

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

**Circuit Court
(Incumbent)**

Full Name: Michael G. Nettles
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1. Why do you want to serve another term as a Circuit Court Judge?

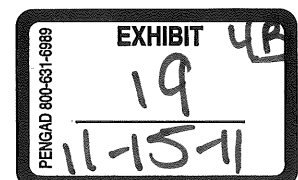
The past five years have been the most rewarding and fulfilling years of my professions career. I practiced law as an advocate for my clients' cause for 20 years. It was refreshing and challenging to serve the legal system as the arbiter of the law. As a judge, one finds himself in the position of being called upon to do what is right for all concerned. I have enjoyed travelling throughout the state and meeting members of the bar that I otherwise would not have met. I am convinced there is no better job in the whole United States of America than being a South Carolina Circuit Court Judge.

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?

Ex parte communication should not take place under any circumstances unless specifically permitted by law. Except for such as might be permitted by law, I would not permit them.

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

My philosophy on recusal is that a judge should recuse himself if the facts or circumstances would create an appearance of impropriety by an objective standard. Lawyer-Legislators: This presents an unusual situation in that all circuit court judges are elected by the legislature and are subject to reelection by the same body. However, if there was a relationship with a particular legislator that would create the appearance of impropriety, recusal should take place. Former Associate or Law Partner: My philosophy is that no circuit judge should hear a case presented by a former associate. In my



particular case, 2 of the 5 partners in my former law firm are my family members and recusal would certainly be in order.

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 grant the motion for recusal. If the appearance of bias is present, recusal should take place.

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

If the appearance of impropriety existed because of financial or social involvement of my spouse or a close relative, I would recuse myself.

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

Gifts from lawyers to judges are almost always improper. The question is whether it would reasonably be calculated to influence the judge's impartiality. My personal policy would be not to accept gifts from lawyers. With regard to social hospitality, I personally would not attend a social engagement hosted by a lawyer who would appear before me. I would, however, attend a County or State Bar function.

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

A judge should report to the appropriate professional authority misconduct that raises a substantial question as to that lawyer and or judge's honesty, trustworthiness or fitness.

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?

Yes. My wife and I own M & D Properties, Inc. We are engaged in the purchase, renovation, rental and sale of homes. We currently own three (3) homes that are being leased. I would expect to remain involved with its operation.

13. How do you handle the drafting of orders?

In default matters, it is the common practice for the moving party to prepare and submit the order to the judge for his review and signature. In contested matters, I make specific findings of fact and conclusions of law on the record and request the prevailing party to draft the order consistent with my findings. I direct the order to be shared with opposing counsel prior to being submitted to me. There are circumstances which require review of extensive discovery, research, and prolonged reflection prior to rendering a decision. In those matters, I prepare the order myself.

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

I have implemented a computerized calendar system. My secretary, law clerk and I have access to the calendar to ensure compliance with deadlines. My staff is charged with responsibility in compliance with all deadlines under my strict supervision.

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

A judge's responsibility is to enforce and interpret the statutory case law of the State of South Carolina. My personal view is that the legislature should establish public policy and the courts should be restricted to interpreting the law with guidance from prior decisions of the Appellate Courts.

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 would make myself available to the South Carolina Bar Association, University of South Carolina School of Law or other institutions of higher learning in whatever capacity I may be needed, be it through lectures, class discussions, presentations, speaking engagements, or Continuing Legal Education seminars.

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?

The time for spouse, children and friends has actually increased since taking the bench. An active trial practice is all consuming. Additionally, two of my children have graduated from college and my youngest will graduate from USC in the fall. My family situation is ideal for me to serve as a Circuit Court Judge.

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:

Past criminal history is one of the primary factors to be considered in sentencing. The criminal code quite often provides for enhanced penalties for repeat offenders. Repeat offenders should receive more severe sentences.

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

Virtually all juveniles who are waived up to General Sessions Court have been accused of a serious crime. Although youth in and of itself is a mitigating factor, when juveniles commit adult crimes, they should be held accountable. All factors: The

nature of the crime, the impact of the victim, and the Defendant's role in the offense should be considered.

c. White collar criminals:

Quite often, white collar crimes involve misappropriation of money. The competing factors are incarceration versus probation and creating the ability to pay restitution. All factors should be considered including the element of deterrence.

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

I practiced law for nearly twenty years. I handled 681 criminal cases in the last five years of my practice. I would venture to say that about 95% of the defendants fell within this category. A good judge should listen to the facts of the case and consider all aggravating and mitigating circumstances and render his best judgment.

e. Elderly defendants or those with some infirmity:

Advances age and illness is certainly a factor to be considered and perhaps is a mitigating circumstance. It is hard to evaluate this particular element without a specific set of facts.

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

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?

The appropriate demeanor of a judge is one who maintains order, but does so with kindness, patience, and courtesy. A judge should also exhibit tact, understanding, compassion and humility.

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?

I realize that I am subject to heightened public scrutiny. I am by nature a calm, patient and courteous person. It would be incumbent upon me and my family to conduct ourselves in such a manner as to not bring dishonor to the Bench of the State of South Carolina.

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 is never an appropriate or productive emotion to display from the bench. Anger would in all circumstances detract from the integrity of the judiciary.

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? Yes

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

s/ Michael G. Nettles

Sworn to before me this 1st day of August, 2011.

Notary Public for South Carolina

My commission expires: 1/27/2021