



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

Family Court
(Incumbent)

Full Name: Phillip K. Sinclair

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

I previously served as a law clerk and an Assistant Solicitor. I was in private law practice for more than 28 years, with an emphasis on Family Court work. My experience, knowledge and temperament have been a great benefit in my service on the Family Court. In addition, I love the work that we do on the Family Court. It has been a great honor to serve. I would very much like to continue my service.

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

At the time of this writing I am sixty-five years old. I am in good health and have no plans to retire in the near future. That said, I cannot truthfully say whether I will serve a full term.

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

No

4. Have you met the statutory 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?

Ex parte communications in general should not be tolerated. The Judicial Canons set forth very limited circumstances where ex parte communications may be tolerated, such as scheduling and other administrative matters. Unless ex parte communications fall within these very limited exceptions, they should not be sanctioned or allowed.

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

Each case must be evaluated as it occurs. Any relationship with lawyer-legislators or former law partners or associates should be divulged on the record. If any party requested recusal, I would recuse. It is important to avoid not only actual bias, but 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?

I would give great deference to a party requesting recusal. However, I would also give consideration to any potential prejudice to the non-moving party that resulted from granting the motion. That said, avoiding the appearance of impropriety is important in all cases.

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

In order to avoid the appearance of impropriety, I would likely grant a motion to recuse. I would first disclose to the parties and their attorneys any financial or social involvement of my spouse or a close relative. I would then allow the parties to discuss the issue outside the presence of the Court. If either party had reservations, I would recuse myself.

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

This issue is governed by Canon 4(C)(2)(d)(5). Judges should not accept gifts, or even social hospitality, except in the very rare circumstances set out in Canon 4.

10. How do you handle a situation in which you became aware of misconduct or appearance of infirmity of a lawyer or of a fellow judge?

If I had knowledge that another Judge has committed a violation of the Judicial Code or Code that raises a substantial question as to the Judge's fitness for office, I would inform the appropriate authority. If a lawyer's conduct raises a substantial question as to the lawyer's honesty, trustworthiness or fitness, I would notify the appropriate authority. If I had reason to believe a lawyer was impaired because of substance abuse or mental infirmity, I would likely contact "Lawyers Helping Lawyers." If the impairment rose to a level affecting fitness, I would contact the appropriate disciplinary authority.

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

No

12. Do you have any business activities that you have remained involved with since your election to the bench?

No

13. Since Family Court judges do not have law clerks, how do you handle the drafting of orders?

In most instances, I either rule from the Bench or issue written instructions. The Order is then prepared by one of the attorneys and reviewed by the other attorney. If one of the litigants is pro se, I have the attorney send the Order to the pro se prior to its submission to me. In some instances, I draft Orders myself.

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

My Administrative Assistant keeps my docket from each day's work. She marks that docket as Orders come in from hearings which have been previously held. She also monitors my Matters Under Advisement list to be certain that needed Orders are received in a timely fashion. I also monitor this list on a regular basis. If an Order becomes overdue, she sends reminders to the attorneys involved. If Orders are still not received within a given time frame, I will personally call the responsible attorney. It is my practice, if at all possible, to sign everything on my desk before I leave each day. I also try to rule on all cases in a prompt fashion.

15. What specific actions or steps do you take to ensure that the guidelines of the guardian ad litem statutes are followed during the pendency of a case?

In our Circuit, the Family Court Judges typically use temporary hearings and pretrial hearings to make sure that guardian ad litem are timely appointed and

that they are complying with the statute. I am also careful to be sure at the final hearings that recommendations regarding custody are not made by the guardian.

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

Public policy should be set by the Legislature. It is the responsibility of the Judge to determine the facts and apply the appropriate law. It is not the prerogative of Judges to either set or promote public policy.

17. 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 am available to speak on topics concerning the law or the legal system. The Chief Justice recently challenged us to become more involved in activities that will further the improvement of the Judicial system. One way to do this is to speak to civic clubs and other interested groups regarding the function, role and importance of our Court system.

18. 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 have not found that serving as a Judge has strained personal relationships. As compared to private law practice, the hours are regular and there are few emergencies that arise after hours or on weekends. When I have travel that necessitates overnight stays, my family functions well without my daily presence. My youngest son also lives nearby in case of an emergency.

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?

This is not likely to occur in Family Court. However, if this occurred, I would hear the case if the financial interest was, in fact, *de minimis*, and no party objected after disclosure on the record.

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.

No

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?

I believe that a Judge should be patient and courteous to all persons with whom he or she deals. A Judge should be dignified and run his or her courtroom in an orderly manner. A Judge's demeanor should signal to litigants, lawyers and Court personnel that all are treated in a fair and impartial manner. In or out of the courtroom, a Judge should act in a way to bring dignity and promote confidence in the judicial system.

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?

Anger is never appropriate when dealing with litigants, lawyers or Court personnel. Most people who enter the Family Court are dealing with a stressful situation and Judges should be calm and patient at all times.

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: _____