



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

Circuit Court
(New Candidate)

Full Name: David Shawn Graham
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1. Why do you want to serve as a Circuit Court judge?

I have always considered myself a public servant and am proud of my twenty-five plus years as a prosecuting attorney. I was truly satisfied in a career that I believed was a benefit to my community. I have never been motivated by a need to attain wealth which is clear considering the career choices I have made. I left a lucrative career to attend law school and made less money as an attorney than I did in the private sector. I was driven by a need to make a difference in the world around me and I believe that I have.

I also enjoy teaching and mentoring others. As a young attorney, I would often ask for feedback from the judge after a trial. This feedback greatly influenced me as I grew as a trial attorney. I look forward to the opportunity to help younger lawyers grow in this profession.

When I decided to open my law firm, I realized I missed the courtroom and have been fortunate enough to have the opportunity to serve as an Associate Municipal Judge and as Assisting Drug Court Judge. I believe that a judge should set the expectation of civility in their courtroom by their words and actions. Attorneys will follow the judge's lead in this regard and it can make a difference between propriety and respect as opposed to animosity and antagonism.

I believe I am currently and as a circuit judge would to be the type of judge that would uphold the law and not legislate from the bench; that by my demeanor I would promote civility and decorum among litigants; and that I would fairly and without bias apply the law.

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

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Yes

3. Do you have any plans to return to private practice one day?

No

4. Have you met the Constitutional 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?

My philosophy is that *ex parte* communication is clearly governed by Canon 3. Except where authorized specifically, *ex parte* communications shall not be initiated, permitted, or considered. Exceptions are allowed for scheduling, administrative purposes or emergencies not dealing with substantive issues or the merits provided the judge reasonably believes that no party will gain an advantage and the judge promptly notifies all other parties of the substance of the communication and allows an opportunity to respond. Sections (b) – (e) provide specific exceptions.

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?

The judiciary is founded on impartiality. Regardless of my personal beliefs, I would recuse myself upon request of the party if I believed that a neutral person would question if I was biased.

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

Canon 2 B provides that a judge shall not allow family involvement to influence the judges conduct or judgment. If the financial or social involvement of my spouse or close relative appeared biased to a neutral observer, I would recuse myself.

8. What standards would you set for yourself regarding the acceptance of gifts

or social hospitality?

Canon 4 D (5) is clear and states that a judge shall not accept gifts. There are exceptions in subsections (a) – (i).

9. 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 want to balance helping the lawyer or judge while preventing harm to the justice system. Regarding impairment, If appropriate in the circumstances, I would speak directly to the lawyer or fellow judge. I would also consider making a referral to Lawyers helping Lawyers of the SC Bar. Finally, if the conduct was grievous enough I would report it to the appropriate disciplinary authority. Canon 3 G. Misconduct of a judge in violation of the judicial code that raises a substantial question as to fitness for office must be reported to the appropriate authority. Canon 3 D (1). If I received information that a lawyer was in violation of the Rules of Professional Conduct that raised a substantial question as to the lawyer's honesty, trustworthiness or fitness I would be required to inform the appropriate authority. Canon 3 D (2).

10. 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

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

No.

12. Do you have any business activities that you would envision remaining involved with if elected to the bench?

No.

13. If elected, how would you handle the drafting of orders?

I would typically draft my own order. However, on occasion, in complicated matters, I would request a draft order from the prevailing party allowing the other parties to comment. I would then modify the order as appropriate to

reflect my finding of facts and my ruling.

14. If elected, what methods would you use to ensure that you and your staff meet deadlines?

I would use a calendaring system with reminders. I would have a system in place where my administrative assistant would calendar the event and the law clerk would double check for accuracy. Myself, my law clerk and, and my administrative assistant would have weekly meetings to review the week and month ahead to insure that I was on track to meet deadlines.

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

I do not believe that a circuit judge should set or promote public policy. It is the sole province of the legislature to make the laws. It is the judiciary's responsibility to follow the law and apply it to the given fact situation. It is the legislature's right to make the law.

16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal system?

I would like to be a member of the South Carolina Commission on Judicial Conduct. As an attorney, I have been a presenter as CLEs, and would continue to do so.

17. 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 address this?

I do not believe that my serving as a judge would strain any of my personal relationships. Those closest to me help alleviate stress. I would be mindful of my mental and physical wellbeing and would seek counseling if the job was straining relationships with those close to me.

18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.

The individual facts and circumstances; the specific charge; and the previous criminal history would be the most significant factors in sentencing regardless of any class of offender.

a. Repeat offenders:

Repeat offenders have by their behavior shown that they have little regard for the law. I would want to know the previous crimes, the sentences, and the similarity to the current crime. I would want to know if there was a reason underlying the criminal behavior such as a drug addiction or mental health issue that could be addressed. If so, where appropriate, I would want to look at other alternatives to incarceration.

b. Juveniles (that have been waived to the Circuit Court):

I would take in to account the fact that young people make poor decisions sometime and that their brain may not be fully developed. I would also want to know what if any prior dealings they had with DJJ and what if any treatment had been previously provided and what sentences had been imposed.

c. White collar criminals:

I would look to see an offender's ability to pay restitution; why they committed the crime; and what they spent the money on. If the defendant had not already explored the possibility of getting loans or borrowing money to pay a substantial lump sum towards restitution, I would likely withhold sentencing for a few days and give the offender an opportunity to do so. I would also look at their ability to pay over time by working at a job if presently employed. Ultimately, I would sentence them appropriately for their crime.

d. Defendants with a socially and/or economically disadvantaged background:

Whether probation or incarceration, is appropriate, I would look at the possibility of and encourage job training and/or continuing educational training.

e. Elderly defendants or those with some infirmity:

I would consider the cost of incarceration, including medical costs and the likelihood of reoffending.

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?

After disclosing the involvement to the parties, I would disqualify myself if the involvement of my spouse or close relative had more than a *de minimis* interest that could be substantially effected by the proceeding. I would also recuse myself after disclosure at the request of either party. Canon 3 E (1) (d) (iii).

- 21. Have you met the mandatory minimum hours requirement for continuing legal education courses for the past reporting period?

Yes

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

A judge should be patient, fair, and respectful to everyone in the courtroom. These rules always apply.

- 23. 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 pro se litigants?

No. A judge should never exhibit anger. A judge should be patient. If frustration begins to develop, a judge should step off the bench.

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

David Sh. Cook

Sworn to before me this 28 day of AUGUST, 2024.

John A. Near
(Signature)

(Print Name) JOHN A. NEAR
Notary Public for South Carolina
My Commission Expires: MAY 17, 2028

