



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

Supreme Court/Court of Appeals
(Incumbent)

Full Name: John D. Geathers

Business Address: 1220 Senate St., Columbia, SC 29201

Business Telephone: 803.734.2429

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

Yes.

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

I have no current plans to enter private practice in the future.

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 avoid *ex parte* communications. Because our clerk of court performs all functions regarding the administration of the docket, my staff and I are insulated even from *ex parte* communications that are permissible for administrative purposes under the Judicial Code of Conduct.

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

With regard to former associates, I have never been employed or associated with a law firm, other than as a law clerk. As to lawyer-legislators, recusal is not required under the Judicial Code by virtue of a counsel's status as a lawyer-legislator. If this were not true, lawyer-legislators would be precluded from appearing in any court. Generally, I would recuse myself in any situation where my impartiality would be in question.

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. I would recuse myself in any situation where my impartiality might reasonably be questioned.

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

I would not accept gifts from attorneys or anyone likely to appear before me, but would likely accept ordinary social hospitality consistent with the Judicial Code.

8. 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 be duty-bound to inform the appropriate authorities.

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

No.

10. How do you prepare for cases that come before you?

I read the briefs and records of the cases that come before me; and, my staff and I conduct legal research, conduct in-chambers conferences, and draft bench memos and questions prior to oral arguments.

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

I subscribe to the philosophy enunciated in Smith v. Wallace, 295 S.C. 448, 452, 369 S.E.2d 657, 659 (1988): "This court has no legislative powers. In the interpretation of statutes our sole function is to determine and, within constitutional limits, give effect to the intention of the legislature. We must do this based upon the words of the statutes themselves. To do otherwise is to legislate, not interpret. The responsibility for the justice or wisdom of legislation rests exclusively with the legislature, whether or not we agree with the laws it enacts."

Further, a judge does not have authority to promote public policy, other than to the extent such is promoted in effectuating legislative intent in statutory law or common law. See Citizens' Bank v. Heyward, 135 S.C. 190, 204, 133 S.E. 709, 713 (1925) ("The primary source of the declaration of public policy of the state is the General Assembly[, and] the courts assume this prerogative only in the absence of legislation declaration.").

12. 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?

I have coauthored a treatise, been a contributing author to another, published articles in legal journals and periodicals, served as an adjunct professor at both law schools in the state, participated as a presenter at CLEs, participated regularly in the Judicial Observation and Experience Program, and served as a judge in numerous moot court competitions. I will continue to so engage in such activities as the opportunities present themselves.

13. 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?

No, I have served as a judge for 23 years and this has not been an issue.

14. Are you currently serving on any boards or committees? If so, in what capacity are you serving?

I am not currently serving on any boards or committees.

15. 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:

When construing a constitutional provision, a court should apply rules similar to those relating to the construction of statutes. That is, the aim or objective is to determine the intent of the framers and the people who adopted the constitutional provision. See Neel v. Shealy, 261 S.C. 266,

272, 199 S.E.2d 542, 545 (1973). Further, a court should be guided by the ordinary and popular meaning of the words used. Richardson v. Town of Mount Pleasant, 350 S.C. 291, 294, 566 S.E.2d 523, 525 (2002). In determining constitutional intent, I believe it is permissible for a court to utilize documents produced contemporaneously to the Constitution. Such was the case in 1973 when the Court was interpreting the new Article VIII to the State Constitution. See Neel, 261 S.C. at 275, 199 S.E.2d at 546. In its analysis, the Court considered the recommendations of the committee charged with drafting the constitutional language—the Committee to Study the Constitution of 1895. Id. at 276, 199 S.E.2d at 547. In reaching its conclusion concerning the constitutional provision, the Court specifically considered the "history of its adoption and clear intent of the Committee" Id.

Therefore, I believe documents produced contemporaneously to the Constitution should be given the greatest weight in interpreting the Constitution, followed by historical evidence, which is then followed by an agency's interpretation. With regard to an agency's interpretation, it is well settled by state case law that an agency's interpretation of its own regulations and statutes that it is charged with administering should be given deference. However, an agency has no authority to pass on the constitutionality of a statute, as the court is the ultimate interpreter of the Constitution. Video Gaming Consultants, Inc. v. S.C. Dep't of Revenue, 358 S.C. 647, 652, 595 S.E.2d 890, 892 (2004); see S.C. Pub. Interest Found. v. Judicial Merit Selection Comm'n, 369 S.C. 139, 142, 632 S.E.2d 277, 278 (2006). Hence, I would give an agency's interpretation little, if any, weight.

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

No.

17. 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.

No.

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

Yes.

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

A judge should be courteous to attorneys, litigants, and any other participants in a matter before the judge, while at the same time maintaining control of the courtroom. Also, a judge should instill public confidence in the integrity and independence of the court by acting without fear or favor.

20. Is there a role for sternness or anger with attorneys?

No. Nonetheless, a judge should maintain decorum in the courtroom.

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 S.C.

My Commission Expires: _____