

Candidate's name: **Michael R. (Mike) Morgan**

Address: **P. O. Box 201, Raleigh, NC 27602**

E-mail address: jmrmorgan@aol.com

Phone: **(919) 414-2533**

About you:

1. Are you conservative or liberal? Please choose one and then explain your answer.

My approach to the construction and interpretation of the law is conservative in that I construe the words of statutory and case law to have their plain and clear meaning. Where the statutory and case law affords a judge the opportunity to exercise discretion, then I am authorized to be liberal within the context and confines of that particular case.

2. Please describe how your religious and philosophical beliefs may affect your conduct and decision-making if you are elected.

I do not allow my religious and philosophical beliefs to affect my judicial conduct and decision-making. As a judge who has currently served on the bench for over 26 years, I understand that such personal beliefs are inappropriate to apply to the court's responsibility to be fair and impartial without the imposition of one's individual proclivities.

3. Have you ever been convicted of a criminal offense (other than a minor traffic or drug offense)? If the answer is yes, please describe the circumstances and the outcome.

No.

4. Have you ever been a party in a civil legal proceeding? If the answer is yes, please explain the circumstances and the outcome of the case.

I have been a party in a civil legal proceeding of a marital divorce. The circumstances were the irreconcilable differences in the marital relationship and the outcome of the case was the judicial dissolution of the marriage.

About your practice of law:

5. Please describe your practice as a lawyer. Describe the areas of your practice and your specialties. If, over time, your practice has evolved or changed, describe the changes. Describe your various client bases as a part of your answer.

During the time period of 1980-1989 when I practiced as a lawyer, the areas of my practice were determined by my governmental employer, the North Carolina Department of Justice. My areas of practice in the Department's Highway Division of the North Carolina Department of Transportation were contract law, administrative law and collections law. In my contract law duties, I reviewed contracts in which the North Carolina Department of Transportation entered for the determination of legal interpretation and sufficiency. My administrative law duties focused upon my representation of the NCDOT in employee grievances such as dismissals, demotions, promotion denials and the like. With collections, I facilitated the NCDOT's legal efforts to recoup funds from motorists and other persons who caused damage to property which the NCDOT was obligated to repair, such as signs, guardrails, bridges and so forth. My client base was limited to the North Carolina Department of Transportation.

6. If you have been a member of an appellate division court, please choose a recent decision you have written for the court which you feel best illustrates your learning, values, skills, outlook and temperament as a jurist. If the decision is published, you may simply cite it. If the decision you have selected is unpublished, please provide us with a copy. Please explain why you selected the decision and tell us how it demonstrates your particular fitness to hold the judicial office you are seeking.

Since I am not a member of an appellate division court, this question is inapplicable to me.

7. If you have not been a member of an appellate division court, please describe your practice in that division. Please provide us with the citation of a recent appellate decision in a case in which you advocated as lead attorney for one of the parties. The decision you choose should best illustrate the learning, values, skills, outlook and temperament you would bring to the court as the holder of the judicial office you seek. If the decision you have chosen is unpublished, please provide us with a copy. You may also provide us with the brief you wrote in that case. Explain why you selected this decision.

Since I do not practice law in an appellate division court, this question is inapplicable to me.

8. Please describe the nature and extent of any *pro bono* work you have done. Is there a *pro bono* matter your contribution to which best illustrates your values as a lawyer and as a person?

As a government attorney during the time period of 1980-1989 before I began my judicial service, I was not permitted to perform *pro bono* work or services.

9. Have you ever been the subject of a complaint to the North Carolina State Bar or the North Carolina Judicial Standards Commission? If the answer is yes, please explain the circumstances and the outcome.

No, I have not ever been the subject of a complaint to the North Carolina State Bar or the North Carolina Judicial Standards Commission.

Concerning law and policy:

10. In light of numerous exonerations of innocent people sentenced to death in North Carolina, the declining number of death sentences returned by North Carolina juries in recent years, problems with the state crime lab, the high cost of capital trials and appeals, and the availability of life-without-parole sentences, what should be done to fix or replace North Carolina's system of capital punishment? What would you do about it?

North Carolina's system of capital punishment should be regularly reviewed and studied by the North Carolina General Assembly which enacts the laws which govern it, through its own devices and through the delegation of its authority to empower those bodies and entities with specialized knowledge and experience to pursue such review and study, along with making recommendations and even implementing policies or procedures designed to restore the public's confidence in this area of criminal justice. Understanding that a judge merely applies the law and does not enact law, I would willingly make myself available for any such review and study, as invited by the empowered authorities, in order to share my judicial experiences and observations on the subject.

11. North Carolina incarcerates an extraordinary number of people, including persons convicted of non-violent crimes. Those who are incarcerated are disproportionately people of color. What should be done to address the problems of mass incarceration and racial bias in our legal system?

Firstly, identification and redirection of financial resources, while not addressing all of the concerns regarding the perception of shortcomings of North Carolina's criminal system, would greatly enhance the ability of the courts to diminish, and ideally eradicate, the ills of mass incarceration and racial bias which are attributed to the legal system. Financial support which formerly was available to help those who were adversely affected by societal circumstances such as the mentally ill, the uneducated, the unskilled, the substance abuser and so forth on the "front end" of their challenges through preventive means is now largely earmarked for usage on the "back end" of their challenges through punishment and other unproductive means. Such limitations serve to perpetuate or even aggravate the issues which people in these segments of society face, rather than to rehabilitate or even prevent them. Secondly, studies of criminal justice sentencing should systematically be performed to identify trends in sentencing which may inherently impact certain demographic groups of society differently or disproportionately, which may in turn contribute to racial or other bias.

12. Do you think that racial discrimination in the use of peremptory strikes in jury selection is a problem, and, if so, what can be done to address it?

In my own experience, racial discrimination in the use of peremptory strikes in jury selection is not a problem, although I am not so naïve as to dismiss the notion that it does not exist elsewhere. I'd like to think that the reputation that I have generated as a fair and impartial jurist, coupled with my diligence and thoroughness in the implementation of all phases of a

criminal case in my courtroom such as jury selection, has removed any question of such prohibited behavior in cases under my purview. A trial judge's presumed alertness to the jury selection process, an appropriate sensitivity to the appearance of any racial discrimination in the jury selection process and the correct application of Batson legal principles and that landmark case's progeny of legal decisions should be collectively utilized to address such a concern.

13. Would you support legislation designed to protect gay, lesbian, and transgender people from discrimination in housing, employment, public accommodation, and access to government benefits and services? Did you vote for or against Amendment One?

Under the Judicial Code of Conduct, I cannot ethically express a position on any pending , impending or potential legislation. I do not want to risk the distinct prospect of a complaint to the North Carolina Judicial Standards Commission as to the expression of a position on legislation or a personal vote which I cast concerning a matter which is the subject of any pending, impending or potential legislation. As exhibited in Question 9 of this Questionnaire, the proper exercise of judgment and the adherence to the ethical mandates of the Judicial Code of Conduct is a legitimate expectation of appellate division judicial candidates.

14. Should magistrates, judges, or other government officials be excused from performing their lawful duties because of their religious beliefs?

As a judge, I do not consider myself to be eligible to be excused from performing my lawful duties because of my religious beliefs. I have taken an oath to execute the duties of my office when called upon to do so. While I hope that I have responded to the spirit of the question posed by applying it to my own personal view of the execution of my duties as a Superior Court Judge in this state, judicial ethics will not allow me to directly answer the exact question which has been asked, for then I would be rendering a prohibited legal opinion as well as prejudging a potential case which could eventually come before me and therefore require my recusal.

15. In your view, should citizens be required to provide elections officials with some form of official identification before they are allowed to vote?

Since I am the assigned trial judge who is currently presiding over the legal action in North Carolina which is the subject matter of this question, judicial ethics dictate that I must not comment on this pending case.

16. Should state agencies with licensing, environmental protection, consumer protection, or similar functions make the final decisions in enforcement or other contested cases or should the final decisions in such matters be made by administrative law judges? What should North Carolina's law and policy be with regard to the deference courts afford regulatory agencies? What should

our state's law and policy be with regard to who is an "aggrieved person" in cases of environmental law violations?

As an instructor of judges in areas of jurisprudence such as administrative law at The National Judicial College for 24 years and counting, a current Superior Court Judge who decides appeals of contested cases involving state agencies and a former Administrative Law Judge for the State of North Carolina who served for 5 years in that capacity, I am convinced that final decisions involving state agencies in the identified subject ideas should be made by administrative law judges. While agencies are deemed to have specialized skill or knowledge which should be given deference in their exercise of governance over their areas of concentration through the enactment and enforcement of rules and regulations, nonetheless when the agency itself becomes a party in a legal or quasi-legal proceeding which challenges the agency's positions or actions regarding such matters, a detached and impartial forum like one provided by an administrative law judge to ultimately determine the contested case is the best option. It is beneficial to have the agency to exercise jurisdiction in the lower level or two of the administrative proceedings, in order to afford the agency with the opportunity to review its own positions or actions at issue and to establish a record for any reviewing forum as to the agency's resolution of the dispute at hand when viewed from the vantage point of its specialized skill or knowledge. Due to its vested interest in the outcome of the contested case proceeding, it would be inappropriate for the agency to be both a party hoping to prevail and the determiner of which party ultimately prevails in the final decision. The administrative law judge, as the maker of the final decision in a contested case, serves as a disinterested arbiter of the case's outcome, as well as a decision maker who promotes the appearance of the attainment of justice which is free of being assailed based on bias or prejudice if the agency ultimately decided its own case. North Carolina's law and policy with regard to the deference which courts should afford to regulatory agencies is both proper and correct that deference should be given to the specialized skill or knowledge which the agency is deemed to inherently possess by way of the legislative body which created it, although such specialized skill or knowledge is not infallible and hence is subject to judicial scrutiny. North Carolina's law and policy with regard to the designation of an individual who is deemed to be an "aggrieved person"—as this legal term is employed in environmental law violations—is both proper and correct in that the person or entity must have standing to assert actual harm instead of mere interest, however sincere, in the alleged environmental law violation at issue.

17. Under what circumstances should 16-year-olds be sentenced to active prison sentences? Do you support raising the age for juvenile offenders?

Sixteen-year-olds should be sentenced to active prison sentences only under circumstances in which, pursuant to North Carolina law and the proper exercise of discretion by the presiding judge, the juvenile justice system does not have sufficient resources available to address a particular sixteen-year-old's identified needs, the young person is "bound over" to superior court in the discretion of the judge for a trial as if he or she were an adult, the particular sixteen-year-old is determined to be guilty of crime and the presiding judge either exercises his or her sentencing discretion or follows his or her sentencing mandates to sentence the young person to an active prison term in light of the unique facts and circumstances. I support raising the age of juvenile offenders, because my experience as a certified juvenile court judge for nine of the ten years that I served as a District Court Judge affords me the

ability to understand that there is a wealth of juvenile resources available to be implemented for a youngster of probable immaturity before a critical decision is made to cast the young person as an adult for his or her court system identity.

18. How should North Carolina judges at every level be selected?

Under the North Carolina Constitution which I must uphold and construe in light of my judicial oath to apply the law, North Carolina's state judges must ultimately be selected through election by the voters of the state.

Your politics:

19. How are you registered to vote? Have you ever changed your voter registration? If you have changed your registration, please explain why.

I am registered to vote as a Democrat. Other than change of residential address, I have never changed my voter registration.

20. Who did you vote for in the 2008 and 2012 presidential and gubernatorial elections? Who did you vote for in the 2014 U.S. Senate race?

I voted for Barack Obama in the 2008 and 2012 elections for President. In 2008, I voted for Beverly Perdue for Governor of North Carolina and in 2012, I voted for Walter Dalton for Governor of North Carolina. I voted for Kay Hagan in the 2014 United States Senate race