



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

Family Court
(Incumbent)

Full Name: Wayne M. Creech

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

It is an opportunity to serve God, serve the people of my state, practice my profession, and participate in the development of a system and body of Family Law that will have a lasting and meaningful impact on the people of our state for many years

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

Yes, I would like to do so but I will turn age 72 on July 31, 2023.

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?

Canon 3(B) controls *ex parte* communications. I zealously guard against improper *ex parte* communications because they undermine justice and confidence in the integrity of the judiciary to provide justice. There are circumstances when *ex parte* communications are allowed by Canon 3 (B) of the Judicial Code of Conduct. These exceptions should be "tolerated" when necessary and

accomplished properly. Even these “proper” *ex parte* communications should be avoided if possible. There are no circumstances when “improper” *ex parte* communications should be tolerated.

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

Recusal should occur whenever it is necessary for impartiality or to avoid the appearance of impropriety. Judges should not look for reasons to avoid hearing cases and recusal is not something to be granted for reasons of personal convenience or to avoid deciding difficult cases. Judges have a duty to work hard and dispose of the cases presented to them. There are a number of lawyer-legislators and they have a right to practice their profession without being penalized for their public service. The mere fact that they are legislators does not require recusal. Judges should not recuse themselves to avoid the possibility of political retaliation in the event of a decision unfavorable to the lawyer-legislator. Former associates and law partners should be allowed to appear before a judge without recusal, if impartiality can be maintained and the appearance of impropriety avoided. This often requires a substantial passage of time to lapse between the association or partnership and the judge’s election to the bench. For some reasonable period of time, full disclosure of the prior association or partnership should be made.

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?

The standard for recusal is not that the judge would actually be biased, but rather whether a reasonable person might believe that there would be bias based on the disclosure. If in fact, something disclosed gives the appearance of bias, the judge should grant the motion. Judges should be careful not to grant every request to recuse simply because a party charges bias. The basis for the charge should be closely examined. Sometimes efforts to delay or to judge shop are behind motions for recusal. These motions should be denied.

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 make full disclosure on the record to the parties and their counsel. If the parties then agree that there is no appearance of impropriety, recusal becomes unnecessary. If there is any appearance of impropriety, this casts doubt on the ability of the judge to be impartial and the judge should recuse himself/herself.

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

No gifts should be accepted from lawyers or persons who appear before the judge, have a case pending, have had a case before the judge, or otherwise present circumstances which might call into question the integrity and/or impartiality of the judge. Ordinary hospitality extended to a judge by persons (even lawyers) who would not call into question the integrity and/or impartiality of the judge is permissible

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?

I would report the misconduct to the committee on attorney discipline or to the Judicial Standards Committee

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

No. I donate but do not fund raise.

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?

Some simple orders are prepared by me or with the assistance of my Administrative Assistant. Most often, the orders are prepared by one of the attorneys in the case. If the decision is announced in open court, one of attorneys is asked to prepare a proposed order. The attorney is instructed to send a copy of the proposed order to the opposing attorney or party at the same time and by the same means that the proposed order is sent to me. Upon receipt of the order, sufficient time is allowed for objections from the opposing attorney or party. If there are objections, they are resolved by conference telephone call or e-mail communications with all parties or counsel participating. If there are no objections, the order is signed and filed as presented or with modifications deemed appropriate by me.

If the decision is not rendered in court, but rather the matter is taken under advisement, a detailed written set of instructions for preparation of a proposed order is sent to all parties or counsel at the same time, by the same means with a request that that a proposed order be prepared. The person instructed to prepare

the order then follows the procedure outlined above. Objections are also handled as outlined above. The same basic procedure is followed whether parties are represented by counsel or appear pro-se. In some cases, such as pro-se visitation enforcement under SCRFC 27, Protection from Domestic Abuse, and Child support enforcement under SCRFC 24, form orders are available through court administration and are prepared from the bench on the laptop computer provided to me by the judicial department

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

I use a calendar based "tickler" or reminder system. This process is greatly facilitated by use of the computers provided by the judicial department.

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?

I give detailed orders of appointment, specifying the duties to be performed and setting fee parameters. Fees are not awarded in excess of the initial parameter unless permission is first sought by motion to increase the parameter. For guardians, written reports are required to be filed in a timely fashion. If a report is not filed timely and causes delay, fees are reduced to encourage future compliance. If a guardian is not properly performing his/her duty under the order of appointment and the statutory requirements, the guardian is relieved and not re-appointed. Supervision is accomplished through status conferences, pre-trial hearings, motions filed by the parties and/or the guardian. It is not proper to have communications with the guardian or an expert unless all parties/counsel participate. Billing statements are required to be sent monthly letting the parties know the costs involved

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

Judges are not lawmakers. Judges interpret and uphold the law. Judges should not set public policy, but should always promote the public policies of this state as established by the legislature, the South Carolina Constitution, Congress, and the United States Constitution. I will faithfully and impartially adhere to the laws of this state and the United States, without regard being given to my personal views

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 have developed a Family Court Tool Kit that provides every Family Court Judge with a comprehensive compilation of research materials, hearing procedures, and forms in a readily available and user-friendly format. I am told by my fellow judges that this has enhanced and will continue to enhance the efficiency and quality of service for all of our judges. It is a resource that promotes uniformity in hearing procedures and form orders used. I present the Family Court Judges with an updated version each year.

In addition, I will continue to serve as a presenter at SC Bar CLE sessions, JCLE sessions, New Judge's School, and I will speak when invited to law school classes, civic, church, school, and youth groups. Most importantly, I will faithfully, impartially, and without concern for the consequences to myself, uphold the laws and constitution of our state and the United States.

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?

No. I have not experienced many problems with family or friends because of my position. Several years ago, I received a serious death threat from a litigant. My family and I were concerned, but because of our faith in Christ, we were not overly concerned. We trusted in Christ to keep us secure and he did. The litigant was prosecuted and sentenced to 15 years in prison. He served about six years and has now been released. He has returned to our community and we pray that Christ will change his heart. I have had no further problems with him.

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?

Yes

Because the interest is *de minimis*, disqualification is not required. I should hear and decide all matters assigned to me except those in which disqualification is required

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?

A judge should be courteous, patient, and dignified. He or she should be faithful to the law, competent, and not biased or prejudiced. A judge should project fairness and impartiality. Even when required to be firm, a judge should be polite and calm. A judge should act justly, love mercy, and behave humbly.

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

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: _____