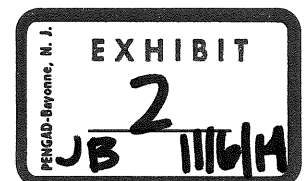


JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court
(Incumbent)

Full Name: James Rezner Barber, III
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Columbia, South Carolina 29202-2766
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1. Why do you want to serve another term as a Circuit Court Judge?
I have enjoyed the seventeen years I have served as a Circuit Court Judge. The work is rewarding and I would like to continue serving.
2. Do you plan to serve your full term if re-elected?
No. I plan on retiring at age 72 in December of 2015.
3. Do you have any plans to return to private practice one day?
I have no plans 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?
I do not permit *ex parte* communications except if it is authorized by law or it involves scheduling or an emergency and it does not involve substantial matters and no party gains an advantage. I promptly inform other parties of any communications.
I have had *ex parte* communications to attempt to settle or mediate cases in which all parties have consented.
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 recuse myself in all cases involving former law partners or associates. I generally do not believe it is necessary to recuse myself when lawyer-legislators appear before me.
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 strongly consider the request for recusal and would most likely grant the motion even though technically I might not be required to 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 advise all parties of any problems or possible conflicts and would likely recuse myself from the matter.
9. What standards have you set for yourself regarding the acceptance of gifts or social hospitality?
I do not accept gifts or social hospitality except as permitted by the Canons of Judicial Ethics.
10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?
I believe I am required to report any misconduct to the Commission on Judicial Conduct or the Commission on Lawyer Conduct.
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?
I intend to keep my real estate broker's license. It is presently in inactive status.
13. How do you handle the drafting of orders?
Generally, I request the prevailing attorney to prepare the order and require the attorney that prepares the proposed order to submit it to opposing counsel for review prior to it being sent to me. Sometimes I will request proposed orders from all parties. Occasionally I will, with the help of my law clerk, prepare the order.
14. What methods do you use to ensure that you and your staff meet deadlines?
A log/tickler system is maintained. We also have a calendar system which tracks deadlines.
15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?
I do not believe "judicial activism" is appropriate. Elected officials set public policy, not 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 have participated as a speaker/lecturer at various Bar and Judges meetings and seminars during my term on the bench. I plan to continue that practice.
I have also spoken to classes at schools and other civic groups about our legal system. In addition, I communicate with the Chief Justice any suggestions I have concerning improvements to our system.

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?
No.
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:
A prior record and history of a defendant is very important to me when sentencing. I generally believe repeat offenders should receive a more severe sentence.
- b. Juveniles (that have been waived to the circuit court):
Age is an important factor when sentencing. The State of South Carolina has sentences that are tailored to young offenders (Youthful Offender Program, Shock Incarceration, conditions of probation) and those programs should be considered.
- c. White collar criminals:
I do not believe white collar criminals should be given favorable consideration.
- d. Defendants with a socially and/or economically disadvantaged background:
As with a person's record and age, I believe a defendant's social and/or economic background are factors to be considered. However, because an individual is socially prominent or economically advantaged should not put that person in a better position than someone who is disadvantaged.
- e. Elderly defendants or those with some infirmity:
Age and infirmities are factors that should be considered with defendants. However, just because someone is elderly or infirmed does not mean that person will be given a lenient sentence.
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 likely recuse myself rather than create an appearance of impropriety.
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 must always present himself/herself as a person who is fair and impartial to all sides in a matter. The judge must be a person who is patient, even tempered, courteous and dignified to all whom the judge deals in his/her capacity as a judge.

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 rules apply at all times.

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.

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/ James R. Barber

Sworn to before me this 17 day of July, 2014.

Brandy P. Metts

(Print Name)

Notary Public for South Carolina

My commission expires: December 20, 2017