

JUDICIAL MERIT SELECTION COMMISSION Sworn Statement to be included in Transcript of Public Hearings
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Circuit Court
(New Candidate)

Full Name: James Crayton Alexander

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

I have practiced law in South Carolina since 1978 and have handled cases on both the civil and criminal sides of the Circuit Court. The Circuit Court in South Carolina deals with serious issues that affect the basic fabric of our society, which is the family and its individual members. It is the purpose of government to ensure the safety and well being of its citizens and the Judicial branch plays an important role. The criminal side of the Circuit Court is important as it is the arm of government tasked with ensuring that our laws are enforced to maintain law and order. The civil side of the Circuit Court is important because it allows a peaceful resolution of disputes between citizens. It is imperative that all citizens who seek relief in our Courts know that our Judges are fair, that they will receive an impartial trial, and that they will be treated respectfully and courteously. I have been a trial lawyer my entire career and I have handled criminal and civil cases in the Circuit Court. It is my observation that the trial Judge sets the stage to not only ensure that all litigants are treated fairly, but also to ensure that these same citizens actually believe that they have been treated fairly. Even if litigants receive an unsatisfactory result, they are better able to get on with their lives in a positive manner if they were treated courteously, if they believe that they had the opportunity to have their say, and if they believe that they were treated fairly. As an advocate in Court for both plaintiffs and defendants in civil cases and defendants in criminal cases, I have seen trial judges treat litigants and other participants in many different ways, some of those ways not being the proper way, and I have seen how these citizens react to those different types of treatment. I have always believed that all litigants, attorneys, and other participants involved in a court proceeding should be treated respectfully, courteously, professionally, and most importantly, impartially. Some cases may seem trivial but that case is the most important case before the court for that citizen because it is the only case that they have. A judge must consider all cases with the perspective that every case is important to the litigants and act accordingly. I have practiced law for a long time in this State and I believe that I have helped a lot of our citizens along the way. I always tried to assist my



clients in resolving disputes in a way that allowed them to go on with their lives in a positive way. I hope that my clients and the community at large has been enhanced because of my efforts. I am not seeking this office out of any sense of obtaining power or entitlement, as no one should be serving as a Judge who has that attitude. I believe that I have the ability and experience to help operate our legal system in the proper way, to do justice for our citizens, to be impartial and fair, and to issue rulings according to fairness and the dictates of the law. I believe that I can treat all people involved with respect and courtesy and be consistent and impartial in any situation. I have had a rewarding legal career and I am moving toward the end of my practice. I would like the opportunity to give something back to my community and I believe that I can do that by serving in this office.

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

Yes, I intend to serve the full term.

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 communications should not exist. As a practicing attorney, I do not want the judge to be in ex parte communication with the other attorney or litigant in any way. I would carry that philosophy over to the Bench. I cannot envision any circumstances in which I would allow ex parte communications to happen.

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

Recusal is required if a conflict of interest exists or there is any hint of impropriety. As to lawyer-legislators, some Judge must hear their cases. If I did not have a connection to that person that required recusal, I would hear the case unless the other party raises another valid reason for recusal. For former associates and law partners, I would not be involved in a case in which any hint of impropriety exists. Justice is not served if one side thinks that the Judge favors the other side because of a past working relationship. Even if I felt that impropriety did

not exist, I would raise the issue and if one side objected, recusal is best. It does not benefit the Justice system to have a litigant find out later that the Judge was formerly partners or worked with the other lawyer. One issue that I would face is that I have a son who practices law and I would be disqualified from handling any case that involves him.

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 disclose the issue and if either side objected, I would recuse myself and not hear the case. If I felt that the matter was important enough to raise, then that alone raises an appearance of bias and that is enough for recusal upon objection.

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

If my spouse or a close relative had financial involvement or social involvement with a party or issue to a case, I would recuse myself.

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

I would not accept gifts of any nature. I also would generally not accept any social hospitality from persons other than what I am engaged in now. For these occasions that I did accept there would have to be a compelling reason and I would also ensure that no improper motive and no negative effect would result from my appearance.

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

If I, as a lawyer or judge, become aware of a situation that I believe involves ethical misconduct, I am required to report that misconduct to the appropriate committee. Therefore, I would do so.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be re-evaluated?

No

12. Do you have any business activities that you would envision remaining involved with if elected to the bench?

I would remain involved in some of my real property ventures as long as these did not interfere with judicial duties. I would sell some of the properties and allow the other members to assume management duties.

13. If elected, how would you handle the drafting of orders?

At this time, circuit judges have law clerks to assist them, which would include the drafting of orders. It has been my observation that Circuit Judges generally direct the attorney for the prevailing party to prepare the proposed order, with the other lawyer reviewing that order. That system seems to work well and I would continue that system but I would require the order to be sent

to me in an electronic format that allows me to make changes. Also, I have been involved in some cases where, if I had been the trial judge, I would have drafted the order. I would also incorporate that practice if elected, and in special cases, draft the order myself.

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

I would keep a calendar of cases by the week and a check sheet to insure that all tasks are performed in a timely manner, particularly the submission of orders.

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

Judges do not make law or set policy. Judges carry out the law and policy as set by the legislature and as interpreted by the appellat courts of this State. AJudicial activism@ has no place on the trial bench and I would not engage in such activities.

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?

There are areas in the Circuit Court where improvements can be made, particularly in the docketing and scheduling of non-jury cases. The non-jury side of the Circuit Court seems to be the side that gets the least attention and non-jury cases can languish for too long. I would work with local court personnel and court administration to allow more non-jury time to actually try non-jury cases and not just handle motions, so that these cases can be heard on a more expeditious manner. It is my observation that non-jury cases are sometimes referred to special referees when the circuit judge could try the case because of limited non-jury time. I would work to improve this system. Also, I would also make myself available to local schools to organize or participate in forums for students to acquaint them with our legal system and encourage them to consider some legal occupation.

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?

No. I have been married for 43 years and my wife and family have been very supportive while I have pursued what is a high stress occupation. I do not anticipate any problems in this area.

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.

My general philosophy on sentencing involves the consideration of several factors which I will list in the order of importance. The first factor is that the sentence must fit the crime committed. An offender must be given a sentence that properly punishes that offender for the crime committed. The sentence must also send a strong message to the offender that our society is not going to tolerate this type of behavior. The Legislature has set down the potential sentences for each crime and any sentence for an offender must be reached with consideration of the seriousness of the offense. The second consideration is that a sentence should be issued that will serve as a deterrent to other members of society who may have the same temptation to commit similarly offenses. A strong message must be sent to let people know that if they violate the standards of decency that our society has set down, that they will suffer the consequences. A third consideration is that there is a victim in every crime, either an individual or society itself, and that victim must receive justice for the wrong done. The victims are individuals and society as a whole. Victims sometimes seem to be forgotten in criminal proceedings but a proper sentence takes into consideration the harm done to the victim. A final consideration is to allow some potential for rehabilitation for the offender, if the parameters of the sentencing options are such that the offender may be released one day back into society. The sentence should give that offender some motivation to work while he is in prison to change his behavior so that he can fit into society once released.

I also believe that sentences should be consistent for similar crimes with similar harm to victims, regardless of the background of the offender.

- a. Repeat offenders:

Repeat offenders have demonstrated that he/she did not learn the first time around that his/her behavior will not be tolerated by civilized society. Repeat offenders must be given a sentence that strongly lets them know that our community is not going to tolerate this type of activity. These offenders have shown by their continuing actions that they have only contempt for the rules of our society and repeat offenders should be strongly punished appropriately. For those individuals who come back before the court a third or subsequent time, these offenders have shown that they simply will not conform their behavior to what society requires and must be removed from society within the guidelines set down by the legislature to ensure that our law abiding citizens can live in peace.

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

Generally, any crime involving a juvenile that has been waived to the Circuit Court is an extremely serious criminal offense. My belief is that a Circuit judge should sentence convicted defendants on the factors that I have set forth above, with the first factors being the seriousness of the crime and the harm to the victim. The South Carolina Youthful Offenders Act does allow a sentencing judge to take age into consideration for those who are not only juveniles but those who are less than 25 years old. However, that statute uses the word "may" and the age of an offender by itself cannot dictate the parameters of a proper sentence. As a sentencing judge, I would consider the parameters of the YOA but I would fashion a sentence that fits the facts of the crime committed, the seriousness of the crime, and the other factors set forth above, regardless of age.

c. White collar criminals:

In general, white collar offenders have been involved in stealing money through sophisticated means and normally are not involved in serious physical injuries to individuals. They are probably better educated, have more high profile occupations, are considered to be in a higher society class, and use computers and fraudulent schemes to steal money. However, the harm caused to their victims is just as real as if a blue collar criminal broke into a house, tied the owners up, and stole a television, jewelry, or other personal property. The essence of the crime is the same in that members of our society have been harmed and deprived of their property. In some instances, life savings are taken away and families ruined by white collar criminals. The means of theft may be different but the tragic results are the same. White collar criminal would not receive any additional consideration from me because of education, social

status, or occupation as a sentencing judge but these offenders would be sentenced considering the seriousness of the crime involved, just as any other criminal whether blue collar, white collar, or otherwise. A trial judge must sentence all offenders consistently, regardless of status and background.

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

This category deals with the same factors as with white collar criminals who should not be given any special consideration because of education, or

occupation, or social status. Nor should socially or economically disadvantaged individuals be given special consideration because of those

reasons. Trial Judges are not elected to be humanitarians. A sentence must

be fashioned based on the crime involved, the dictates of the legislature as

set down in criminal statutes, and pursuant to the guidelines as I have set

forth above. Anyone who has been in criminal court for sentencing knows

that defense attorneys point out the background of offenders. This includes

factors of being disadvantaged socially or economically, or for their education and the good things that they have done for society in other ways. Neither viewpoint is particularly relevant in issuing a proper sentence. The trial judge should sentence based on the seriousness of the

crime, the harm done to the victims, and the other factors. The background

of offenders may be a proper consideration for the prison system or the eventual parole board hearing and I would leave those considerations for those forums. I would not allow an individual's background to affect sentencing so that offenders who have committed similar crimes with similar harm to victims are sentenced differently. A trial judge must be consistent in sentencing and I would operate under that philosophy.

e. Elderly defendants or those with some infirmity:

When I first began practicing in Pickens County, a drug sweep netted many different defendants for similar drugs charges. During one week of General Sessions court, most of these offenders were entering guilty pleas and were being sentenced. One of the defendants was a young man in a wheel chair with health problems. Some defendants were young and some were much older. The trial judge announced that all defendants charged with similar crimes would be treated the same and

Afed out of the same spoon@. The young man in the wheel chair received the same sentence as other offenders who pled guilty to similar crimes. The philosophy of that trial judge has stayed with me and my sentencing philosophy would be substantially the same. I would be consistent in sentencing regardless of age or infirmity, just as I would be consistent regardless of background, or age. I believe that a trial judge should issue consistent sentences according to the law. If an offender is elderly or has health problems, those are considerations for the prison system, the parole board, or even the Governor in a pardon situation, but not the trial judge at sentencing.

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. If I or a member of my family had any financial interest at all, that is an appearance of impropriety and 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. In full disclosure, I became exempt from CLE requirements in 2012.

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

A Judge must be courteous, professional, respectful, impartial, and punctual. A judge must treat all litigants and attorneys and witnesses equally.

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

No. These traits must apply to a person at all times. If a person does not have these traits in his private life and does not treat his family, friends, and particularly strangers with courteous and respect and be punctual, there is no way that he can effectively and consistently have these traits on the bench.

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 pro se litigants?

No. Anger does not solve any problem. Anger just makes the problem worse. There is no excuse for a judge to be anger on the bench. Anger leads to bad decision and actions. However, if a judge does become angry, he/she should immediately recess court and take a break before making any statements or making any ruling.

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?

I have spent less than \$75.00 on postage for letters sent out and the printing of a resume.

27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office?

Not applicable to this candidate

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/ James Alexander

Sworn to before me this 30 day of July, 2014.

Tammy Alice Duncan

(Print Name)

Notary Public for S.C.

My Commission Expires: April 8, 2024

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October 21, 2014

Ms. Jane O. Shuler, Chief Counsel
Judicial Merit Selection Commission

Via email only: janeshuler@scsenate.gov

Re: Seat 1 of the Circuit Court, Thirteenth Judicial Circuit
Currently held by the G. Edward Welmaker

Dear Ms. Shuler:

Please accept this as a modification of question number 5 of the Sworn Statement to be included in Transcript of Public Hearings.

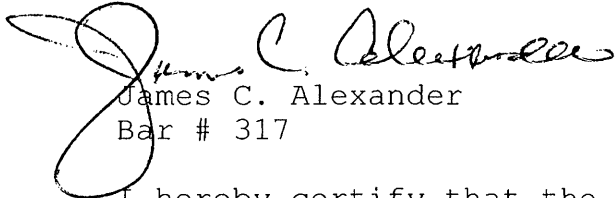
5. What is your philosophy regarding ex parte communications? Are there circumstances under which you could envision ex parte communication being tolerated?

I am aware that Judicial Canon 3 allows ex parte communications under certain limited circumstances and subject to certain very restrictive conditions. Approval of fees and costs in a capital case is one such exception. There are a few other exceptions, including scheduling and administrative matters when certain specified conditions are met. I believe that the better practice is not to have any ex parte communications, even in scheduling or administrative matters, as technology is such that it is relatively easy to arrange a conference call for all parties even on those matters. As a practicing attorney, I do not want the other attorney in any pending matter to be in ex parte communication with a Judge about that case. If circumstances absolutely require and communication is permitted under the canons, I would diligently follow the dictates of canon 3, but in general I believe that ex parte communications should be avoided.

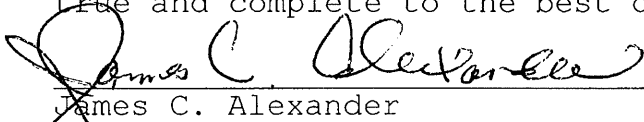
Thank you for your assistance.

Sincerely yours,

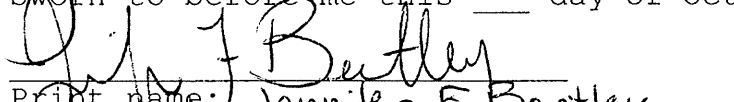
The Alexander Law Firm


James C. Alexander
Bar # 317

I hereby certify that the above answer to the above question is true and complete to the best of my knowledge.


James C. Alexander

Sworn to before me this 22 day of October, 2014


Print name: Jenniter F. Bentley
Notary Public for S.C.
My Commission Expires: 2-27-24