



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

Circuit Court
(New Candidate)

Full Name: Douglas Michael Zayicek

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1. Why do you want to serve as a Circuit Court judge?

I have always desired to serve, and that is part of the reason why I became a lawyer in the first place. After graduating law school, I had the privilege of clerking for a Circuit Court Judge, and witnessing multiple trials, guilty pleas, motion hearings, etc. Having the experience of working side by side with a Circuit Court Judge, spending countless hours with him in the car and in chambers, understanding what he did and why he did it, is invaluable, and cannot be understated. Respectfully, being a law clerk should almost be a prerequisite to becoming any type of judge. But at a bare minimum, the experience is immeasurable.

Since being a law clerk, I have been appointed as a Special Referee in approximately 50-75 cases, and serving as Chairman (Judge) for multiple hearing panels for the Commission on Lawyer Conduct, which tries cases brought by the Office of Disciplinary Counsel.

All of those experiences have prepared me for being a judge, and I believe all serve as outstanding training for being a judge. All have certainly increased my ability and desire to serve the public at large.

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

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?

A judge should never be involved in any *ex parte* communications involving any substantive matters of a case, without exception. *Ex parte* communications, however, may occur regarding scheduling matters, and as the Rules allow for temporary restraining orders, etc. A judge's staff must be friendly and accommodating to all when being contacted, without giving legal advice.

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?

If I disclosed something that had the appearance of bias, I would grant the motion for recusal. A judge must maintain impartiality.

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

Any such matter must be disclosed to all parties, and a judge must be open to recusal to avoid the appearance of impropriety.

8. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?

My standard will be that gifts should not be accepted by a Judge unless from family members or office staff on special occasions (Christmas, birthdays, retirement, birth of a child, etc.) As for social hospitality, the issue is more complex. My standard will be that I may attend birthday parties, holiday parties, and weddings involving attorneys provided the parties are not for me (in other words, I am just a guest), and any attorneys/parties involved do not then currently have a case before me. The key is to avoid the appearance of impropriety. If there is any doubt, the situation must be avoided. Faith in the impartiality of the judicial system is paramount.

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 immediately report a matter of misconduct to the Commission on Lawyer (or Judicial) Conduct, or the Office of Disciplinary Counsel.

As for an appearance of infirmity, it depends on the specific circumstances. If the infirmity appears minor, I would discreetly address the matter with the person before making any determination. If the infirmity is substantial (clearly intoxicated or under the influence of some substance, etc.), I would immediately report the matter to the Commission on Lawyer (or Judicial) Conduct, or the Office of Disciplinary Counsel.

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.

I currently serve on the Foundation Board for the Horry County Disabilities and Special Needs Board. I would resign from that Board if elected. I previously served for several years on the Grand Strand Humane Society Board of Directors, but did not run for another term when my last term expired.

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?

In most cases, I would email the parties, and ask the attorney for the prevailing party to draft the necessary order pursuant to my instructions. If the prevailing party is pro se, I would draft the necessary order.

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

I do not know what, if any, scheduling/calendaring programs the Circuit Court Judges have, or have access to. But I would use that or obtain one, and have a paper-calendar back up system.

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

Judges in South Carolina should not be judicial activists, and should not set public policy in any way. The members of the General Assembly, and Governor, are the elected officials who have to answer to the citizens of South Carolina. It is their exclusive duty and power to set and promote public policy in South Carolina.

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 do not currently have any plans to undertake any such activities, but I would certainly participate if asked by the South Carolina Supreme Court, the General Assembly, or the Governor.

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 feel serving as a judge will strain any personal relationships, whatsoever. My fiancé is very supportive, and is a member of the Horry County School Board. She is very aware of her ethical responsibilities, confidentiality requirements, etc., as a Board Member. I do not have any children. Also, whether by luck or design, all of my close friends are of high character.

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 following applies to all categories below: every person and case must be treated on case-by-case basis, taking into account all information available, the facts and severity of the crime, the recommendations of the solicitor’s office, victims’ rights, witnesses, probation officers, sentencing guidelines (statutory or otherwise), etc. I do not believe there is a cookie-cutter answer that applies across the board to every scenario. When I was a law clerk for a Circuit Court Judge, I witnessed countless guilty pleas, and many criminal trials in several counties. In fact, I wrote an article for SC Lawyer magazine, discussing guilty pleas.

- a. Repeat offenders: Repeat offenders, in general, should receive

less leniency than first time offenders, unless there are extremely convincing arguments/facts to the contrary. I believe every judge wants first-time offenders to learn from their mistakes, but various factors have to be considered including the nature of the crime, and the time between offenses.

b. Juveniles (that have been waived to the Circuit Court): If a juvenile has been waived, then they are to be treated as adults, and treated the same as everyone else. However, depending on the charges and facts, juveniles can hopefully be punished fairly, so as to teach them there are repercussions for their actions and they can learn accordingly, without ruining their lives. But they should be punished strongly enough so that they hopefully do not become repeat offenders.

c. White collar criminals: In general, I do not believe there is a major difference between types of crime (i.e., "regular" crimes vs. white collar crimes)—breaking the law is breaking the law. However, there are degrees of white collar crimes (e.g., victimless crimes). For example, if a defendant for whatever reason does not file taxes for some honest reason, that is one type of white collar crime. However, if a defendant is charged with taking advantage of the elderly, or minors, or charitable organizations, etc., that is a different level of violating the public trust that should be addressed accordingly.

d. Defendants with a socially and/or economically disadvantaged background: Again, subject to the qualifications above, I believe most judges believe that personal growth and rehabilitation can be a part of the sentencing and punishment process, and that any sentence can allow for the defendant to overcome any such social or economic hurdles. Judges frequently encourage defendants to get their G.E.D., require certain things as a part of probation such as drug counseling, etc.

e. Elderly defendants or those with some infirmity: If a defendant lacks the capacity to understand what they are charged with, or accept responsibility for their actions, that must be addressed. But simply being elderly or having an infirmity, without more, should not make a difference with regard to sentencing, again, subject to the qualifications above.

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

Along with my current law partners, I own a portion of the real estate that my law firm occupies. Currently it is not generating any active income for me personally, but will eventually. I will address this with the proper people with the Ethics Commission and Judicial Department should I be elected, and follow their instructions.

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

No. I believe the recusal rules allow a judge to hear a case unless the judge or a family member has more than a *de minimus* interest and the outcome of the case could affect that interest. However, to avoid any appearance of impropriety, I would recuse myself even in cases that only involve a *de minimums* interest.

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

Yes.

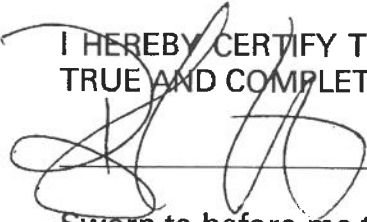
22. What do you feel is the appropriate demeanor for a judge and when do these rules apply?

A judge should always appear calm, friendly, compassionate, helpful, and impartial, and should not take any action that shows any bias for, or against, any attorney, witness, or litigant. I had the honor of clerking for the Hon. John L. Breeden, Jr. (Retired), and I will always strive to treat everyone the same way that he did--with respect and dignity, regardless of the circumstances.

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?

Anger is never an appropriate reaction in public, or with a member of the public, or a criminal defendant. Should a judge ever need to be frank with an attorney, it should be done in chambers, only. The deputies and bailiffs are present to assist with any unruly member of the public or criminal defendants. Judges often explain the factors that go into their sentencing, but it should not done in anger.

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 19th day of July, 2023.

Vicki M Carroll

(Signature)

Vicki M Carroll

(Print Name)

Notary Public for South Carolina

My Commission Expires: 8/31/2026

