

People's Alliance PAC 2022 Questionnaire for North Carolina District Court Judge Candidates

Please return the completed form along with your resume or biographical statement describing education, work history, community service, and prior political experience, as well as a high-resolution headshot of yourself as soon as possible, but no later than Saturday, Mar 19th at 5pm, at the latest.

Please e-mail your responses to PAC Coordinators at papacboard@googlegroups.com by Saturday, March 19th at 5pm.

Please note that following the Saturday, March 19 at 5pm deadline, the People's Alliance PAC may publish your responses to this questionnaire and your resume.

When answering this questionnaire, please repeat the questions in your response document with each question numbered and organized as it appears here. Type your responses in italics, bold, or a different font to distinguish your responses from the questions. Do not use colors or shading. Please try to confine your responses to no more than 300 words unless another word limit is indicated. Do not feel obliged to exhaust the limit for each question.

If you use words or ideas from another person, please attribute your source.

Thank you for completing this questionnaire and your willingness to serve the people of Durham.

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Judges and judicial candidates in North Carolina are allowed substantial freedom of political speech. PA PAC believes that every question in this questionnaire may be answered fully within the scope of the applicable rules. For more information on the scope of permitted political speech for judicial candidates, we refer you to the January 2, 2020 memorandum of the Judicial Standards Commission on Permitted Political Conduct. You may find it at:

<https://www.nccourts.gov/assets/inline-files/2020-Political-Conduct-Memo.pdf?lqEnTi0CGRseARDEGD.mXt60PMdBDGef>

About you:

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

The answer to this question was decided for me early after taking the bench. Often, and mostly in family court, I am confronted with making decisions about how families with religious and philosophical differences and disputes are to move forward as they now have to parent apart. People can be strong in their convictions about how they want their children to be raised, and educated in religion and life. I realized early on that my religious and philosophical beliefs have no place in my decision making. I must respect everyone's religious and philosophical beliefs about how they want to live their lives. Absent any harm caused by one's religious or philosophical beliefs, I try to craft my decisions to be equal and/or equitable.

2. Would you support requiring race equity training for all North Carolina judges? If not, why not? What, if any, other training should be mandatory?

Yes! Not only Judges but for everyone everywhere! Recently our Adult Drug Treatment Court stakeholders were offered the opportunity to attend racial equity training. I encouraged everyone to attend as I have attended many training sessions over the years. The training should consist of a complete historical analysis of race in America and within our judicial system. The training should consist of an analysis of systemic and institutional racism as recommended by organizations such as the Racial Equity Institute, Greensboro, NC. I have attended multiple REI workshops both phase I & II. However, it is not enough just to attend. Workshops continue after the training and collaborative efforts on implementation and effectiveness takes time, understanding and a commitment to equitable outcomes.

3. Have you personally 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 was a defendant in a civil legal proceeding in 2012. When I entered my private law practice, I struggled financially to provide for my family of five and a fledgling law practice. I found myself unable to meet my rent obligation and fell behind. Eventually my family moved from that home and our former landlords secured our obligation with a civil judgment. When we became financially able, we settled our financial obligation. There is no longer a civil judgment against me.

4. Please describe a situation in which you took a controversial position and explain how you handled it.

In 2013, I was an innocent bystander and victim of gun violence. While working in my front yard, I was struck in the back by a stray bullet from a shootout. The impact of this violence on me and my family is undeniable. I held deep concerns about safety, yet I began to develop a new perspective from which to answer the question "what does safety look like for my family and my community?" I believe that safety looks like accountability and opportunity for those who have had contact with the criminal legal system. I asked how we have collectively failed our young people and examined what opportunities are available to them if none at all. These were not popular

questions to ask at that time as confirmed by some of the hate mail I received after speaking to some news outlets. Coupling this experience with my continued engagement with racial equity training, confirmed for me that I wanted to be on this side of history, fighting to address the systemic root causes that endangered my family and put a bullet in my back.

5. Why should progressive voters support you? What expertise do you bring to your race?

Progressive voters should support me because I now have a track record of how I preside over cases. I believe my Judicial philosophy aligns with progressive values. While that statement may indicate some sort of bias, let me explain. While all Judges apply the rule of law to the facts, and apply the law equally, we are still confronted with issues that allow for and require a Judge's discretion. Herein lies the nuances about who you want on the bench. A Judge's demeanor, character, and experiences play a role when discretion is invoked. Nuances affecting outcomes are written into our law, nuances that often favor people of means. When that happens, the question arises, how am I to treat the person without means to assure an equitable outcome with the person of means? What I bring to the table is my experience as an indigent defense attorney and a civil rights attorney having practiced community lawyering, years of defending people in court and years of helping people work through the collateral consequences of contact with our criminal legal system. I have insight and experience different from those who solely were prosecutors or took a different path to the bench than I.

About your practice of law:

6. 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.

In 2009, I opened my private practice on Main Street in Durham. I was a general practice attorney handling criminal, family, landlord/tenant, court appointed indigent defense cases and more. My clients included non-custodial parents in child support cases, parents with cases in abuse/neglect/dependency court, respondents in domestic violence cases, litigants in family court, and defendants in both Criminal District and Criminal Superior Court. I also served as a Guardian Ad Litem in Special Proceedings. After leaving private practice, I joined a local civil rights non-profit organization. There, I was part of a team that created the largest Clean Slate Clinic in North Carolina. We petitioned the court and advocated on behalf of thousands of justice-involved individuals. Not only did we provide legal services, we were led by justice involved folks with the goal of empowering the community with the tools to

ensure their own success. I've argued in Superior Court on the constitutionality of our fines and fees statute, shared the Clean Slate model with organizations around the country, petitioned, argued, and advocated for clients in over 60 courthouses across the state. My clients in the majority of these courts consisted primarily of people of color. The bulk of my private practice consisted of indigent defense. It's no secret that criminal defendants are mostly people of color. The same holds true in some of our civil courts such as child support and A/N/D court. Similarly, the justice involved individuals that participated in our Clean Slate Clinics were almost all people of color. As District Court Judge I now preside over the same type of cases I had as an attorney. Similarly, the same holds true as to the make-up of the people that appear before me. I now preside over Family, Drug, Criminal, Domestic Violence, Traffic, & Jail first appearances.

7. Please describe the nature and extent of any pro bono work you have done. Is there a pro bono matter to which you have contributed that best illustrates your values?

While a law student, I was recognized for providing over 75 hours of pro bono legal services, the majority of which was with Stella Adams' NC Fair Housing Center. I advocated for the rights of homeowners, borrowers, and others affected by fair housing issues. During my time in private practice, I made it my goal to always maintain at least one pro bono case at all times. I was mostly successful at my goal although there were times when I was between pro bono clients. Most of the cases I handled pro bono were misdemeanor traffic and criminal. Beginning in 2014, I worked with a non-profit civil rights law firm. The goal of our work was to end the collateral consequences of contact with the criminal justice system. In an effort to accomplish this goal, I engaged in direct legal action as well as policy reform efforts. I filed petitions and argued motions for individual clients. I also worked to reform policy, and other advocacy efforts. My work with Clean Slate and the FADE coalition best illustrates my values of equity, community empowerment and safety, and opportunity. In both of these groups, we followed the lead of those directly affected by the policies we sought to change. We put into practice principles of race equity, community leadership, coalition building, and social justice. It was a rich and humbling experience being directly in service to those directly impacted folks and helping them achieve the reforms they want to see. For example in Durham, the FADE Coalition was successful in implementing written consent for traffic searches resulting in marked decrease in car searches for people of color. Also, the Clean Slate Project working in coalition with All of Us or None, NC Justice Center, and Community Success Initiative were able to bring the stories of those directly affected individuals to our legislators on 2nd Chance Lobby Day. These efforts resulted in sweeping changes to our expunction laws which took effect in December 2017.

8. Have you ever been publicly or privately disciplined by the North Carolina State Bar or any other professional or occupational licensing authority in North Carolina or any other state? "Disciplined" includes reprimands, censures, and warnings in addition to license suspension, surrender, revocation, and disbarment. Is the State Bar or any governmental authority considering

a complaint against you at the present time? Have you ever been found in contempt of court? For each “yes” answer, please tell us what happened and describe the outcome of the matter.

No, I have never been disciplined publicly or privately by the North Carolina State Bar or any other professional or occupational licensing authority in North Carolina or any other state.

Concerning law and policy:

9. What is the single greatest barrier to justice?

In my humble opinion, poverty is the single greatest barrier to justice. While indigent people facing incarceration are afforded indigent defense attorneys, please note that our courts are seventy-five percent civil. Our civil process is extremely difficult and complicated for lay people to navigate without legal help. Further, being a pro se plaintiff or defendant in a civil matter leaves many without the knowledge to navigate the legal standards required for successful prosecution or defense of their matter. The results of the inability to navigate are often devastating for those involved.

10. 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, if anything, should the legislature and our courts do to address the issues of mass incarceration and racial bias in the administration of justice?

I believe the answer to this question lies in our ability to implement cultural and systemic change within our education and social network. Specifically addressing poverty, equity in education, mental health, and our social programs that affect marginalized communities. Keeping people out of the criminal legal system is where our focus as a society should be. If people coming into the court system are disproportionately people of color, our outcomes will necessarily be disproportionate no matter what the court system does. Our legislature must have a racialized lense if we are to combat disparate outcomes. We cannot have race neutral solutions to race based problems.

11. Should the North Carolina General Assembly abolish the death penalty?

Yes, at a minimum, technological advances have shown that we have made prosecutorial and judgements that have been wrong. While these same technological advances may lead us to believe that we are correct in proving beyond a reasonable doubt that someone is guilty of a crime punishable by death, I am personally against state sanctioned taking of a life.

12. What, if anything, should be done to improve access to justice for people with limited financial means or who mistrust the system? How should courts handle requests to waive court costs, fines, failure to appear fees, probation supervision fees and attorney’s fees in criminal court?

I believe access to justice for defendants in criminal matters while adequate could always use more resources. Especially in felony cases, where stakes are higher, access to more resources can only help to insure that a rigorous and zealous defense is afforded those accused of crimes.

Requests to waive fees in criminal court should be addressed on a case by case basis. Some cases may involve harm and injury to victims which may invoke the need for punitive sanctions while other crimes may be judged to be satisfied by active jail time. My point here is that all cases are different invoking discretion in dealing with fines, fees, and costs. However, all consideration should be given to a person's financial position and their ability to afford the costs associated with their conviction.

13. What is your position on bail? What, if any, changes need to be made to the current bond schedule?

I understand the effects pre-trial incarceration has on defendants, families, plea outcomes, finances and more. My position on bonds remains the same as it did in 2018 when I referred to bonds at \$5000 and under as low money or poverty bonds. These bonds need particular attention to make sure that these bonds serve a special purpose and are not holding people in active detention simply because they are poor. I believe higher bonds are set because it becomes clear that people exhibit concerns of safety for the community or to secure their appearance at court.

Recent discussions about our bond policies are intertwined with the policies of pre-trial release. Durham has a robust pre-trial release program that works in conjunction with bonds to assure one's appearance at court and address safety for the community. Pre-trial release is always a fluid process that is monitored and tweaked to assure that it is working in a way that benefits the community and ensures safety. We are fortunate to have such a program.

14. What can be done to improve language access for parties, victims, and witnesses during court proceedings?

Resources! I would like to see us return to at least two in-house interpreters. However, we do have a great language access line in place. I have been able to access interpreters for languages from around the world that I didn't know existed. The interpreters do a phenomenal job and provide a vital resource for justice.

15. What does racial equity mean to you and how does racial equity inform your work as a District Court judge? Have you any special training in issues related to racial disparities and equities?

As I stated above in question #2, Racial equity informs much of the work I do and the lense from which I operate. Much of my past work was guided by the principle of

eliminating disparate outcomes and inequities. Developing a racialized lense is step one. Developing a plan of action to address what you now can't unsee takes time and careful consideration.

My training is from the Racial Equity Institute, both Phase I & II workshops, followed by implementing my training to inform and guide my work as a civil rights attorney as well as my work as a Judge.

16. What are your thoughts on Durham's current diversion programs? If you believe these programs should be changed in any way please describe how and why.

Due to changes in the law such as Raise the Age, our misdemeanor diversion program is currently inactive. Our mental health court and Adult Drug Treatment Court which may be viewed as diversionary are both post conviction.

17. How has the COVID-19 pandemic changed the functions of the position you occupy or are seeking?

Covid forced the implementation of Zoom hearings. Personally I've found that Zoom hearings present some opportunities that will remain and showed itself to be problematic for hearings and trials. I will keep having zooms for summary judgment divorces in family court, and I'm not sure when or if we will return to in-person first appearances, however I have eliminated zoom hearings and trials as the negatives are far outweighing the positives.

18. When both the defense and prosecution agree upon a bond request or agree on a lawful plea, what should the court do? What weight should the agreement be given?

Again we are here on a discretionary matter. Judges must retain final discretion in these matters as factors are weighed on a case by case basis. However, when I am presented with these matters, I respect the attorneys as professionals and negotiators each with a commitment to best serve the state and their clients. I will respect the negotiated outcome, ask questions regarding the requested outcome, and only deny if there is some aspect of the negotiations that has not been fully considered. I have rarely denied these negotiated outcomes.

Your politics:

19. For whom did you vote in the 2020 United States Senate and presidential elections?

*Cal Cunningham - US Senate
Biden / Harris - US President & Vice President*

Again, Thank you. **Please do not forget to provide us with your headshot and resume or biographical statement.**