



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

**Circuit Court
(Incumbent)**

Full Name: The Honorable Deadra L. Jefferson

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

I count myself fortunate to have found my vocation in life and to attempt to walk worthy of that vocation. It is a rare privilege to have been allowed to serve the citizens of South Carolina as a Family Court and Circuit Court Judge for the past twenty-two (22) years. At the outset I want to state that I love being a Circuit Court Judge. The last twenty-two (22) years have been enjoyable, rewarding and intellectually challenging. I have learned much about the law and human nature. I was taught that the position of a judge should be a continual growth process. I believe that I have continuously grown in my judicial perspective. I still have the same enjoyment for my work as the day I began twenty-two (22) years ago. The average Circuit Court Judge hears in excess of hundreds of matters each month including civil and criminal jury trials, varied motions, appeals and administrative matters ranging from average to very complex. Circuit Court Judges in South Carolina experience one of the largest per capita case filings per judge in the country. I believe that I have been a productive member of the Court.

I served as judicial law clerk to the Hon. Richard E. Fields. During my time with him I had the unique opportunity to observe and participate in dozens of trials and hearings and observe a master jurist. He taught me the importance of "people skills." I learned that the role of the judge is central to the lawyers and the litigants' perception that the system afforded them a fair trial/hearing. In addition, my legal research and order writing skills were refined during this process. These skills have been further refined during my time on the bench. Continuing to serve on the Circuit Court affords me the opportunity to apply the talents I have acquired in the court system. It will also afford me the opportunity to continue to interact with the community and affirm their belief in our justice system. In addition, it will continue to be

an opportunity for intellectual growth while contributing to the court system and the welfare of the community.

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

Yes.

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

No.

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?

Code of Judicial Conduct Canon 3(A)(4) provides that a judge should accord to every person who is legally interested in a proceeding, or his lawyer, full right to be heard according to law, and, except as authorized by law, neither initiate nor consider *ex parte* or other communications concerning a pending or impending proceeding. A judge, however, may obtain the advice of a disinterested expert on the law applicable to a proceeding before him if he gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond. Pursuant to the Judicial Canons of Ethics, Rule 501, Canon C, Rule 65, SCRCP and S.C. Code Annotated Section §20-7-880, a judge is allowed to engage in *ex parte* communications for emergencies where the conditions 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. *Ex parte* communication is permissible in the following situations: 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 the circumstances outlined herein. I have a strict policy regarding *ex parte* communication and have trained my staff regarding the canons. In

addition, my secretary and law clerk screen my calls and mail to eliminate the possibility of ex parte contact. A letter is also sent in response to all ex parte communication received in the office that is mailed to the attorneys and the writer of the letter all of which is made part of the Court record. Where the statute and canons provide ex parte contact is allowed. I must emphasize that such contact is in rare circumstances where an emergency exists and there is a possibility of irreparable harm. The statute and rules prescribe in these instances that the Order must state the date and time the relief is granted and provide for an immediate hearing. The Order must also specify a date for expiration of the Order (within 10 days of issuance). Circumstances requiring the issuance of an ex parte Order are very rare. Although the rules allow such contact for scheduling purposes I have a policy of speaking to all affected parties via conference call, when feasible, for this purpose. In the past, I have clearly posted the rules regarding ex parte communication on my chambers door. However, we now have secure chambers that do not allow public access so I no longer find this practice necessary. My reputation in this regard is well known and as a result I rarely, if ever, encounter this issue. However, if confronted with such a situation, I immediately advise that ex parte communication is unethical and terminate the conversation or contact immediately.

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

Code of Judicial Conduct Canon 1 and 2 govern this issue. A judge should avoid impropriety and the appearance of impropriety in all his activities. Canon 3(C)(1) provides that a judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned, including but not limited to instances where he served as a lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter. Consistent with the canons I do not hear matters in which I have been previously involved. In addition, I do not hear contested cases with attorneys with whom I have had previous legal associations. A judge should recuse himself in a proceeding in which his impartiality might reasonably be questioned, including but not limited to, instances where he has a personal bias or prejudice against a party. Murphy v. Murphy, 319 S.C. 324, 461 S.E.2d 39 (1995) and Mallett v. Mallett, 323 S.C. 141, 473 S.E.2d. 804 (Ct.

App. 1996). Such bias must stem from an extrajudicial source and result in decisions based on considerations other than information that the judge learned from his participation in the case. The alleged bias must be personal as distinguished from judicial. Recusal is not required based on the judge's demonstrated tendency to rule or particular judicial leaning derived from his experience on the bench. United States v. Grinnell Corp., 384 U.S. 563 (1966). I am not aware of any particular rule that requires a judge to recuse himself in a case involving a lawyer-legislator unless the criteria set forth herein is established. If the criteria for recusal are met a judge should certainly disqualify himself from the case. As a matter of course I recuse myself from contested cases involving the attorney from my previous law practice.

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?

Code of Judicial Conduct Canon 3(C)(1)(a) provides that a judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned, including but not limited to the instances where: he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding. I would give great deference to the request, even though I believed that I could be impartial, that any decision I made would not be influenced by actual bias and would not result in actual prejudice to the litigants involved. I would grant the motion for recusal based on the canons of judicial ethics. A judge should at all times avoid the appearance of impropriety or bias. The way this question is posed it is apparent that an appearance of bias is created and therefore recusal, in this instance, would appear to be the most prudent course of action.

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

Code of Judicial conduct Canon 3(C)(1)(c) provides that a judge should disqualify himself in a proceeding which his impartiality might reasonably be questioned where he knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy, is a party or any

interest that could be substantially affected by the outcome of the proceeding. The canons provide that a judge should minimize circumstances causing recusal so that the docket can be handled in an efficient and orderly manner. Canon 3(D) provides that a judge should disclose the basis of his disqualification. The judge should then give the attorneys and or litigants the ability to voice their objections for the record. If there are no objections the judge could then hear the case. The parties and lawyers independent of the judge's participation can also agree in writing that the judge's relationship is immaterial or that his financial interest is insubstantial. Such an agreement must be incorporated in the proceeding. In reality, I would not hear any such case, would publish the nature of the disqualification for the record and would recuse myself from any involvement in the matter. The appearance of impropriety should always be avoided.

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

Code of Judicial Conduct Canon 5(C)(4) subsections a-c provide that neither a judge nor a member of his family residing in his household shall accept a gift, bequest, favor, or loan from anyone except in the following circumstances: a public testimonial, complimentary books for official use, an invitation to a bar related function or activity related to the improvement of law, the legal system or the administration of justice. A judge or a member of his family may accept ordinary social hospitality such as a gift, bequest, favor, or loan from a relative, a wedding or engagement gift, a loan from a lending institution in its regular course of business and on the same terms as the general public, a scholarship or fellowship on the same terms as other applicants. A judge or his family residing in his household may accept any other gift, bequest, favor or loan only if the donor is not a party or other person whose interests have come or are likely to come before him, and, if its value exceeds \$100, the judge reports it in the same manner as he reports compensation in Canon 6(C). The canons make a distinction between gifts and ordinary social hospitality. As a sitting judge I have established the practice of not accepting personal gifts from attorneys or anyone who may be trying to gain an unfair advantage. In addition, I do not allow my staff (secretary, law clerk or court reporter) to accept gifts because of their close relationship to me and the appearance their acceptance of gifts could create.

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?

Code of Judicial Conduct Canon 3(D)(1) and (2) provide that a judge should take or initiate appropriate action or disciplinary measures against a judge or lawyer when the judge receives information that indicates a substantial likelihood or has knowledge that raises a substantial question regarding a violation. This rule contemplates a judge taking appropriate disciplinary measures when becoming aware of the unprofessional conduct of a lawyer or judge which may include reporting a lawyer or judge's misconduct to an appropriate disciplinary body. The rules mandate that the judge take appropriate action and or report the offending conduct to disciplinary counsel. Consistent with the canons I would take appropriate disciplinary measures and/or appropriate action and report the matter to disciplinary counsel.

11. Have you engaged in any fund-raising activities with any social, community, or religious organizations? No. Please describe. N/A
12. Do you have any business activities that you would envision remaining involved with if reelected to the bench?

I have been a sitting judge since 1996 and have curtailed all of my activities to comply with the rules of judicial ethics and I do not have any business activities in which I have remained active since my election.

13. How do you handle the drafting of orders?

Code of Judicial Conduct Canon (3)(B) subsections 1 and 2 provide that a judge should diligently discharge his administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials. The Canon further provides that a judge should require his staff and court officials subject to his direction and control to observe the standards of fidelity and diligence that apply to him. More specifically, in uncontested matters involving agreements I require that the proposed Orders be

submitted to my office and opposing counsel within ten (10) days so that a Final Order can be signed and filed within ten (10) to thirty (30) days. If the Order is not received by the deadline a reminder is sent to both attorneys with the directive to submit the Order. This type of time line gives ample time for changes, modifications and filing within thirty (30) days. The preparation of orders in contested matters is handled in one of the following manners: (1) I transmit written instructions to announce my rulings and give specific instructions including findings of fact and conclusions of law for the preparation of the Order. These instructions are generally specific and provide the basis for the Order. The proposed order is then submitted within ten (10) days. (2) I rule from the bench and provide specific instructions including findings of fact and conclusions of law with directions that the proposed Order is to be submitted in ten (10) days. (3) I require both attorneys to submit proposed Orders within ten (10) to twenty (20) days depending on the complexity of the issues. I require submission of the proposed Order by email. This approach allows me to make modifications to the Order consistent with my findings and research and prevent any delay in the completion and filing of the Order. (4) I rule from the bench as well as prepare the order. If my office has contacted an attorney repeatedly and an Order has not been forthcoming I have a conference call with the attorneys and determine if there is some problem. The Order is usually drafted and submitted. If this approach does not work and the Order is not prepared in a timely manner I draft the Order. If the matter involves a pro se litigant that has not submitted an Order in a timely manner I draft the Order. In addition, as a policy all orders submitted in my administrative capacity are signed on the day submitted. I generally approach these matters on a case-by-case basis. I have found that a combination of the above approaches works very well.

14. What methods do you use to ensure that you and your staff meet deadlines?

My staff prepares my docket and case notes in advance of each term of Court. My staff and I have devised a method whereby after cases are heard my staff ensures that matters are logged and deadlines are checked at the ten (10) day mark to ensure that Orders are submitted, signed and filed within a timely manner. In addition, deadlines are monitored on a daily basis. I am advised of the progress of Orders and other matters daily and weekly. On a weekly basis my secretary, law clerk and I review deadlines for Orders and other

matters that require my attention. Generally, my staff will utilize a phone call to both attorneys (by conference call) as a reminder at the ten (10) day mark and if the Order is not in by the fifteen (15) day mark an email memo is sent to both attorneys as a reminder. We also have a filing system that is designed around applicable deadlines. I handle each matter on a case-by-case basis because sometimes circumstances are such that extensions are necessary (i.e. receipt of a transcript, emergencies, death, sickness, and birth of children).

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

Code of Judicial Conduct Canon 4(A-C) and Canon 5(G) provide that a judge may engage in activities to improve the law, the legal system and the administration of justice. A judge may speak, write, lecture, teach and participate in other activities concerning the law, the legal system, and the administration of justice. A judge may appear at a public hearing before an executive or legislative body or official on matters concerning the law, the legal system, and the administration of justice and he may consult with such bodies concerning the administration of justice. A judge may serve as a member, officer, or director of an organization or governmental agency devoted to the improvement of the law, the legal system or the administration of justice. The commentary provides that a judicial officer is in a unique position to contribute to the improvement of the law, the legal system and the administration of justice and should do so to the extent that his schedule permits. A judge may do so independently, through a bar convention, a judicial conference, or other organizations dedicated to the improvement of the law. A judge should not become involved in activities that are concerned with issues of fact or policy on matters other than the improvement of the law, the legal system or the administration of justice. A judge may represent his country, state or locality on ceremonial occasions in connection with historical, educational, and cultural activities. My philosophy is that a judge should not be concerned with issues of fact and policy. A judge should take no role in judicial activism. A judge should, however, actively participate and contribute his particular knowledge and skill to the improvement of the law, the legal system and the administration of justice (to the extent that his schedule permits).

16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities do you plan to undertake to further this improvement of the legal system?

To the extent the Court schedule allows I participate as a speaker at CLE and JCLE programs. In addition, I formerly served as a member of the South Carolina Commission on Alternative Dispute Resolution that is charged with the responsibility of developing a uniform system of rules and procedures for ADR to be used statewide by the Court system. As a former member I served on the User Education subcommittee. I also serve on the Advisory Board of the Charleston School of Law, which provides a wealth of opportunities to improve the legal system and the administration of justice. I have participated in civic programs such as the S.C. Bar High School Mock Trial Program and SCDA Trail Academy as a judge. I have participated in Law Week, which is a wonderful opportunity to educate attorneys and the public about the legal system. I was previously involved as a member of the Governor's Juvenile Justice Advisory Committee. This committee works much like the Governor's Youth Councils. As a member I contributed to working on the development of community alternatives for juveniles within the system and community based juvenile crime prevention programs. As a member of the Charleston S.C. Chapter of the Links I participate in mentor and other programs targeted to youth through our Services to Youth, National Trends and Arts Facets. I also participate as a mentor for local elementary, middle and high schools. In addition, I routinely speak at my college alma mater and local schools. I also host local school group visits to the Courthouse to observe the judicial process. As a board member of the National Consortium through the Center for State Courts, I contribute to the development of programs to improve the administration of justice. As a former member of the S.C. Access to Justice Commission I assisted in the development of programs ensuring access to our justice system for the citizens of South Carolina. I am also involved in educating law students through the Judicial Observation Experience (JOE Program) and externship program.

17. Do you feel that the pressure of serving as a judge strains personal relationships (i.e. spouse, children, friends, or relatives)? How do you address this?

I do not feel that the pressure of serving as a judge has strained my personal relationships. My family, friends and relatives

understand the nature of my character and my need to preserve the integrity of the office I hold and the legal process I have sworn to uphold. As a result, this is not an issue that I have had to address.

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:

Repeat offenders: In most instances the criminal statutes provide enhanced penalties for repeat offenders. A repeat offender has by his actions indicated that he has little desire for rehabilitation or reconditioning of his behavior. It is my philosophy that the consequences for a repeat offender should be given as mandated by the applicable statute. In addition, criminal history of a defendant is always a relevant consideration in determining a sentence.

b. Juveniles (that have been waived to the Circuit Court):

The act of the Court in waiving a juvenile up to the Circuit Court indicates that the Family Court has already determined pursuant to the applicable criteria that the juvenile should be treated as an adult. A juvenile that has been waived up to the Circuit Court has met the criteria by statute to be treated as an adult. I would apply the appropriate statutory penalty. I would, however, give consideration to the possibility of rehabilitation, the juvenile's ability to re-enter society as a productive adult and the circumstances which brought about his criminal activity. I would consider the safety of the community. The juvenile's age would also be taken into consideration in reaching an appropriate sentence. I would also consider the relevant factors mandated by Aiken v. Byars, 410 S.C. 534, 765 S.E. 2d 572 (2014) in mitigation.

c. White collar criminals:

White-collar criminals are not entitled to any particular attention.

A

white-collar crime is not any less criminal than a violent offense. While the activity committed may not have been violent or

caused the loss of life in many instances it has caused harm to innocent citizens. I would consider the nature of the offense, the kind of harm caused as a result in the community, and the range of citizens that have been affected by the criminal act. The above criteria would all be relevant in fashioning the appropriate sentence. I would also consider the appropriate statutory guidelines in determining a sentence.

- d. Defendants with a socially and/or economically disadvantaged background:

I would not treat these defendants any differently but the fact that they are socially or economically disadvantaged are factors to consider in mitigation. These factors would give some indication regarding the type of crime committed, propensity and the ability for rehabilitation of the defendant. I believe these factors should be given appropriate, but not an overriding, consideration in determining sentence.

- e. Elderly defendants or those with some infirmity:

Elderly and infirm defendants present distinct problems for the system. In many instances a judge may not want to create an overwhelming financial burden for the taxpayer by incarceration when other means may be available that would provide more viable alternatives. These factors should be given the appropriate consideration. While considering these circumstances may provide some mitigation it does not eliminate the judge's responsibility to apply the appropriate criminal sanction commensurate with the crime. The safety of the public should not be sacrificed because of the age or infirmity of a criminal defendant.

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

No.

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

Code of Judicial Conduct Canon 3(E)(1)(c) provides that a judge should recuse himself if he, a spouse, or household member has an economic interest or has more than a "de minimis" interest that could be substantially affected by the proceeding. While the canons allow a judge to hear a case where his financial involvement would be defined as "de minimis," in most instances, I would recuse myself. Even a de minimis financial interest could cause the appearance of impropriety in many circumstances. However, I would hear the case if there were no objections after full disclosure is made.

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.

Code of Judicial Conduct Canon 2(c) provides that a judge should not hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion or natural origin. Membership in such an organization gives rise to perceptions that the judge's impartiality is impaired. Consistent with the requirements of the canons I do not belong to any organizations that discriminate based on race, religion, gender or national origin.

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

Yes. I have exceeded the minimum hour requirements each year.

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

Code of Judicial Conduct Canon 3(A)(3) provides that a judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom he deals in his official capacity, and should require similar conduct of lawyers, and of his staff, court officials, and others subject to his direction and control. I feel that the appropriate demeanor for a judge is to be patient,

courteous, dignified and deliberate while conducting the Court in an efficient and businesslike manner.

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

Code of Judicial Conduct Canon 1, Canon 2(A), and Canon 3(A)(3) require a judge to be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom he deals in his official capacity. Even though judges are often confronted with patience trying situations it is not appropriate to deal in anger with a member of the public, litigants, a criminal defendant, pro se litigant, or an attorney. It is, however, appropriate for the judge to be firm in maintaining the appropriate decorum of the courtroom and the dignity of the process.

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: _____