



2022 North Carolina Voter Guide Questionnaire for State Judicial Candidates

Candidate Information

(Please Print or Type)

Candidate Name Sen J. Ervin, IV
 Office Sought Associate Justice, Supreme Court of North Carolina Seat No. 5
 Campaign Address P.O. Box 1672 City Raleigh State NC Zip 27602
 Campaign Phone/Fax 919-455-4137 / 919-691-3569 Campaign Website www.ervinforjustice.org
 Campaign Email info@ervinforjustice.org Campaign Facebook www.facebook.com/ervinforjustice
 Candidate Signature J. Ervin Date 3/15/22
 (required) (required)

Candidate Questionnaire

Please indicate your responses below to the following questions. You may provide additional comments and explanations for your responses on a separate sheet of paper.

(Failure to answer a question will result in a listing of "No Response" in the 2022 Voter Guide.)

1. Which Justice of the U.S. Supreme Court best reflects your judicial philosophy?

see attachment
 ___Alito ___Barrett ___Breyer ___Gorsuch ___Kagan ___Kavanaugh ___Roberts ___Sotomayor ___Thomas

2. Rate your judicial philosophy toward the Constitution on a scale of 1-10 with a "living document" approach being a 1 and an "originalism" approach being a 10.

see attachment
 ___1 ___2 ___3 ___4 ___5 ___6 ___7 ___8 ___9 ___10
 Living Document Approach Originalism Approach

3. Please list the organizations with which you have been involved over the past five years through membership, religious affiliation, pro-bono legal work, or volunteer service.

see attachment

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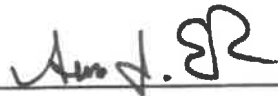
4. In the space below, or on a separate sheet of paper, please describe your overall judicial philosophy.

see attachment

5. In the space below, or on a separate sheet of paper, please describe the role faith plays in your daily life.

see attachment

Candidate Signature



(required)

Date

7/15/22

(required)

**Please return completed questionnaire to the
NC Family Policy Council by Friday, July 15, 2022**

By mail to: NCFPC, P.O. Box 20607, Raleigh, NC 27619

By Email to: vote@ncfamily.org

By Fax to: (919) 807-0900

Sam J. Ervin, IV
517 Lenoir Street
Morganton, North Carolina 28655
Telephone: (828) 455-4134
E-Mail Address: ervingarden@bellsouth.net
July 15, 2022

John L. Rustin, President
North Carolina Family Policy Council
Post Office Box 20607
Raleigh, North Carolina 27619

Dear Mr. Rustin:

I am in receipt of your letter and the accompanying questionnaire for State Judicial Candidates transmitted on behalf of the North Carolina Family Policy Council. I very much appreciate your interest in my candidacy for re-election the Supreme Court of North Carolina and am grateful for the opportunity to communicate with your membership.

I am, however, concerned about one aspect of the instructions for completing the questionnaire, which is the statement that, in the event that I fail to answer a particular question, I will be listed as having provided "No Response" in the materials disseminated to your membership. I do not believe that the the answers that I have provided to the questions contained in the questionnaire can be fairly described as non-responsive, since I have provided detailed explanations of my thinking with respect to the matters to which those questions are directed. I trust that none of my answers will be treated as "No Response."

Against that background, I will attempt to answer the questions contained in the questionnaire that accompanied your letter.

Candidate Name: Sam J. Ervin, IV

Office Sought: Associate Justice, Supreme Court of North Carolina, Seat No. 5

Campaign Address: Post Office Box 1672 City: Raleigh State: N.C. Zip: 27602

Campaign Phone/Fax; (828) 455-4134; (208) 694-3569

Campaign Website: www.ervinforjustice.org

Campaign Email: info@ervinforjustice.org

Campaign Facebook: www.facebook.com/ervinforjustice

Candidate Signature (Required):  Date (Required): 7/15/22

1. Which of the current/recent Justices on the United States Supreme Court best reflects your judicial philosophy?

Alito Barrett Breyer Gorsuch Kagan Kavanaugh Roberts
 Sotomayor Thomas

I am unable to answer this question in the form in which it is couched. I both agree and disagree with the approaches taken by various justices of the United States Supreme Court and cannot say that my approach to the work that I do most closely matches that of any of the members of the Supreme Court who held office at the time that the present questionnaire was prepared. At bottom, my judicial philosophy as applied to the position for which I am currently a candidate is to attempt, as conscientiously as I can, to ascertain the meaning of particular constitutional or statutory provisions or the content of particular common law doctrines based on all of the factors that have been recognized as relevant by earlier judicial decisions, to uphold the doctrine of *stare decisis* in an appropriate manner, to apply those legal principles to the facts of the case before me in order to reach a decision which is consistent with the properly-established facts and the applicable law, and to refrain from making decisions on the basis of preexisting political or ideological considerations instead of the relevant legal materials.

2. Rate your judicial philosophy toward the Constitution on a scale of 1-10 with a living document approach being a 1 and an "originalism" approach being a 10.

1 2 3 4 5 6 7 8 9 10
Living Document Approach Originalism Approach

I am unable to answer this question in the form in which it is couched because it overlooks the fact that applicable law, which is binding upon members of the Supreme Court of North Carolina, does not permit a sitting member of the Court to elect to rigorously and exclusively use one or the other of the two approaches posited in this question in deciding specific cases. According to well-established state and federal law, Justices of the Supreme Court of North Carolina are not entitled to adopt and consistently apply a particular rubric for interpreting the United States Constitution; instead, they are bound by decisions of the United States Supreme Court concerning the manner in which the United States Constitution should be construed. Various decisions of the United States Supreme Court adopt a range of approaches to construing the United States Constitution, including reference to the language of the original provision, the intent of the framers, and prior decisions of the courts. For example, the decisions of the United States Supreme Court concerning the Eighth Amendment require reviewing judges to determine "evolving standards of decency," *Trop v. Dulles*, 356 U.S. 86 (1958), while the decisions of the United States Supreme Court concerning the Sixth Amendment confrontation clause require reviewing judges to utilize an approach that is derived using an historical analysis, *Crawford v. Washington*, 541 U.S. 36 (2004). In other words, in performing my work at the Supreme Court of North Carolina, I am required to decide various legal issues in different ways and am unable, for that reason, to adhere to any particular analytical rubric in deciding case. As a result, I cannot say any more that I am able to follow the law, including those legal principles governing

the interpretation of constitutional principles, fairly and impartially in deciding the cases that come before me.

3. Please list the organizations with which you have been involved over the past five years through membership, religious affiliation, pro-bono legal work, or volunteer service.

I am a member of the First Presbyterian Church of Morganton, North Carolina, where I have served, at various times, as an elder, deacon, and Sunday School teacher. I am currently a member of First Presbyterian's Administrative Committee, which has responsibility for the church's budget, its financial affairs, and the maintenance of the church's property. I am also a member of the North Carolina State Bar, the North Carolina Bar Association, the Wake County Bar Association, and the American Bar Association and am currently serving as a member of the Judicial Independence and Integrity Committee of the North Carolina Bar Association. I am also a member of the American Battlefield Trust, the Appalachian Trail Conservancy, the Carolina Mountain Club, Historic Burke Foundation, the History Museum of Burke County, the Piedmont Council of Traditional Music (PineCone), and the Supreme Court Historical Society. I referee age group, middle school, and high school soccer matches and have contact with or belong to organizations that certify and assign soccer officials. As a result of the fact that I am prohibited from practicing law by the relevant provisions of the Code of Judicial Conduct, I have not done any pro bono legal work since leaving private practice in 1999.

4. In the space below or on a separate sheet of paper, please describe your overall judicial philosophy.

My judicial philosophy is relatively simple. A member of the appellate judiciary has two essential tasks. First, he or she is called upon to decide legal disputes between citizens and citizens, citizens and business entities, multiple business entities, and citizens or business entities, on the one hand, and the State or state agencies, on the other hand. Secondly members of the appellate judiciary are called upon to ensure that the legislative and executive branches of government exercise the authority that is available to them subject to appropriate constitutional limits. I believe that the role of a judge in attempting to carry out both of these functions is to decide specific cases on the basis of the existing law and the properly-established facts without attempting to further any sort of political or ideological agenda. I believe that my record in judicial and quasi-judicial office demonstrates that I decide cases based solely on the law and the facts and that I do not attempt to effectuate any sort of political or ideological agenda as I go about my work.

5. In the space below, or on a separate sheet of paper, please describe the role that faith plays in your daily life.

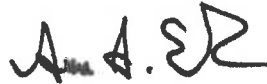
As I indicated in my answer to Question No. 3, I am a member of the First Presbyterian Church of Morganton, North Carolina, having been baptized and confirmed in that church, having attended Sunday School and youth group activities regularly as a child and adolescent, and having been a member continuously since my confirmation. I attend worship virtually every week and have been active in my local church and, to a lesser extent, the denomination with which that church is affiliated, throughout my adult life. Among other things, I have served two

terms as a deacon and approximately five full or partial terms as an elder, have served as the Chair of the Administrative and Nominating Committees of the Session, and have taught numerous elective adult Sunday school classes concerning issues relating to Reformed theology. As a result, my involvement with the First Presbyterian Church has been an important part of my life for as long as I remember.

My faith is the product of the nurture which I received from my parents, my grandparents, and the other members of First Presbyterian Church; my experience in studying the New Testament and the history of Christian thought during my years at Davidson College; and the grace of God. As a result of all of those experiences, I have developed an abiding interest in knowing more about my faith and spend substantial time studying the Bible, books about the life of Christ and the Bible, and books by and about influential theologians. I pray for guidance in both my personal and professional life on a regular basis and am constantly amazed by the evidences that I see of God's work in the beauty of the world around me and in the lives of those with whom I have come in contact. Although I would never pretend to be any more than someone who stands in constant need of God's grace, my faith is an integral part of the person that I am today.

Thank you again for the opportunity to communicate with your members. If you have any additional questions, please do not hesitate to let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "S. J. Ervin, IV". The signature is stylized with a large, sweeping "S" and "E".

Sam J. Ervin, IV
Associate Justice, Supreme Court of
North Carolina

Samuel James Ervin, IV
517 Lenoir Street
Morganton, North Carolina 28655
Telephone: (828) 455-4134
E-Mail Address: ervingarden@bellsouth.net

Education

J.D., cum laude, 1981. Harvard Law School, Harvard University, Cambridge, Massachusetts.

A.B., magna cum laude, 1978. Davidson College, Davidson, North Carolina.

Graduate, 1974. Freedom High School, Morganton, North Carolina.

Employment History

Licensed to practice law in 1981. Practiced with the Morganton, North Carolina, firm of Byrd, Byrd, Ervin, Whisnant, McMahon & Ervin, P.A., and its predecessors, from 1981 to 1999. Practice involved a wide range of civil and criminal litigation in the state and federal courts and before administrative agencies, including frequent appearances before North Carolina appellate courts.

Commissioner, North Carolina Utilities Commission, from 1999 until 2009. Chairman of the National Associate of Regulatory Utilities Commissioners Committee on Electricity from 2005 until 2007.

Judge of the North Carolina Court of Appeals from January 1, 2009, until January 1, 2015.

Associate Justice, Supreme Court of North Carolina, from January 1, 2015, until the present.

Selected Professional Activities

Board of Directors, Lawyers Mutual Liability Insurance Company of North Carolina, 1994-1999

Served on various committees of the North Carolina Bar Association

Personal Information

Born Morganton, North Carolina, November 18, 1955. Married to Mary T. Ervin. Two step-children and two children.

Selected Religious and Civic Activities

Member, First Presbyterian Church, Morganton, North Carolina
Active Deacon, 1982-1984; 1987-1989
Active Elder, 1989-1992, 1998-2001, 2004-2007, 2011-2013; 2019-2022
Paid for by Ervin for Justice