have any business activities that you would envision remaining involved with if elected to the bench?

I personally own and rent property. I have ownership in an LLC which owns a tract of land for investment and recreational purposes. I own real property with two (2) siblings, used as rental and investment property.

I raise and sell cows in partnership with a lifelong friend. I envision remaining involved in all these if re-elected.

My wife will continue in her relationship with AnMed Hospital, including leasing her practice location to the hospital.

13. How would you handle the drafting of orders?

I usually request the prevailing attorney to prepare a proposed formal order and to present it to opposing counsel prior to its submission to me. On occasion, I will draft formal order.

My law clerk or I prepare Form 4's outlining the basics of my ruling in order for the file to be up to date and to help assist tracing the submission of the formal order.

14. If re-elected, what method would you use to ensure that you and your staff meet deadlines?

We use out-look computer calendaring system for my administrative assistant, my law clerk and myself. The system is backed up by my administrative assistant and law clerk in a notebook. My law clerk and my administrative assistant generally review pending orders each week and report the status to me. There is also a monthly reporting requirement to Court Administration for matters under advisement. For my Business Court cases I file similar reports quarterly.

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

The Legislature is the branch of government which enacts legislation. The Judicial branch is charged with the duty of effectuating clear and unambiguous legislative pronouncements. It is not for the Judiciary to construe or assign different meaning to clear legislative enactments. Further, it is the Court's duty to adopt a construction of a statute which will uphold its validity if possible with the Court making every presumption in favor of constitutionality of the enactment. Courts should not engage in judicial activism as to do so would result in the substituting its judgment for the Legislatures.

16. 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 have made presentations at various continuing education seminars on topics ranging from "Canine Search and Seizure" to "E-Discovery". I have also been a panelist at the South Carolina Bar "Sporting Clays – Ethics with the Judges" for most of the years I have been on the bench.

I have served as a Judge at the Furman Mock Trial and South Carolina Bar Mock Trial Competitions over several years. I have also spoken to the law class at T.L. Hanna High School for a couple of years.

I have been a panelist in other continuing education programs as well as a panelist at the Solicitor's Convention.

I plan to continue these activities.

17. 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? "Job pressure" has not strained personal relationships with my family or friends. I try to deal with the inevitable stress by being prepared and having outlets such as physical workouts, farming and hobbies. I initially believed that curtailment of social activities may present a source of stress; but this has seemed to have the opposite effect.
18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.

(a) Repeat Offenders: While each case stands on its own merit, I place weight on a person's criminal record when considering imposing a sentence. The severity of prior crimes and time elapsed between charges are important factors. An individual's intervening work history, contributions to society and rehabilitation and/or rehabilitation potential are also important factors.

(b) Juveniles (that have been waived to the Circuit Court): The nature of the underlying charge is an important factor. I can envision reluctantly treating a juvenile no differently than an adult if warranted by the facts. I would take into consideration the offender's age and immaturity, a minor's potential failure to appreciate the risk and consequences of his/her actions. I would also consider the minor's home life, his/her inability to deal with law enforcement and the possibility of rehabilitation.

(c) White collar criminals: While each case stands on its own, many white collar crimes involve more educated people committing financial offenses. I believe a balance needs to be struck which adequately punishes person(s) that should be in a position not to commit these offenses while providing restitution to their victims. However, a white collar criminal should not escape punishment simply because the crime is "financial", a promise of restitution is made and the person has financial resources.

(d) Defendants with a socially and/or economically disadvantaged background: Consideration of a person's background in light of the severity of the offense, past criminal record, as well as other relevant

factors, is appropriate before imposing sentence. A person from a particularly disadvantaged position may be entitled to extra efforts at rehabilitation unless the severity of the charge and prior record suggest otherwise.

(e) Elderly defendants or those with some infirmity: Age and infirmity should be considered in light of all other relevant factors to sentencing, such as the severity of the offense and past criminal record. If warranted by the facts, it may be possible to avoid making the elderly and infirm "wards" of the state if alternative punishment is appropriate and victims can be protected.

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

No. I do have investments in securities, land and cows. If a matter involved the company that issued the stock, I would advise the parties that I am a stock holder and offer them the opportunity to request a recusal. If my property management company appeared as a party or as a material witness, I would advise the parties and recuse myself, if requested.

I do not imagine a scenario where my investments in cattle would cause a problem unless a matter involving the sale barn appeared before me. In this event, I would advise the parties that I conduct business with the barn and recuse myself, if requested.

20. Would you hear a case where you or a member of your family held a de minimis financial interest in a party involved?

Although under Rule 3(E) I am allowed to hear such matters, I would however, disclose the de minimis interest on the record and then follow the procedure for Remittal of Disqualification; or, if possible, I would disclose the interest in advance.

21. Are you a member of any organization or association that, by policy or practice, prohibits or limits its membership on the basis of race, sex, religion, or national origin? If so, please identify the entity and explain if this organization practices invidious discrimination on any basis.

I am not a member of any invidious organizations.

22. Have you met the mandatory minimum hours requirement for continuing legal education courses for the past reporting period?

Yes.

23. What do you feel is the appropriate demeanor for a judge and when do these rules apply?

At all times a judge should conduct himself in a manner commensurate with the prestige of his office. A judge should be patient, dignified and courteous to everyone involved in the judicial system, from lawyers to litigants and from jurors to staff.

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

No.

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

Sworn to before me this _____ day of _____, 2018.

(Signature)

(Print name)

Notary Public for South Carolina

My commission expires: _____