



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

Family Court
(Incumbent)

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

Since initially seeking this seat last year, I have had an opportunity to sit with several Family Court Judges throughout the State, and the one thing that is clear is that the South Carolina Family Court does more to affect the lives of South Carolina citizens than any other Court. Most importantly, as a Family Court Judge I have the responsibility to ensure that the children of South Carolina are cared for and protected. The reason I am seeking another term is so that I can help those children that are in danger, assist those that have run afoul of our criminal statutes, and, in private custody actions, create a plan that ensures that the child will grow up to be a successful citizen of our State.

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 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 are prohibited with a few very narrow exceptions. The only situations in which an ex parte communication may be appropriate in a Family Court case is if a child or litigant is in danger (or one of the other statutory grounds found in S.C. Code Ann. § 63-17-390, 400), in those very limited circumstances, it would be appropriate for the Court to review an ex parte motion and affidavit to determine if an emergency existed that would warrant the Court issuing an ex parte emergency temporary order. This exception would not deal with any substantive matters or issues on the merits unless specifically authorized by law (e.g. temporary restraining order and temporary child custody and support orders – in limited instances).

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

I believe that in any situation where a Judge hears a case with an attorney (associate or partner) from his former firm, it could raise the potential appearance of impropriety to the other litigant. Therefore, my philosophy when it comes to handling cases in which an attorney from my former firm appears before the Court would be to recuse myself from hearing that case. It should be noted, however, that I practiced in a two-attorney firm with my father as the only other attorney; therefore, I would have to recuse myself on other grounds. As for lawyer-legislators, there would be no need to recuse myself without some other issue that would create a conflict. The mere fact that an attorney appearing before me is also a legislator is not a basis for recusal, in my opinion.

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?

If the party truly felt that the Court could not be fair and unbiased (thus, raising an appearance of impropriety), then I would grant that party's motion and recuse myself.

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

I would recuse myself from hearing that matter/case.

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

The acceptance of gifts is specifically prohibited by the Code of Judicial Conduct, Rule 501, SCACR (Canon 4) with certain exceptions. I would not accept any gifts unless it was one of the following: (1) an invitation to attend a bar-related function devoted to the improvement of the law, the legal system or the administration of justice; (2) ordinary social hospitality; or (3) a gift from a relative or close friend for a special occasion.

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 believed the conduct of a Judge violated the Judicial Code, then I have an obligation to speak to that Judge and notify the Office of Disciplinary Counsel. The same would apply to an attorney if I believed that they violated the Rules of Professional Conduct. If the issue was related to substance abuse, I would contact the Bar's Lawyers Helping Lawyers program.

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

None. Since the last time I ran for this seat.

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?

Depending on the complexity of the issues raised, for more complex cases and *pro se* cases (where the litigants are not represented by counsel) I would most likely draft the orders; and, for less complex cases I would make a ruling from the bench and have one of the attorneys in the case draft the order (and submit it to the Court only after the other side has had a chance to review it).

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

Organization is the key to efficiency. In order to ensure deadlines are met there are two absolute requirements: (1) Be there early and work as late as you have to in order to complete the day's/week's tasks, and (2) maintain a

system whereby you know what your obligations are and when they must be met. By way of example, if you hear a case during Week One, and there is an order outstanding that hasn't been received by the beginning of Week Three, then my assistant will be contacting the party responsible for the preparing the Order to determine the status. Furthermore, I would apply the same requirements for matters that I take under advisement, by making sure that I had my rulings out in a timely manner.

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?

The best way to determine whether or not the guardian has complied with the guidelines is by reviewing his/her report. However, by the time you get to that stage it is at the very end of the case. One way in which you can ensure that a guardian is complying with the statutes is have a status conference 90-120 days after the appointment of the guardian to determine the progress of the investigation; or in the alternative, in the Order Appointing the Guardian set the deadline for the report/investigation to be completed. That way everyone knows when the matter shall be ready for disposition.

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

The role of the Judge is to apply policy as the Legislature sets it. There is no place for judicial activism in our legal system.

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 believe that if you asked the public, as a whole, how do we improve the legal system, the resounding response would be to make the process quicker. The most obvious way to do that is to set scheduling orders on all cases and ensure that the litigants are following those orders. This way cases do not languish, and the system runs more efficiently, thus making the public happier.

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?

My personal belief is that serving as a Judge puts no more strain on personal relationships than does practicing as an attorney. There will always be

occasions when there is a judicial obligation that conflicts with a personal obligation. As a Judge, my obligations to the judicial department and to the State comes first. This is something that my family understands. Obviously, if it is something that I know about well in advance, I could work with Court Administration or the Clerk's Office to try to avoid the scheduling conflict, but if not, my role as a Judge, and my obligations thereto, come first.

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?

Although recusal is not mandatory under the Judicial Code of Conduct, Rule 501, SCACR (Canon 3) where the interest is *de minimis*, in order to avoid the appearance of impropriety, I would recuse myself.

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?

As previously stated, the Family Court affects more people in South Carolina than any other Court. The Judges of the Family Court must be caring, compassionate, and just. There is no room for belittling attorneys or litigants. There is no justification for being impertinent. In order to ensure that all people have faith in the judicial system, all Judges have an obligation to treat people with dignity and respect. These rules do not simply apply in the courtroom; they apply twenty-four hours-a-day, seven days-a-week, 365 days-a-year.

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?

No. A showing of anger towards an attorney, litigant, court staff or any other individual appearing in front of the Court has the potential to erode the public's confidence in the Judge and possibly the judicial system as a whole. There is never a situation in which the appropriate response is one of anger. There will most certainly be situations in which the behavior of a party or a litigant may require some attention, but the appropriate response would be to discuss that in chambers with the attorneys.

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.

ALEXIS PEARCE

Notary Public for South Carolina
My commission expires: _____