



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

Circuit Court
(New Candidate)

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1. Why do you want to serve as a Circuit Court judge?

I want to share the experience and perspective that I have acquired from nearly a quarter century as a criminal and civil litigator. I have been in a courtroom for nearly my whole career and it is where I am most useful.

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

Canon 3 sets out the circumstances where *ex parte* communications are tolerated. It is important that it be over a minor administrative or scheduling event where no party could be perceived to be at an advantage. There are also emergency situations. It is also important that notice of the communication is transmitted to the other party.

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

A judge should avoid the appearance of impropriety. I don't know a legal reason why lawyer-legislators should require me to recuse myself. When they are in a courtroom they wear their "lawyer" hats. Former associates and partners present a more difficult dilemma because it might be assumed that you would have developed a bias from having worked with them. Luckily, I am not so entangled. Given enough time, even former associates and partners become just lawyers that we know, and hopefully, respect. In the short term, however, it is best to avoid the appearance of bias.

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?

Because a judge has to avoid the appearance of bias, not just bias, I would grant such a motion.

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

It is the appearance that is the important part. We can not allow such appearance to degrade the dignity and authority of the court. It also has the prosaic effect of requiring them to pay their own speeding tickets. Recusal would be in order.

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

The Canon provides that gifts and social hospitality can only be accepted if the group providing it is not the sort that would appear before the judge. Ordinary social hospitality is excluded. I would never want a disinterested third party to believe that my decisions were influenced by a gift.

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?

A judge must take direct action. Direct action can be confronting the judge or lawyer about their behavior or, in serious cases, reporting the behavior to the proper disciplinary authority.

11. 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, I am not.

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

No.

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

No.

14. If elected, how would you handle the drafting of orders?

It is important that orders be accurate and timely. In the practice I see judges routinely rely on attorneys to prepare orders. This relieves the overburdened system and requires the court to be an editor rather than a drafter. I would rather be an editor than a drafter.

15. If elected, what methods would you use to ensure that you and your staff meet deadlines?

I know that Court Administration has guidelines. There are also court rules. I know that court staffs enforce these rules because I get the emails from time to time. A court must know how many orders are out there to resolve and a strict calendar must be kept. Communications between the Court staff and the attorneys must be open.

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

A judge should interpret the law, not make the law. If I wanted to set or promote a certain public policy I would choose another profession, such as an activist, organizer or legislator.

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

Because I learned law in one state, practiced law in another, and now find myself in a third, I carry some of the good ideas from these past experiences. Our civil cases have detailed rules based on the Federal Rules of Civil Procedure. Our criminal rules are badly outdated. I would like the legislature and judiciary to undertake to reform these rules for the betterment of the practice.

18. 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 address this?

My family has put up with me spending long hours and weekends at the office for twenty-four years. They know, because I am a litigator, that I do not always control my schedule and the requirements of a trial may. My friends in the profession will have to adjust to a distance that I will have to create to make sure that I am not influenced by factors that are outside of the law.

19. 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 shoplifters are annoying. Repeat armed robbers are dangerous. Consideration in sentencing must be given to an individual's inability to conform to societal norms. Some repeat offenders cannot always expect the lightest range of sentence. However, no two offenders are alike.

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

Juveniles that have been waived into Circuit Court have often been alleged to committed horrific crimes. However, our Supreme Court has recognized that their brains are not fully formed and their moral decision-making ability may be impaired. Care must be taken to allow all the required mitigation to be presented prior to making a sentencing decision.

- c. White collar criminals:

White collar criminals often do not have other indicia of criminal behavior but have often been accused of taking much more from their victims than what would occur in a robbery. When I prosecuted these crimes I emphasized making the victim whole. I think that is the best approach.

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

This definition comprises the majority of persons that I have prosecuted and defended. These are the persons most often accused of crime. Care must be taken that persons do not stay in pre-trial detention or have their probation revoked because of circumstances beyond their control.

- e. Elderly defendants or those with some infirmity:

The elderly and infirm pose a difficult problem for the State. Housing them and caring for their medical needs is exponentially more expensive than it is for younger individuals. Sometimes, however, the severity of the crime dictates the sentence.

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

No.

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

It would depend on the *de minimis* financial interest. If every judge had to recuse themselves in issues involving state pensions, we could not find a judge to hear such a case. The interest has to be substantial enough to give the appearance of bias. If the interest were narrowly focused, and not broad like my pension example, then the chance of an appearance of bias would probably require recusal.

- 22. Do you belong to any organizations that discriminate based on race, religion, or gender?

No.

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

Yes.

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

Judges should be patient, dignified and courteous. I look forward to practicing in front of judges who can maintain that demeanor.

25. 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 pro se litigants?

I have been yelled at by judges. I have been dressed down, condescended to and belittled. I will say, however, that most of my war stories in this regard and starting to show some age. I have witnessed courts become impatient with lawyers and litigants and I understand why. One of the advantages that I have in a courtroom is the ability to keep my cool while my witness or case is falling apart. A judge should be above the fray and should resist resorting to anger, even if deserved. The judges that I respect most can control a courtroom with a subtle interjection or even a glance. When you control a courtroom (and are seated higher than everyone else) you should not have to shout. The Canon speaks of "decorum". Courts should remain havens of dignity and decorum.

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: _____