

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

Circuit Court
(Incumbent)

Full Name: Roger Mack Young, Sr.

Business Address: Charleston County Judicial Center, 100 Broad Street, Ste 368, Charleston, SC 29401

Business Telephone: 843-958-2015

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

I find this is the most stimulating and challenging job imaginable. I look forward to going to work every day. It's a great privilege to be able to do this. I have a front row seat where human conflict is resolved. I can't imagine doing anything else.

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

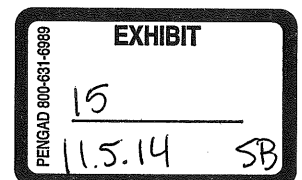
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

I tell my law clerks this is something they have to be vigilantly on guard about because it has been my experience that lawyers know better than approach a judge directly and don't try to have *ex parte* communications with me about a case. However, they often will try to tell the law clerk about the case, which may influence the law clerk about a case, which in turn may influence me when they talk to me about it. So I carefully explain that to them when they begin their employment.

Other than that, I only talk to lawyers about a case *ex parte* if it involves a scheduling matter, which is permitted. However, while permitted, it seldom makes any sense to do so because you still have to get in touch with the other side to let them know something got scheduled and invariably they aren't available at that time. So unless it's an emergency, I don't waste my time with it.

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

I don't have any former partners or associates. I have lawyer-legislators appear in my court regularly. I treat them like anyone else and



have to trust that is good enough for them, and if I rule against them they'll respect it and don't hold it against me when I run for re-election.

I've only had a couple of occasions where I've had anyone request I recuse myself. Once it was because the lawyer was making an ethical accusation against one of my former law clerks. I agreed to recuse myself because I would have a difficult time believing this particular former clerk would be capable of doing anything unethical. The only other time I can recall was when a litigant mistakenly thought I was the judge who had ruled against him years before on some other case. Once we checked the records and determined it was another judge, he withdrew his request.

I have a general rule that I usually recuse myself if a local lawyer is involved in a malpractice action. I think most judges try to avoid those involving local lawyers and so we reciprocate hearing those cases when we hold court out of town. Not only do you avoid the uncomfortable aspect of ruling against someone who you come in contact with socially, the other side is usually comforted as well.

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 have found it usually works to set people down and explain to them that it's my job to preside over the court and make a ruling and sometimes ultimately make a judgment on who prevails. One of the most important aspects of a trial is that the parties feel they received a fair hearing. I tell them I respect that, and that if I really felt uncomfortable making a rule either for or against them I would bring in another judge to hear the case. We have others, so it's not a problem to get another judge if the appearance were reality. Most people seem to appreciate that approach.

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 recuse myself unless it is a de minimis amount, which I would disclose. I would want to determine if there was a non-pretextual reason for the recusal request. In any event I would not preside over a case with a family member as a party or witness.

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

I have friends who are attorneys and they will occasionally pick up a lunch check when we are out. We either split the check or alternate who pays. The only time anyone pays for my hotel room is when we are at conventions like SCAJ or SCDTLA, or CLE classes by an organization, and they invite all the judges and pay for their expenses. My non-lawyer friends are basically family members who think I make a bunch of money and never offer to buy me lunch or dinner.

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

I sit down with them to hear their side of the story and if I find it is something that should be reported, I give them an opportunity to self-report, and inform them I will report it if they do not. If you sanction a lawyer you are required to report it.

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 usually have my law clerks draft most of the routine orders based on how I tell them I want to rule. In non-jury matters I often have the attorneys submit proposed orders in lieu of closing arguments. I usually only have the opportunity to write an entire opinion 2-3 times a year, and those are on exceptionally difficult cases. Writing helps me clarify my thoughts and reasoning.

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

My law clerk and I each keep a running list of matters under advisement utilizing an Excel template one of my law clerk created a few years ago.

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

I'm a state trial court judge. Most of the things state circuit court judges do involve presiding over trials and making sure rules of procedure and evidence are followed. Occasionally we'll rule on something that could be considered a policy matter, and as a former legislator I appreciate the role that legislative debate has in our society. If at all possible, I defer to the legislative process. We really don't field the big constitutional issues of the day like appellate court judges, or even federal district judges. Trial judges are bound by precedent, so if there is something with which I disagreed, I am bound to apply the law as it is currently and to let the appellate courts move the legal system in another direction on an issue.

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 frequently speak to groups, especially at CLEs. In addition the Chief Justice has appointed me to be one of three Business Court judges in a trial attempt to measure whether this will assist South Carolina in trying to

improve its business climate. I've also served on the adjunct faculty on the School of Medicine at USC in the Neuroscience Department, which is an area I find particularly interesting. I am working on a book on the law of mental health and criminal procedure in South Carolina.

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 got divorced in 2008 and while I can't blame it on the job, it's impossible to say it had no effect whatsoever. I was on the road for most of 2006 and 2007. That probably didn't help. My children love me and are proud of what I do. I have been a judge most of their lives, so they have grown up knowing I can't discuss cases. They view me as a father who happens to be a judge. They are now 27 and 25 and don't seem intimidated in the slightest by what I do. I got re-married in 2012 and we talk about the stresses of the job and what it means to be a judge's wife more than I did in my first marriage. It seems to be working.

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: Most repeat offenders are there because of drugs or alcohol - if not directly, then certainly indirectly. If they aren't charged with a violent crime, I'd like to see them get some help because tossing them in jail doesn't fix the problem and we can't afford to send every drug addict and alcohol to prison. We don't have the space. By the same token, if the crime is serious enough and the person does not seem to a good candidate for probation, then some prison time is usually appropriate.

b. Juveniles (that have been waived to the circuit court): I've dealt with a lot of real heartbreak in this area. Every case is too fact specific to have a general philosophy other than I wish there was some way to change human nature so that young people didn't make mistakes that can ruin the rest of their life. Thankfully, we have a good youthful offender system to take care of most of those that deserve some jail time.

c. White collar criminals: In General Sessions court white collar criminals tend to be people who defrauded a credit card company or stole a check. We don't see many Enron-type cases that are high-profile, big money fraud cases. Most of the time the state and the victims agree to probationary sentences so the victims can get paid restitution

d. Defendants with a socially and/or economically disadvantaged background: Depends on what they are charged with. Generally, people charged with violent crimes go to prison while people charged with non-violent crimes get probation or county jail time. Most people who appear in General Sessions court fit this category.

e. Elderly defendants or those with some infirmity: If an elderly person appears before me, especially if they have no record, I usually send them to get evaluated because it is invariably a sign of diminishing capacity and they need medical help. Senior citizens don't typically start a life of crime at the end of their life. If a person has a mental infirmity and is competent to stand trial or plead, I listen to what their medical doctor has to say to see if it affected why they committed the crime. If so, that is certainly an appropriate sentencing consideration.

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?

Probably not, but I can see situations where, for instance, technically, I and my family members have a *de minimis* interest in a large, national mutual insurance company as a result of having home and auto policies with this company. As policy holders we have a *de minimis* ownership interest in the company. However, I routinely hear cases where that company either defends insureds or is a defendant itself. *De minimis* by definition means your interest is so minimal as to be insignificant and not likely to be affected by the outcome. But if my family members were a named party I would recuse 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?

Treat other people like you would like to be treated - with dignity and respect.

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?

24/7, in or out of court.

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?

I think judges should avoid displaying anger while wearing the robe. You can express your feelings about a particularly bad act without resorting to emotion, whether dealing with a party or an attorney. It is also self-defeating because it raises a side issue of judicial temperament, and that takes away from the confidence people should have in the courts.

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. I probably will spend a de minimis amount on paper and ink to print this application.
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/ Roger M. Young

Sworn to before me this 25 day of July, 2014.

Julie J. Armstrong
(Print Name)
Notary Public for South Carolina
My commission expires: April 24, 2016