



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

**Supreme Court/Court of Appeals**  
**(New Candidate)**

Full Name: The Honorable R. Keith Kelly

Business Address: 125 E. Floyd Baker Blvd., Gaffney, SC 29340

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1. Do you plan to serve your full term if elected? Yes
  
2. If elected, do you have any plans to return to private practice one day? No
  
3. Have you met the Constitutional 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? In accordance with Judicial Canons, a judge is allowed to engage in ex parte communications for emergencies where exigent circumstances warrant such communications as long as the opposing party has the opportunity to be heard and neither party will gain a tactical advantage by such action. I understand ex parte communication is permissible to seek emergency restraining orders, to apply for search warrants or wiretaps, to obtain default judgments when a party has notice but fails to appear, consultation with a disinterested expert on the law, consultation with other judges, consultation with court personnel and scheduling purposes. Ex parte communication is prohibited by the canons with the exception of these circumstances.

5. 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?  
(a) If a judge's impartiality might reasonably be questioned, recusal is mandatory.  
(b) Yes.
6. What standards have you set for yourself regarding the acceptance of gifts or social hospitality? Acceptance of the above items is governed by Canon 4 D (5) of the Judicial Code of Conduct. I have in the past and will in the future fully comply with the Canon.
7. 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 violation of the Judicial Canons.
8. Are you affiliated with any political parties, boards or commissions? If so, in what capacity are you serving? No.
9. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations? Please describe. No.
10. How would you prepare for cases that were before you? I would prepare as I did previously for the two cases when I sat as an Acting Associate Justice. I read all materials provided by staff, including but not limited to, the briefs, case law and bench memoranda. Additionally, In Catawba Indian Nation v. State of South Carolina, 407S.C. 526 (2014), I read the US Congressional hearings transcript to determine Congress' intent.
11. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy? The power of the General Assembly is plenary in nature unless limited by a specific Constitutional provision. The General Assembly establishes the law and the Court follows the intent of the law. I have not and will not engage in judicial activism. I am a former member of the General Assembly of this state. It is the province of the General Assembly to create the law of South Carolina, not the Judiciary. The Judiciary does not legislate.

12. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities would you plan to undertake to further this improvement of the legal system? I am a past member of the Access to Justice Committee and as such and as such I have presented as part of a panel at a CLE. As a lawyer legislator, several times I presented at the Annual Public Defender's Conference. Also, I participate in the young lawyer mentoring program and the judicial observation program.
13. 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 plan to address this?
- (a) No.
- (b) I was in private practice for over twenty-five years while simultaneously balancing my professional and private life, including serving in the General Assembly. Additionally, I have served over ten years as a Circuit Court Judge.
14. Please describe your methods of analysis in matters of South Carolina's Constitution and its interpretation by explaining your approach in the following areas. Which area should be given the greatest weight?
- a) The use and value of historical evidence in practical application of the Constitution: Historical evidence is evidence that allows a Judge to determine what the drafters intended. Did the drafters intend to give government a power or did the drafters intend to restrict government or protect individuals' liberty? Historical evidence includes any interpretation by the Court since passage of the specific Article.
- b) The use and value of an agency's interpretation of the Constitution: I am unaware of any South Carolina agency's interpretation of any part of the South Carolina Constitution. The power to interpret our State's Constitution belongs to the Judiciary, not an agency.
- c) The use and value of documents produced contemporaneously to the Constitution, such as the minutes of the convention: Documents produced contemporaneously, including minutes of the convention, are the strongest historical evidence available to determine what the drafters intended.

15. 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.
16. Have you met the mandatory minimum hours requirement for continuing legal education courses for the past reporting period? Yes, I have exceeded the requirement.
17. What do you feel is the appropriate demeanor for a judge and when do these rules apply? A Judge should be courteous and respectful to all persons who appear before the court. A Judge should remember that she or he is a representative of the State of South Carolina and conduct her or his behavior accordingly, both personally and professionally. The rules apply every day, all day.
18. Would there be a role for sternness or anger in meetings with attorneys? There is a role for sternness to the extent the Judge controls the meeting by requiring civility. There is no place for anger in a meeting or a courtroom.

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

R. Keith Kelly

Sworn to before me this 2<sup>nd</sup> day of April, 2024.

John W Brewer

(Signature)

R. Keith Kelly

(Print name) John W Brewer

Notary Public for South Carolina

My Commission Expires: 10-07-2032

