



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

**Circuit Court**  
**(New Candidate)**

Full Name: David Pierce Caraker, Jr.

Business Address: 1301 Second Avenue Conway, South Carolina 29526

Business Telephone: 843-915-8628

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

I have dedicated my entire adult professional life to public service. From what I have seen and experienced since the beginning, I have learned that a Circuit Court judge is in a unique position to affect peoples' lives in a profound way. Like my father before me, I have strived to make a difference in the lives of those around me. There is no greater calling. My unique combination of experience in the private sector, civil practice, and criminal law have provided me with perspective, passion, and the wisdom that I would need to be the kind of judge the people of South Carolina deserve. I would bring those experiences with me to the bench every day, and I would dedicate myself to being an example of what a fair, honest, and humble servant should be.

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

I plan to serve my full term if elected.

3. Do you have any plans to return to private practice one day?

I have no plans to return to private practice.

4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice?

I meet the Constitutional requirements for this position regarding age, residence, and years of practice.

5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

*Ex parte* communication is generally not permitted except under certain circumstances. I would adhere to the Rules of Judicial Conduct, Canon 3, Rule

65(b) SCRPC, and any statutory provisions regarding such communication. They provide that, in some limited circumstances, such communication would be allowed. Other than those exceptions, a judge should include all parties in any communications.

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?

Because even the appearance of bias or impropriety must be avoided, I would give great deference to a party requesting that I recuse myself from a particular matter. Canon 3(E) requires recusal if a judge's impartiality might be reasonably questioned. Because perception is often reality, it is best to err on the side of caution, and recuse oneself in a case such as this.

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

I would fully disclose the information, on the record, to all parties to the action. Even if none of the parties requested that I recuse myself from the matter, I would still do so. It is important that the judiciary remain neutral and detached, and that litigants feel as though they were treated fairly by the court.

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

I would adhere to Canon 4 of the Judicial Rules of Conduct. I would not accept a gift, nor allow a family member to accept a gift, from anyone that may call my impartiality into question. I would not accept gifts from any lawyer who may appear before me, and I would not ask for nor accept special favors from anyone, if those favors would not be given to a person who was not a judge.

With regard to social hospitality, I would have to analyze whether a particular outing may raise the appearance of undue influence or partiality. Outings with people who are already friends would be subject to less scrutiny than those with newfound "friends." Each instance, however, would have to be evaluated on its own.

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?

If there was a situation where I became aware of misconduct or appearance of infirmity, I would speak with that person in private, and remind him or her of my duty to report my concerns. I would urge that person to self-report, and prompt him or her to seek help if warranted. I would then report the conduct to the proper Commission.

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.

I am not a member of any such organization.

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

I have not engaged in any such activities.

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 the event that I can quickly fill out a Form 4, I would do that myself. In other instances however, I would have the prevailing party draft an order that complied with my findings of fact, and my ruling. I would then have that party send it to the other party for approval. If both parties approve, and it meets with my ruling, I would then sign it.

There are also times when I believe that I would need to produce an order myself, such as after taking a matter under advisement. I would research the matters involved, and produce an order that reflects my findings of fact, and conclusions of law.

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

I would use a calendar system that would provide automatic reminders of events that are coming up in the future days and weeks. This system would be available to my entire staff, and I would require that they use it daily. I would also have status conferences on upcoming cases to ascertain certain issues with those cases, and to see whether we may need to allow more or less time than anticipated for disposal of those cases.

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

It is the duty of Circuit Court judges to strictly and fairly interpret the laws as written, not to legislate from the bench. They should not allow personal feelings, political pressure, or media hype to dictate a ruling in a particular matter. If a judge hears a matter that may be ambiguous, or a matter where he or she is given discretion, he or she must apply the law

correctly and justly in light of the attendant circumstances.

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 would like to find ways for some people to reduce or eliminate their contact with the criminal justice system in the first place. If we could find out what is driving criminal behavior, maybe we could limit people's exposure to the system, especially at a young age. I would also like to continue my training of law enforcement. This is not because of a particular slant, but because it is absolutely vital to the administration of justice that our police officers are equipped with the ability to know and evenly apply the law to situations in which they find themselves. This would not only protect the rights of the accused, but may foster more faith in the system itself.

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 that election to the bench would strain relationships with family and friends. My family has stood by me in all of the steps of this journey that I have been on since my days in law enforcement. Although family is the most important thing to me, they understand that they have to share me with the community in which I work. I maintain a very close group of friends. They understand even now that there are certain things that I can do and talk about and other things that I simply cannot. That will not change upon my election, if given the opportunity.

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.

a. Repeat offenders:

The term "repeat offender," on the surface, immediately brings to mind two separate issues: 1) that this person is unwilling or unable to bring his or her behavior within the bounds of the law, and 2) that the prior punishment did not serve to deter or rehabilitate this person. The law provides for stiffer punishment for certain offenses, and some offenders do fall into the category of person worthy of a longer sentence. However, it is important that a judge look to the possible underlying reasons or causes of this person's criminal behavior. Only when a judge has a full presentation of the facts and

circumstances surrounding this person and the crime that he or she committed can the judge formulate a sufficient and fair sentence.

**b. Juveniles (that have been waived to the Circuit Court):**

Juveniles may be waived up to Circuit Court only in certain circumstances. It is important to understand the crime that he or she is accused of, and to what extent deterrence and rehabilitation should be considered for this person. Again, a judge will need a full presentation of the facts and circumstances surrounding the case and the offender before sentencing, as each case is different.

**c. White collar criminals:**

In these types of cases, usually a victim has had something taken from him or her. Generally, no one was assaulted or otherwise physically harmed, but the damage can be even more far-reaching and painful. Many times, sentencing will turn on whether and to what extent a defendant can make restitution to a victim in a white collar case. The court must then undertake a very difficult balancing process as to sentencing, balancing the need for punishment and deterrence versus the need for the victim to be made whole, or close to whole, again.

**d. Defendants with a socially and/or economically disadvantaged background:**

It is important that a judge treat all people equally and fairly. Consistency in sentencing provides a safeguard against unjust results. A defendant's social or economic status, among other things, however, should be taken into consideration when weighing that and other mitigating factors.

**e. Elderly defendants or those with some infirmity:**

Again, it is very important that a judge treat all people equally and fairly. The elderly and/or infirm, however, need special consideration when it comes to sentencing. It is imperative that a judge understand that old age or infirmity do not excuse criminal behavior, but it may counsel the judge to weigh those factors heavily with regard to mitigation. A judge must take into consideration any medical issues that a particular defendant may have, and who would even be able to provide that care in the event of incarceration, home detention, or even probation.

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

No.

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 would recue myself in a case of this type.

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

Yes, I have met those requirements.

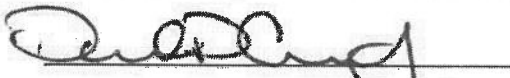
22. What do you feel is the appropriate demeanor for a judge and when do these rules apply?

It is important that a judge act justly, love mercy, and walk humbly. His or her demeanor should embody these attributes. In that, a judge must also lead from the front, demonstrating thoughtfulness, courtesy, and impartiality, along with being respectful and authoritative to those who appear before him or her. These rules apply at all times and in all places, because a judge represents the "system" everywhere he or she goes.

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?

There is never a time where it is appropriate for a judge to demonstrate anger against anyone in his or her courtroom. It is important to remember that the attorneys and court staff are doing a difficult job, and that litigants and defendants probably do not understand the system. It is important that a judge not conflate firmness and authority with anger or vitriol. To do so undermines the profession, and any confidence that a person may have that he or she is going be treated fairly by that judge.

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 2<sup>nd</sup> day of August, 2023.

  
(Signature)

Lindsay Parker  
(Print Name)

Notary Public for South Carolina

My Commission Expires: 3/16/2024