

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

Circuit Court
(New Candidate)

Full Name: Roger E. Henderson
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1. Why do you want to serve as a Circuit Court judge?

I would like to serve as a Circuit Court Judge in order to broaden my realm of public service. I have spent the past nineteen years as a Family Court Judge and have drawn on my experiences as a general practitioner in that endeavor. I would now like to draw on my general practice experiences as well as my life experiences to serve as a Circuit Court Judge. I believe I can provide a valuable service to the State of South Carolina as a former trial lawyer who handled numerous civil and criminal matters.

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

Yes

3. Do you have any plans to return to private practice one day?

No. It is my desire to serve as a Circuit Court Judge until I retire, and upon my retirement, I hope to continue serving in this capacity on a part time basis.

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 make every effort to avoid *ex parte* communications. In the event an attorney or party contacts me I immediately advise them that I cannot discuss any matter until the other attorney or party is present. The only time I can envision an *ex parte* communication being tolerated is if there arose an extreme emergency situation in which an *ex parte* order was necessary to protect life or physical safety or preserve property.

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 no longer see a need to recuse myself when either my former law partner or my former associate are involved in a case, unless the case involves one of my former clients, or a former client of my partner or associate at the time I was a member of the firm. This philosophy is based on the fact that I have been on the bench for the past nineteen



years and I no longer see a conflict concerning appearances by my former partner or associate. I do not 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?

If my disclosure gave a reasonable appearance of bias, I would recuse myself. If the appearance of bias was totally unreasonable, or if a party were making the motion purely as a delay tactic, I would not recuse myself. I feel that it is very important for every party before me to feel that the Judge is totally impartial. If someone is convinced that I would be biased even if it is misconceived, they would never be satisfied with the outcome no matter and in that situation, it would be best 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 not hear the matter.

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

I do not accept gifts from litigants or attorneys. I will attend social functions hosted by attorneys or an association of attorneys if all Judges are invited. I will accept ordinary social hospitality from close friends and relatives whose matters I would never hear.

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

If there were no doubt in my mind of misconduct, I am required to report that misconduct to the proper authority or committee.

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?

No

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

With the assistance of my law clerk, I would draft the orders. I can envision some circumstances in which it would be appropriate to request proposed orders from all parties involved. There are also certain circumstances when it is appropriate for the attorney representing a party to draft a proposed order.

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

My secretary keeps a weekly file for each term of Court. She and I both track deadline dates in order to make sure that all deadlines are met. The tracking system is maintained on our computer and in hard

copy form. This system has worked very well for the past nineteen years.

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

My philosophy is that Judges are not to be involved in matters that set or promote public policy and they are not to rule on matters based on personal or political consideration. It is a Judge’s function to apply the law to the facts of the case before him and to render his fair and impartial decision based on what the law is, not what he might think it should be. If for some reason a Judge receives a request to appear before a legislative committee concerning pending litigation, he should do so only after receiving permission from the Chief Justice.

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?

I plan to continue speaking to school groups and civic organizations concerning how the legal system operates. I plan to assist with Mock Trial Competitions and I will offer to serve on the Circuit Court Judge’s Advisory Committee as I have served on the Family Court Judge’s Advisory Committee.

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?

There could be times when service as a Judge might strain personal relationships with friends. If they become too inquisitive about matters pending before the Court, the way I handle this situation is to explain to friends that I cannot discuss any matters pending before the Court with them or anyone else. Frankly, I have never felt that the pressure of serving as a Judge has strained my relationship with my wife, children or other relatives. I make every effort to leave my work problems at the Courthouse or my office and devote my time away from the office to my family.

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:

They would need to be sentenced more severely than first time offenders. Since they are continuing to violate the law after having been given a chance previously, they would need to suffer more serious consequences in order to better protect the community.

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

The juveniles’ age should be taken into account along with his or her maturity level in determining the sentence. As in all cases, the nature or gravity of the offense must be taken into

consideration, and the sentence should be in accordance with the nature or gravity of the offense.

c. White collar criminals:

White collar criminals should be dealt with no differently than any other offenders. As stated above, the sentence should fit the nature and gravity of the offense.

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

The background of all defendants should be taken into consideration. The fact that one may be disadvantaged should not excuse the offense, but should be taken into consideration when someone is sentenced. Again, the seriousness of the crime committed should come into play along with the background considerations.

e. Elderly defendants or those with some infirmity:

These defendants may be given some additional consideration when incarceration is the likely sentence, depending on the extent of the infirmity and the person's age. However, as in all cases, the gravity of the offense may outweigh any consideration due someone because of their age or infirmity.

It is difficult to generalize an answer to these five categories as all cases have to be dealt with on an individual basis. Each case has its own distinct set of facts, and the law should be applied accordingly. The type of sentence handed down must fit the circumstances of each case and should never be excessive.

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?

I believe a Judge should be patient, courteous and dignified. He should ensure that proper decorum is maintained in his courtroom and that all proceedings are conducted in an efficient manner. There are times when a Judge must be firm, but this can be done in a courteous manner.

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?

These rules apply at all times. A Judge, because of his position, should always live his life in a very high standard and always display the proper demeanor and temperament.

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?

Anger is never appropriate in the Courtroom. If a Judge allows himself to become angry, he can no longer maintain proper decorum and loses his ability to think and reason. A Judge must be firm in order to maintain control in the Courtroom. One can be firm without being angry. If a Judge becomes angry he should immediately call a recess until such time as he has composed himself and can display the proper demeanor and temperament.

26. How much money have you spent on your campaign?

I have not spent any money on my campaign at this time.

If it is over \$100, has that amount been reported to the House and Senate Ethics Committees?

N/A

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

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?

No

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 E. Henderson

Sworn to before me this 22 day of July, 2014.

Gale E. Griggs

(Print Name)

Notary Public for S.C.

My Commission Expires: September 24, 2020