



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

Administrative Law Court
(New Candidate)

Full Name: Samuel Lawrence Johnson

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1. Do you plan to serve your full term if 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?

I try to avoid *ex parte* communications. The furthest extent I would allow is for my law clerk to answer questions relating to scheduling or the docket, as long as I had no reason to believe it would give that party a tactical or procedural advantage. There may also be an emergency request for a continuance where notice to all parties is not feasible before it is granted, such as envisioned in Rule 19(B) of the Rules of Procedure for the Administrative Law Court, but even that should be communicated to the other parties involved, who should be given an opportunity to respond. Also, discussing the merits of a case with my staff attorney and/or law clerk or with a fellow judge would be permissible. However, *ex parte*

communication regarding the merits of a case with parties to the case should be avoided.

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?

First, it is critical that a judge not have the appearance of impropriety or partiality in his or her judgments. If there was an appearance of bias, I would first inform the parties that I believed I could be impartial and would then give the parties an opportunity to discuss the issue amongst themselves outside of my presence. Once I returned, I would then ask the objecting party if they still wished for me to recuse myself. If they still sought my recusal, I would likely grant the motion.

6. If elected, what standards would you set for yourself regarding the acceptance of gifts or social hospitality?

I would follow Canon 4(D)(5)(c) and (d) of the South Carolina Judicial Canon of Ethics, which allow, respectively, a judge to receive "ordinary social hospitality" and "a gift from a ... friend, for a special occasion, such as a wedding, anniversary or birthday, if the gift is fairly commensurate with the occasion and the relationship." However, as the rules imply, these should be very narrow and limited exceptions. In all other situations, I do not believe a judge should accept hospitality that is excessive or gifts from attorneys or parties appearing that have appeared before them, have pending matters before them, or are likely to appear before them to where the judge's impartiality could reasonably be called into question. A judge should be impartial and maintain the appearance thereof.

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?

If I had firsthand knowledge of misconduct of an attorney or judge, I would be ethically bound to report that behavior to the Office of Disciplinary Counsel. If I only suspected misconduct, I would take action that I felt appropriate, which would probably involve approaching the individual first. If I had reason to believe an attorney

or judge had an infirmity that was impacting their fitness as an attorney or judge, I would approach them first about it (especially if it was just a suspicion) or confidentially refer them to the appropriate assistance program for lawyers or judges, unless it was to such a degree that it warranted disciplinary action, in which case I would report them to the Office of Disciplinary Counsel.

8. Are you affiliated with any political parties, boards or commissions that, if you are elected, would need to be re-evaluated?

I do not work or participate in any political parties, boards, or commissions.

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

I financially contribute to my church and have bought items in silent auctions or items that teens were selling as part of their fundraising efforts for teen camps or missions trips, but I have not solicited funds for such activities.

10. How would you handle the drafting of orders?

I would divide up the order between myself, my law clerk, and my staff attorney. I would assign certain types of cases, such as inmate grievances, to my law clerk, and orders arising from contested case hearings and appeals I would assign to my staff counsel. I would also take on a share of the orders, and then exchange the drafts of my orders with my law clerk and staff attorney and have them exchange their drafts with me. I would repeat the editing process until I arrived at a final product I with which I was satisfied.

11. What method would you use to ensure that you and your staff meet deadlines?

We would use a calendaring method, whereby deadlines are set forth on both mine and my staff's calendars; and we would remind each other if the deadline was approaching and an order draft was not submitted or an order from me had not been issued.

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

I believe a judge's role is to say what the law is. Though a judge's decision may have an effect on public policy, public policy decisions are for the General Assembly to make. If a statute or regulation is clear, a judge should interpret it based on its plain meaning. If a statute or regulation is unclear or ambiguous, then a court should employ the rules of statutory construction to arrive at an interpretation that reflects the intent of the General Assembly. Obviously, if a statute or regulation violates the Constitution, a court has an obligation to strike it down (though at the Administrative Law Court, the court can only consider as-applied constitutional challenges, not facial challenges). Similarly, if a regulation exceeds the scope of or contradicts the authorizing statute, it should also be invalidated. Again, assuming a law is constitutional, a court should defer to the General Assembly on matters of policy and interpret the law in accordance with what the General Assembly intended.

13. 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?

One important way to further the improvement of the legal system is through education, and so I would continue to speak to law students about the subject of administrative law and perhaps conduct another CLE for the Bar or SCAARLA. I would also like to reach out at some point to the Administrative Court in London, England. I would like the South Carolina ALC to begin a relationship with that court and compare how our two courts approach administrative law. I would like to essentially expand the relationship we already have with England through the Rice School of Law.

14. Do you feel that the pressure of serving as a judge will strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you plan to address this?

No, I try very hard to separate my professional life from my personal life. Obviously, there are times when I have to work late, but I set time limits for how long I stay late at the office to ensure that I get to spend time with my family that day. As for the job itself, I have served in a quasi-judicial capacity for a total of more than six years, so it would not be as big of an adjustment as it would otherwise have been.

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

None of which I am aware.

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

No. My definition of "de minimis" may not be someone else's, and I would not wish to risk the appearance of impropriety.

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 any basis.

I am a member of the Cain's Mill Club, which is a hunting and fishing club in Sumter, SC, and which limits its membership to males. Membership is either voted on by the Club or it is passed down from father to son or son-in-law. It does not engage in any "invidious discrimination," as the wives of members also regularly attend meetings (the social component, not the business component), and can enjoy the property with their member husbands. The caretaker of the property is also a woman. My sister frequently went fishing as a child with my father, and I plan to do the same with my daughter. So, the membership limitation to males is a matter of tradition between fathers and sons (or sons-in-law), not "invidious discrimination" against females.

If my church is considered an "organization or association" for purposes of this question, it naturally limits its membership based on a person's religion, as it would not allow into membership someone who did not agree with its statement of faith.

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

Yes.

19. What percentage of your legal experience has dealt with cases that appear before the Administrative Law Court? Please describe to the Commission your experience in these areas.

All but my first year of legal experience (after law school) has involved cases that appear before the Administrative Law Court (ALC). I was a staff attorney for Chief Judge Ralph King Anderson, III, Judge S. Phillip Lenksi, and Judge H. William Funderburk, Jr. over a period of more than five years, during which time I sat in on all manner of hearings before the ALC, and after which I drafted orders for many those cases. I also drafted appellate opinions in appeals before the Court and edited orders written by the judges. I have also served as a hearing officer in the Appeals Tribunal for the South Carolina Department of Employment and Workforce (SCDEW) and have served as a hearing officer for the past six years for the South Carolina Office of Motor Vehicle Hearings (OMVH), which hears cases involving the South Carolina Department of Motor Vehicles (SCDMV). The ALC reviews appeals from both SCDEW and OMVH.

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

A judge should be calm, unflappable, and under control of his or her emotions. But there are times when a judge must also maintain order in his court, such as with an unruly and disrespectful litigant, which may require firmness. However, even then a judge should not be angry but should instead warn the litigant of the potential consequences should they continue such behavior.

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

Anger would not be appropriate, but sternness or firmness could be appropriate if a member of the public, attorney, or pro se litigant was acting disrespectful towards me as a judge or against opposing counsel. A judge must maintain his or her authority and order in his or her court and should inform and warn a member of the public, attorney, or pro se litigant if he or she is undermining the judge's authority through overt disrespect. An attorney, in particular, has taken a civility oath that does not just apply to his or her interaction with other attorneys but also with judges.

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.

Notary Public for S.C.

My Commission Expires: _____