

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

**Circuit Court  
(Incumbent)**

Full Name: Royce Knox McMahon  
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Lexington, South Carolina 29072  
Business Telephone: 803-785-8239

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

I have learned a great deal during my term a Circuit Judge and I believe I have made a positive difference by my service. As such I would like to continue to serve the people of my community and the State of South Carolina in that capacity.

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, not at this time.

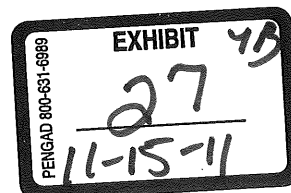
4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes.

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

Ex parte communications are generally inappropriate and must be avoided, except as permitted under Canon 3 B.(7) of the Code of Judicial Conduct. Canon 3 allows ex parte communications when necessary for scheduling, administrative purposes or emergencies, provided that one party does not gain an advantage as a result of the communication and the judge promptly notifies the other parties and allows them opportunity to respond. I also would permit ex parte communications as authorized by law.

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 be fair, impartial, and objective, with no friends to reward and no enemies to punish. I do believe a judge should recuse himself or herself if he or she is unable to objectively and impartially hear and dispose of the case due to a financial or personal reason which he or she cannot set aside. I do not believe that a judge should recuse himself or herself solely because of dissatisfaction by one or more litigants in the case or for purposes of "judge-shopping."



The same rules of recusal would apply to lawyer-legislators as it does to all other members of the bar. Lawyer-legislators have a right to practice law, and should not be denied that right based on their elective office. I would not automatically recuse myself in cases with lawyer-legislators based on their status, whether they are acting as attorneys, witnesses or parties to a case.

As to former partners and associations, I would consider the totality of the circumstances after full disclosure of the relationship to the opposing party. Clearly, if there was a financial interest that remained between me and a former associate or partner, I would recuse myself. If the matter involved a client who was a client of the law firm while I was associated with the firm, I would automatically recuse myself. If the case involved anyone that I prosecuted during my years as an assistant or deputy solicitor, I would automatically recuse myself.

Additionally, I have two daughters who are attorneys in South Carolina. My oldest daughter is a private attorney and my youngest daughter is an Assistant Solicitor in the Eleventh Judicial Circuit. I also have a son-in-law who is Assistant Solicitor in the Eleventh Judicial Circuit. I would not hear any matters in which either of my daughters or my son-in-law were involved; however, I would not recuse myself from hearing matters which involved my daughter's law firm or the Eleventh Circuit Solicitor's office when my daughters and son-in-law had no involvement in the case after disclosure if no party objects. I would disclose that my daughter was an employee of the law firm and allow the attorneys to speak with their clients outside the presence of the court. If either party objects I would recuse myself. I also would disclose to each criminal defendant in the Eleventh Circuit that I have a daughter and son-in-law employed with the Eleventh Circuit Solicitor's Office and allow the defendant to speak with his or her attorney and decide whether he or she would like me to disqualify myself from hearing the case based on that disclosure. If the defendant or the Solicitor's office objects I would withdraw from the case.

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?

Under Canon 3.E, "A judge shall disqualify himself or herself in a proceeding in which judge's impartiality might reasonably be questioned..." I would give great deference to the party that requested my recusal and if I found my impartiality might reasonable be questioned, I would grant the motion for recusal.

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 first disclose the information to all parties on the record in open court. Then I would determine if the interest of the spouse or relative is more than a de minimis interest that could substantially be affected by the proceedings. If I determined that the interest of the spouse or relative could be substantially affected by the outcome, I would recuse myself.

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

I am guided by the standard of Canon 4.D of the Code of Judicial Conduct. Ordinary social hospitality is acceptable and should not be discouraged so as to isolate a judge. Gifts commensurate with the occasion and the relationship between the parties are acceptable provided there is no reason to perceive that the gift is intended to influence the judge in the performance of his or her judicial duties.

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

I would take the appropriate action, with the guidance of Canon 3.D of Rule 501. According to the Commentary, appropriate action may include direct communication with the judge or lawyer who has committed the violation, other direct action if available, and reporting the violation to the appropriate authority or other agency or body. If the conduct by the judge raised a substantial question as to the judge's fitness for office, I would inform the appropriate authority. If the conduct committed by the lawyer violated the Rules of Professional Conduct and raised a substantial question as to the lawyer's honesty, trustworthiness, or fitness as a lawyer, I would inform the appropriate agency.

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?

If I rule at the end of the hearing, I request that the successful party submit a proposed order including findings of fact and conclusions of law, and that the order be forwarded to the Court and the opposing party by e-mail simultaneously for any suggestions, deletions, or additions that the parties wished to have considered by the Court. I would ensure that all parties are given an opportunity to respond to the proposed order's findings and conclusions. If I take a matter under advisement, I request that both parties submit proposed orders to me and to each other simultaneously. After careful and thorough review, I would issue the order of the Court.

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

I calendar all cases heard that I have not yet issued orders. These are kept electronically and by notebook. I also date receipt of proposed orders and note electronically dated signed and issued. I review my MUA (Matters Under Advisement) report weekly.

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

I believe that there are three separate but equal branches of government: legislative, executive and judicial. I do not believe in judicial activism or in judges setting or promoting public policy. I believe that public policy should be set by and promoted by the legislative and executive branches of our government. I believe that our judiciary should know the law and interpret the law, but not make the law.

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?

In the past, I have served as a judge for the oratorical contest sponsored by the American Legion. I found this to be a very gratifying and rewarding experience. I speak to schools groups, civic organizations, and other community groups upon request concerning the legal system and the administration of justice. I also serve as a judge for moot court and trial advocacy competitions. I also accept and mentor interns through the Judicial Observation Experience (JOE) and other programs as requested. .

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?

I feel that there are many pressures in life that may strain personal relationship, but life must remain in balance. From being a police officer, deputy sheriff, and prosecutor for many years, I believe that I am intimately familiar with pressure. I have a very wonderful and supportive family of whom I am extremely proud. We are supportive of each other and have been for many years and will continue to be for many years to come. Our family spends time together, travels together and enjoys each other company. We appreciate each other not only as family member but as individuals.

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.

I preface all of my remarks to the list of categories of offenders with the following: I believe a judge should look at all the facts and

circumstances of the crime and of the offender prior to the imposition of sentence. A judge should look at the nature and circumstances of the crime, the degree of harm to the victim, the danger of the offender to society, and the background, history, education, work history and prior record of the offender. A judge should consider the family or community support of the offender and the potential for rehabilitation. Also, the judge must be familiar with and guided by the appropriate sentencing statutes, the maximum and minimum sentences, and any mandatory sentences.

Every case is different and must be decided on its own specific facts and circumstances against the backdrop of equal protection under the law and due process.

a. Repeat offenders:

Generally, repeat offenders should receive more serious sentences than first time offenders. Some recidivism has been addressed by the legislature; for example, driving under the influence and drug offenses. Behavior has consequences. Of course I would consider the particulars of the prior criminal history including the type of prior offenses, as well as the timing of the prior offenses.

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

The legislature has balanced the competing interest of society with the age of the offender and the severity of the crime. Although the age of the offender would be a fact for consideration again I would consider the totality of all the facts and circumstances prior to imposition of sentence. In some circumstances a Youthful Offender Sentence (YOA) may be appropriate but not in others.

c. White collar criminals:

I would look at all of the relevant facts and circumstances prior to the imposition of any sentence. Although these crimes are not violent crimes, in many cases they cause tremendous victim impact. In some cases, prison may be appropriate; however, in other cases, probation along with restitution and community service is proper.

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

All facts should be considered to the imposition of sentencing. Having tried many death penalty cases, it has been my experience that many times jurors take the background of the defendant into consideration, and, in fact, in many cases are directed to do so. These are facts to be considered; however, that does not mean that they should be given any particular

weight. It would depend on all of the facts and circumstances and the applicable law.

e. Elderly defendants or those with some infirmity:

Consideration should be given for elderly or infirm offenders. However, testing should be required or provided to corroborate the infirmities. These are facts to be considered, but the weight to be given would be determined on a case by case basis.

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?

I would disclose the *de minimis* interest to all parties and give due consideration to any motion for recusal. If requested, I would give great deference to the motion; however, I would not automatically disqualify myself particularly if the *de minimis* interest would not be substantially affected by the proceeding.

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 treat all people with courtesy, respect and dignity. Of course this includes the attorneys, court personnel, bailiffs, parties, witnesses, and criminal defendants.

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?

The above rules apply all the time.

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 appropriate with a member of the public or criminal defendant. Further, anger is not appropriate with attorneys or pro se litigants. A judge should remain calm, controlled, and balanced in his dealings with all parties, regardless of their status.

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.

Royce Knox McMahon

Sworn to before me this 9<sup>th</sup> day of August, 2011.

Notary Public for South Carolina

My commission expires: 2/23/2019