



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

Administrative Law Court
(Incumbent)

Full Name: Ralph K. Anderson, III

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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?

No.

3. Have you met the statutory 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?

Ex parte communications should not be allowed on any substantive matters or issues. My law clerk is also well aware of the rules concerning ex parte communications and acts as an excellent front line of defense against ex parte communications. Furthermore, I scrupulously try to avoid any ex parte communications and insist that my staff observe this rule as well. The only occasions in which either my staff or I permit ex parte communication are either "for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits"; or consultation with ALC personnel whose function is to aid the ALJs in carrying out our adjudicative responsibilities; or consultation with other judges in accordance with the Code of Judicial Conduct, Rule 501, SCACR (Canon 3).

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

I have no former associates or law partners. The fact that an individual is a lawyer-legislator would not be a ground for which I would *sua sponte* recuse myself, as long as I believed that I could fairly and impartially consider the case. However, if a motion was made, I would give consideration to the concerns expressed—especially if there was a potential that a reasonable person would perceive an appearance of impropriety.

If a potential of an appearance of impropriety existed, I would recuse myself regardless of whether I felt that I could fairly and impartially consider the case. Nevertheless, the fact that a lawyer who is appearing before the court is also a legislator should not be the sole reason for recusal. Otherwise, lawyer-legislators would be precluded from appearing in many courts.

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?

If a reasonable person could perceive an appearance of impropriety, I would recuse myself regardless of whether I felt that I could fairly and impartially consider the case. The only exception I could envision would be a situation in which all the other Administrative Law Judges would be subject to the same potential appearance of impropriety or I would be the only judge available in a matter requiring immediate judicial action. Then, the “rule of necessity” would offset the appearance of impropriety. Under the latter instance, I would transfer the case to another judge as soon as possible.

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

A judge should not accept any gifts except those specifically authorized by the Code of Judicial Conduct, Rule 501, SCACR (Canon 4). As far as social hospitality, judges cannot and should not live in ivory towers. However, the acceptance of a judgeship inherently brings limitations upon your lifestyle. One of those limitations is that any gift or social hospitality that could reasonably be perceived to influence the judge in the performance of judicial duties should not be accepted.

I do not accept food, meals, beverages, lodging, transportation, entertainment, or other things of value from any attorney or group of attorneys. The only other individuals I accept gifts from are my family, coworkers and close personal friends of whom I would never hear any case involving their interest. Additionally, the only social hospitality I have accepted, or would accept from an attorney, is the attendance of holiday parties to which a large number of bar members are invited.

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 report any conduct which I had actual knowledge that raised a substantial question of a judge's fitness for office or a lawyer's honesty, trustworthiness or fitness to practice in the legal profession, in accordance with CJC Rule 501, SCACR. If I simply received information concerning a judge's or lawyer's honesty, trustworthiness or fitness to practice in the legal profession, I would take what action I believed was appropriate under the circumstances.

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

No.

10. How do you handle the drafting of orders?

In reviewing appellate matters as an ALJ, I read the briefs and usually research the issues before the oral argument. If I deem that oral argument is necessary, I schedule a hearing and consider the arguments made. Afterwards, except in exceptional cases, I research the law and review the record. I then prepare an order or request my law clerk or staff attorney to prepare an order. If a staff attorney or clerk prepares a proposed order, I review that order often making additional changes.

In regard to contested cases, the preparation of orders is varied. In simple cases, either my law clerk, staff attorney or I will prepare the order. Afterwards, we review each other's work. In complex cases in which both parties are represented by attorneys, I often request proposed orders. I then review and modify the orders. It is exceedingly rare when I do not substantially modify a proposed order. My law clerk or staff attorney then reviews my changes and after discussion, if needed, the decision is issued.

Finally, the only instances in which I request one party to prepare a proposed order is when I make my ruling to the litigants and request a party at that time to prepare an order in keeping with that ruling. Even in those instances I give the opposing party an opportunity to also submit a proposed order or reply to the submitted order.

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

The Administrative Law Court has a case management system. My law clerk and I utilize that system as well as a list of pending decisions to insure we promptly dispose of the cases before me. In instances in which

there are specific deadlines, my law clerk and I discuss the timeframes and issue the decision in keeping with those parameters. I believe I have developed a good reputation for promptly disposing of the cases before me.

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

In South Carolina, the Legislature enacts public policy through statutes and regulations. Judges must honor the language of those statutes and regulations except when a constitutional issue is at stake; and even where constitutionality is at issue, every presumption should be made in favor of the constitutionality of statutory enactments.

I thoroughly believe that my record and reputation as an ALJ confirms that I am not a “judicial activist” as that term is commonly understood. Courts have no legislative powers but should rather follow and enforce the law, not create it. When an ambiguity exists in a statute or regulation that necessitates construction, I strive to effectuate the intent of the legislature, not usurp its authority.

13. 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 currently speak at CLEs and at classes at the USC School of Law. I also serve on a S.C. Bar committee that seeks to improve our judicial system. Furthermore, I am active in the South Carolina Administrative and Regulatory Law Association which seeks to promote collegiality and legal education among lawyers who practice administrative law. I plan to remain active in such activities.

14. 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. This is not currently a problem, and I do not envision it becoming one in the future.

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

No.

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

The Code of Judicial Conduct sets forth that “[a] judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned” Rule 3(E)(1), CJC Rule 501, SCACR. Rule 501 defines “*de minimis*” as “an insignificant interest that could not raise reasonable question as to a judge's impartiality.” CJC Rue 501 (Terminology). Therefore, if the case was already assigned to me, I would hear such a case, if no party objected. As the Supreme Court has pointed out, if a judge does not have a conflict, the judge has a duty to hear the case. Simpson v. Simpson, 377 S.C. 519, 660 S.E.2d 274 (Ct. App. 2008) (“When disqualification is not required, however, the Code states, ‘A judge shall hear and decide matters assigned to the judge’ Canon 3B(1) of the Code of Judicial Conduct, Rule 501, SCACR.”).

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 these bases.

No.

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

Yes.

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

A judge’s demeanor should be patient, courteous, and respectful to litigants. The judge should assure the litigants that he is neutral and impartial so that the litigants will be confident that they have received a fair trial even though they may not be pleased with the result. Additionally, the judge should maintain sufficient control of the courtroom to ensure that the integrity of the judicial process is upheld.

Furthermore, the Code of Judicial Conduct sets forth that a judge “shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” Rule 2(A), CJC, Rule 501, SCACR. Thus, a judge must conduct all extra-judicial activities so that they do not “cast reasonable doubt on the judge's capacity to act impartially as a judge” or “demean the judicial office.” Rule 4(A), CJC, Rule 501, SCACR. The commentary to Rule 4(A) provides that: “Expressions of bias or prejudice by a judge, even outside the judge's judicial activities, may cast reasonable doubt on the judge's capacity to act impartially as a judge. Expressions which may do so include jokes or other remarks demeaning individuals on the basis of their race, sex, religion, national origin, disability or age.” *Id.*

20. Do you feel that it is ever appropriate to be angry with a member of the public appearing before you? Is anger ever appropriate in dealing with attorneys or a pro se litigant?

A judge, like any human, is susceptible to becoming angry. However, it is not appropriate to display anger from the bench or in chambers. Even if angry, a judge's demeanor must always be respectful. Nevertheless, there are times when a judge may need to address the behavior of a member of the public or an attorney in a stern manner. In those rare instances, if practicable, I have those discussions in chambers so as to avoid embarrassing the attorney or creating the appearance of partiality.

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: _____