



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

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

Full Name: Kristi Fisher Curtis

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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?

I have no plans to return to private practice.

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?

First, I believe judges should make every effort to avoid engaging in *ex parte* communications. The best practice is to have safeguards in place to prevent *ex parte* communications from occurring, such as speaking to both attorneys at the same time via conference call or WebEx session, or requiring that all email communications with the judge include all parties involved in the litigation. However, the Canons of Judicial Conduct do allow a judge to have *ex parte* communication with a party for the limited purpose of scheduling, administrative purposes, or emergencies that do not deal with substantive matters. In those limited circumstances, I believe *ex parte* communication is permissible, provided the judge complies strictly with the Canons of Judicial Conduct by promptly notifying all other parties of the substance of the communication and giving each party the

opportunity to respond. Even where allowed by the rules, however, I believe a judge should make every effort to avoid *ex parte* contact so as not to give the appearance of impropriety or undermine a party's confidence in the judicial system.

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?

Yes, I would grant the motion. Even if I sincerely believed that I could be impartial, I believe it is more important that the parties have full faith and confidence in the integrity of the judicial process. The attorneys and litigants cannot know my subjective intent. If there is even the appearance of bias or impropriety, the motion should be granted.

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

I would not and have not accepted gifts having more than a *de minimis* value from anyone who appeared regularly in front of me or from anyone whose interests have come before me or are likely to come before me. I would accept ordinary social hospitality only if it something of a low dollar amount, tied to some other social or holiday event separate and apart from my role as judge, and would not reasonably cause someone to question my impartiality. Of course, I believe the Canons of Judicial Conduct allow a judge to accept social hospitality or gifts commensurate with the relationship from close friends or relatives whose appearance or interest in a case would already require disqualification.

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?

A judge is required by the Canons of Judicial Conduct to take appropriate action when she becomes aware of misconduct or the appearance of infirmity of a lawyer or fellow judge. The action should be commensurate with the seriousness of the misconduct or infirmity. Appropriate action may include direct communication with the lawyer or judge, communication with other members of the lawyer's firm, or reporting the violation to the appropriate authority. A violation that raises a

substantial question as to the lawyer's honesty, trustworthiness, or fitness as a lawyer must be reported by the judge.

8. Are you affiliated with any political parties, boards or commissions? If so, in what capacity are you serving?

I currently serve on the Supreme Court Commission on Continuing Legal Education, as well as the South Carolina Commission on Judicial Conduct. I am a voting member of the Board on each of these Commissions.

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

No. As a Summary Court Judge and then a Circuit Court Judge, I have been prohibited from engaging in any fundraising for the past thirteen years.

10. How would you prepare for cases that were before you?

In every case, I believe the appellate court judge is required to read carefully the briefs submitted by the parties, the Record on Appeal, and the relevant case law. Where the case law is well developed and the briefs are well researched and well written, an appellate judge may be able to rely solely on the research presented by the parties. Where, however, the case law is unsettled or the case involves novel issues of law or important legal or constitutional issues, the appellate judge should do independent research and look outside of the research provided by the parties in their respective briefs.

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

I believe in the separation of powers. The legislature is the branch of government that enacts the laws. The role of the judiciary is to interpret those laws, and a judge should make every effort to ascertain the legislative intent where the meaning is unclear. I do not believe a judge should use his or her judicial position to promote a personal or political agenda.

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 currently serve on the Supreme Court Commission on Continuing Legal Education and on the S.C. Commission on Judicial Conduct. I hope to continue serving on similar Boards and Commissions in the future in order to serve and improve the administration of justice in South Carolina. I have also accepted invitations to speak at CLEs when requested, and would continue to speak to legal and civic groups on legal topics.

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?

I am immensely grateful to have a wonderful family that has always been very supportive of my professional life, both as a lawyer and now as a judge. I have been fortunate to have a spouse who is a true partner and shares in the household and familial obligations. My husband is an attorney, and he certainly understands the time commitment that the legal field requires as well the confidentiality mandates. My children are now adults and they are proud of what I have achieved in my professional career. My family and close friends are extremely important to me, and I am fortunate that they understand there is considerable scrutiny of my behavior and that I will avoid any situation that would reflect negatively on or undermine public confidence in the judiciary.

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:
 - b) The use and value of an agency's interpretation of the Constitution:
 - c) The use and value of documents produced contemporaneously to the Constitution, such as the minutes of the convention:

Any analysis of the constitutionality of a statute must first begin with the understanding that all statutes are presumed to be constitutional and, if possible, will be construed to render them valid. A legislative act will not be declared unconstitutional unless its repugnance to the Constitution is clear and beyond a reasonable doubt. The party challenging the statute bears the burden of proving it is unconstitutional. Furthermore, where the terms of a statute are clear, the court must apply those terms according to their literal meaning, and look at the “ordinary and popular” meaning of the words used, guided by the principle that both the citizenry and the General Assembly have worked to create the governing law. See Curtis v. State, 345 S.C. 557, 549 S.E.2d 591 (2001).

If the terms of the statute are silent or ambiguous with respect to a specific issue, the court must consider and give deference to an agency’s interpretation of the statute. Under the deference doctrine, the court must give deference to the agency’s interpretation unless there is a compelling reason to differ, such as where it is “arbitrary, capricious, or manifestly contrary to the statute” or where the plain language of the statute is contrary to the agency’s interpretation. See Kiawah Dev. Partners, II v. SCDHEC, 411 S.C. 16, 766 S.E.2d 707 (2014).

When a court construes a Constitutional provision or amendment, the most important consideration should be the intent of both the amendment’s framers and the citizens who adopted it. Miller v. Farr, 243 S.C. 342, 133 S.E.2d 838 (1963). The Court must consider the history of the times in which the amendment was framed, the object sought to be accomplished by the constitutional amendment, and the legislative interpretation of its provision. In doing so, the court should consider documents produced contemporaneously with the Constitutional provision or amendment, since those contemporaneous writings should give the court guidance and insight into legislative intent. Reese v. Talbert, 237 S.C. 356, 117 S.E.2d 375 (1960). I believe the analysis should start and end with ascertaining legislative intent. The separation of powers doctrine demands that a judge should at all times guard against substituting his or her own personal opinion or judgment for that of the duly elected legislature.

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.

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

A judge is required by the Canons of Judicial Conduct to be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and anyone else he or she deals with in an official capacity. However, I believe these rules should also apply outside of the courtroom any time a judge interacts with the public. A judge's demeanor in a restaurant or other public setting should always reflect the dignity of her position and should reflect positively on the judge and the judicial system.

18. Would there be a role for sternness or anger in meetings with attorneys?

I do not feel that anger is an appropriate emotion for a judge to exhibit in court proceedings. As a judge, I should exhibit self-control at all times and a show of anger in the courtroom gives the impression of a loss of self-control. I believe a judge can more effectively control the courtroom when he or she is calm and direct. I further believe that a judge can and should express disappointment, censure, and disapproval in the rare cases when a stern manner is appropriate. A judge has an obligation to address improper conduct by the parties or attorneys in the courtroom, but will be much more effective when the correction is done without resort to an outburst of anger.

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 _____, 2024.

(Signature)

(Print name)

Notary Public for South Carolina

My Commission Expires: _____