

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

**Circuit Court**  
**(Incumbent)**

Full Name: Roger L. Couch  
Business Address: P.O. Box 2614  
Spartanburg, SC 29304  
Business Telephone: 864-596-2285

1. Why do you want to serve another term as a Circuit Court Judge?

It has been the greatest honor of my life to serve the State as a Circuit Judge. I feel that I have the ability to continue to provide a needed service to my circuit and the State.

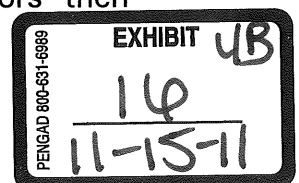
2. Do you plan to serve your full term if re-elected? Yes.  
3. Do you have any plans to return to private practice one day? No  
4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes  
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

I do not engage in *ex parte* communications. In order assure that they do not occur I do not directly communicate with attorneys or their members of their staffs unless both sides are involved in the discussions. I require that my staff arrange all hearing times and dates, relay procedural information. My clerk communicates with attorneys concerning Orders that I have requested. I do not involve myself directly in those discussions. All communications are shared with the opposing parties.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

Should a former law partner or associate appear before me I make the parties aware of that issue and allow them an opportunity to raise any issues that they feel to be appropriate. However, I have been on the bench for 14 years and do not consider that to be as big of an issue as it once was given the length of time that has passed since our association.

I do not recuse myself when a lawyer-legislator appears in a case before me. All circuit judges are elected using the same procedure, that being election before the legislature. I believe that all attorneys are very aware of that procedure. If all judges were required to remove themselves from cases involving lawyer-legislators then



those individuals would be precluded from having their cases heard. In my almost fourteen years on the bench I have never had anyone raise that issue, but I would be willing to hear them on that issue should it arise.

7. 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?

I would have to consider whether or not the situation had the appearance of impropriety, If it had that appearance, I would recuse myself.

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

I would consider that to be an issue that I would have to address. If the matter had the appearance of impropriety, I would remove myself from the case. Any issue with their financial situation would be my issue as well. The only exception that I might make would be if I felt that the question was being raised more for the purpose of "forum shopping" or being used so as to gain a tactical advantage. If that were the case, I would have to give that issue some consideration so as not to prejudice the other side of the case.

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

I do not accept gifts or social hospitality from any person or entity who might appear in front of me. Gifts or social hospitality are only accepted from long-time friends or family.

I do attend social gatherings at professional meetings where other judges and all attorneys are welcomed and in attendance.

10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?

I would report it to the appropriate authorities

11. Are you affiliated with any political parties, boards or commissions that, if you were re-elected, would need to be re-evaluated? No.

12. Do you have any business activities that you would envision remaining involved with if reelected to the bench? No.

13. How do you handle the drafting of orders?

I prefer to prepare my own orders; however, given the size of the case load that I face it is necessary to ask from time to time that the prevailing attorney prepare that appropriate order. I require that the proposed Order be presented to the opposing counsel and allow them an opportunity to comment on the Order before it is signed. The Proposed Order is reviewed by me and my law clerk before I sign the Order so as to assure that the Order is consistent with my ruling.

14. What methods do you use to ensure that you and your staff meet deadlines?

All matters involving deadlines are placed on a calendar and I receive reminders of the up-coming deadlines.

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

I believe that as a trial judge it is my responsibility to review the applicable statutes and case law involved in any issue before me and apply that law to the facts that are before me. I strive to follow the clear meaning of the statutory law and the cases that have interpreted that law. When questions consider statutory law, it is my belief that changes are the responsibility of the legislature to enact the will of the people through new legislation if they deem that legislation appropriate.

The Appellate courts have the responsibility to consider any necessary changes in the common law and to interpret the constitutional issues that might arise. I try to follow those decisions. In the rare case that an issue falls into an area that has not been previously addressed by legislation or case law I review the related information and do my best to determine how the appropriate governing bodies would handle the matter and take that course of action.

16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities do you plan to undertake to further this improvement of the legal system?

I am currently involved in the Chief Justice's commission of docketing in the General Sessions Court and will continue to work with that group to suggest necessary changes to make the system for equitable and efficient.

During the last 2.5 years, I have been one of the judges who assumed the control of the General Sessions Docket. I believe this experimental change has demonstrated when adequate resources are available, judicial control will result in a more equitable and efficient handling of that docket.

17. Do you feel that the pressure of serving as a judge strains personal relationships (i.e. spouse, children, friends, or relatives)? How do you address this?

My children are grown and my wife has a job which allows her some flexibility making those strains easier to deal with. We have a condo at Pawley's Island on the golf course which is an excellent place for us to go and get away from those strains. It is amazing how much better I feel when I cross the bridge over the Waccamaw River in Georgetown. Because being a judge limits your access to certain social relationships, I am closer to relatives and old friends. I think

you have to be aware of the strains that the job brings and guard against allowing them to affect your personal and professional life.

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 repeat offenders I most often encounter are charged with relatively minor crimes. I consider giving these individuals more assistance with their problems. I often increase the level and severity of their sentences given the level of the crime and the number of repeat offenses. If after a review of their record, I find they have a substantial number of convictions (more than ten) which indicates they are not capable of correcting their behavior through probation, alternative sentencing or brief incarceration, then I remove them from society, putting them in jail for a substantial period of time. I believe repeat violent offenders must be incarcerated more readily and have a more lengthy sentence.

b. Juveniles (that have been waived to the circuit court):

As in all cases I must consider the severity of the crime and the danger that the offender poses to society. I would first consider a sentence that would allow for the offender to correct the behavior and move forward in life. I would lean toward a YOA sentence with shock and/or public service. I would hope that we could encourage these defendants to not become involved in a life of crime. If the crime were violent or the offender appears to pose a danger to society, the offender would be dealt with like an adult violent offender.

c. White collar criminals:

The considerations would be the nature of the offense from the perspective of the damage to the victims, prior record, degree of acceptance of responsibility, need for restitution, and the potential for repetition. For example, I found the long prison sentence given in the Madoff case to be appropriate; however, had there been a real possibility of restitution, I would have considered an alternative sentence to achieve restitution to the victims.

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

I always consider the possibility to including in a sentence for these types of defendants such things as requiring additional education, job or vocational training. Sometimes these must be coupled with drug therapy to put them in a position for those programs to be of assistance. However, the mere fact that

someone has been economically or socially disadvantaged is not and excuse for criminal behavior. I strongly believe that we are attempting to correct behavior so that the person can be a productive citizen. Until I believe that goal is not possible, my sentences will reflect that goal.

e. Elderly defendants or those with some infirmity:

One must weigh the need for punishment with the costs to society of incarceration. Quite often I consider some type of home detention as an alternative which would allow them to live in a setting without direct costs to the state for their care. Some inmates may even pose a health risk to others if they are placed in the general prison population.

In the case of a multiple offender of serious crimes sometime their age provides a mechanism to protect society from them.

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?

The question does not indicate the magnitude of the interest or the degree of kin of the person who might hold the interest. If I were aware of the issue, I would share the information with the parties and allow them to make any motions they feel is appropriate. I felt that the financial interest would in any way affect my judgment in the matter I would remove myself.

21. Do you belong to any organizations that discriminate based on race, religion, or gender? No

22. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes

23. What do you feel is the appropriate demeanor for a judge?

A judge should be calm, patient understanding, sincere and diligent. You must be willing to allow all parties to fully express their positions within reason. A sense of humor, appropriately displayed is always helpful. One must be firm when confronted with challenges to the authority and the reverence of the courtroom setting. While requiring respect for the office the judge, one should also respect the office as well and be mindful of the fact that one does not own the position, we are just caretakers of the position.

24. Do the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or do these rules apply seven days a week, twenty-four hours a day?

They apply 24-7. I am always a judge no matter what the setting and should behave as such.

25. 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 a pro se litigant?

Anger displayed in the public is never appropriate for a Judge. At the end of the day my ruling will control the case for that day. Given the nature of the job irritation does often creep into your dealings. I always try to step off the bench and take a deep breath when they do creep in. Patience is a virtue that all judges can never have enough of.

26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees? None
27. While campaigning for this office, have you used judicial letterhead or the services of your staff for your campaign? No
28. Have you sought or received the pledge of any legislator prior to this date? No
29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No
30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No
31. Have you contacted any members of the Judicial Merit Selection Commission? No
32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted? No

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

s/Robert L. Couch

Sworn to before me this 4<sup>th</sup> day of August, 2011.

Notary Public for South Carolina

My commission expires: 10/26/2014