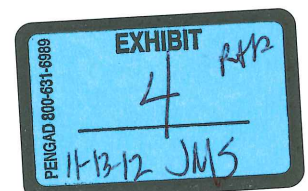


JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE

Court, Position, and Seat # for which you are applying:  
Circuit Court, At-Large, Seat 14

1. NAME: Mr. J. René Josey  
BUSINESS ADDRESS: Turner, Padgett, Graham & Laney  
319 South Irby Street  
P.O. Box 5478 (P.O. Box Zip is 29502-5478)  
Florence, SC 29501  
TELEPHONE NUMBER: (office): 843-656-4451
2. Date and Place of Birth: 1960; Jackson, Mississippi
3. Are you a citizen of SC? Yes.  
Have you been a resident of this state for at least the immediate past five years? Yes.
5. Family Status: Married on May 25, 1985, to Martha Willis Josey; never divorced; two children.
6. Have you served in the military? I have never served in the military.
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.  
(a) 8/82 - 5/85, USC, JD - 1985;  
(b) 7/77 - 5/82, Clemson University, BA - 1982.
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.  
SC, 1985. I only took the SC bar exam once. I have never applied to any other state or taken any other bar exam. I have always been a member in good standing of the bar.
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.  
(a) USC School of Law Honors and Activities:  
Order of Wig and Robe  
Legal Writing Instructor 1984-85  
SC Law Review  
Student Works Editor 1984-85  
Survey Staff 1984  
Phi Delta Phi Legal Fraternity, Exchequer 1984-85  
Women's Law Association, Recording Secretary 1984  
Environmental Law Society, Secretary-Treasurer 1983



- (b) Clemson University Honors and Activities:  
 University Debate Team, Outstanding Debator 1978, 1979, and 1982  
 Clemson Forensic Union, President 1980  
 Pi Kappa Alpha Fraternity, Treasurer 1980, Parliamentarian 1981  
 University Chorus, Letter Member  
 Delta Sigma Rho-Tau Kappa Alpha (Forensic Honor Fraternity)  
 Phi Eta Sigma (Freshman Honor Fraternity)  
 Clemson Trustee Award Finalist 1981

10. Describe your continuing legal or judicial education during the past five years.

<u>Conference/CLE Name</u>	<u>Date</u>
(a) TPGL 274765IH Uni-State Lawyers: Multistate &	03/03/2007;
(b) SC Bar 273478 6th Annual Federal Practice	08/23/2007;
(c) FCBA 274644 Almost Annual Ethics CLE	12/14/2007;
(d) FBA284818 2008 Federal Bar Association	09/11/2008;
(e) USDCOC 284051 Electronic Update	10/15/2008;
(f) FCBA 285435 Ethics Update	12/19/2008;
(g) TPGL 292238IH Competing Today-Raising the Bar	03/20/2009;
(h) TPGL 292239IH Developing a Business Practice	03/21/2009;
(i) SC Bar 295407 A Look Back: Lessons	11/20/2009;
(j) FCBA 296311 Hot Tips in Ethics by Jill Rothstein	12/10/2009;
(k) TPGL 212470IH Turner Padgett Firm Retreat	03/20/2010;
(l) USCSL 215475 CLE for Class of 1985 Reunion	09/25/2010;
(m) ABA 08826 Govt. Perspective of Federal Civil False Claims Act and Qui Tam Enforcement	12/16/2010;
(n) Florence County Bar 217009 Lunch & Learn: Report on the Task Force on Professional Potential	12/10/2010;
(o) S.C. Bar 11-04 It's All A Game	2/18/2011;
(p) ABA 122916ADT Ethics Essentials for Successful Online Legal Marketing	3/19/2012;
(q) SCFBA 122973 Appellate Advocacy CLE	3/22/2012;
(r) TPGL 125364IH Magna Legal Services Jury Persuasion: How Jurors Form Decisions	6/5/2012.

11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?

- (a) I am scheduled to participate in a mentoring talk for small groups at the University of SC for new law students on August 21, 2012.
- (b) I am also scheduled to speak to bankers and other industry clients on September 14, 2012, (together with other attorneys from my firm and accountants from the firm of Webster Rogers) on how to investigate and defend against fraud.
- (c) On May 25, 2012, I spoke to the SC Chapter of the Association of In-House Counsel. My talk was centered on the defending against whistleblower suits and investigations.

- (d) On 9/27/07, I spoke to a Sentencing Guidelines training course sponsored by the US Probation Office for private attorneys defending the accused in the federal system. I have spoken at such events on many occasions.
- (e) In August 2007, I was the moderator for the S.C. Bar and Federal Bar Association's annual seminar on federal practice.
- (f) Earlier in the summer of 2007, I spoke to law students at both the Florence federal courthouse and the Perry federal courthouse on federal practice and the mission of the Federal Bar Association.
- (g) As US Attorney, I was regularly asked to speak at the Annual Criminal Law Update held during the SC Bar's Charleston convention (1/26/01, 1/21/00). I also have taught at the SC Trial Lawyer's Convention (August 2000) and the SC Solicitor's Conference. I helped organize and teach an Ethics CLE at Clemson's Homecoming in 1999 (10/2/99) at the Strom Thurmond Center ("Touchdown Ethics from Tigers on Both Sides of the Field").
- (h) In addition, I was a regular speaker at Narcotics training classes for law enforcement, Safe Schools training for teachers and law enforcement, and other training sponsored by the Law Enforcement Coordinating Committee (LECC) of the US Department of Justice. I was a speaker at DEA conferences, FBI retreats, and the SC Criminal Justice Academy.
- (i) After joining the firm of Turner, Padgett, Graham & Laney in March of 2001, I was involved with the Attorney Development program for new associates – directing the program through 2006. This initiative is somewhat broader than mere continuing legal education but involves development of all the skills newer lawyers need to acquire to become successful and productive practitioners. This includes time and personnel management training, team-building, and mentoring.
- (j) I have also spoken on Ethics at the Florence County Bar Association's Annual Ethics CLE (10/26/01), and the Federal Bar Association's CLE in conjunction with the SC Bar (9/6/02).

12. List all published books and articles you have written and give citations and the dates of publication for each.

While I was in law school at the USC, I published the following two articles in the SC Law Review:

- (a) An Analysis of *Silkwood v. Kerr-McGee Corp.* -- Are Punitive Damages and Exclusive Federal Regulation Consistent? 36 S.C.L.Rev.689 (1985).
- (b) Annual Survey of SC Law (Labor and Employment Section), 36 S.C.L. Rev. 179 (1984).  
 Employment Discrimination and Title VII: Appropriate Conceptual Frameworks for Different Claims. Fetal Vulnerability Plan: Disparate Treatment Absent Intent.  
 Title VII and The Sexually Offensive Work Environment: A Warranty of Workability.

Wildcat Strikes and Local Union Liability.

The US Attorney's office published a quarterly newsletter primarily for law enforcement agencies and I contributed articles to that publication.

13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.
- (a) US Supreme Court, admitted October 3, 1994;
  - (b) US Court of Appeals for the Fourth Circuit, admitted August 26, 1987;
  - (c) US Court of Appeals for the Federal Circuit admitted August 5, 1992;
  - (d) US District Court, District of SC admitted August 11, 1987;
  - (e) State of SC November 21, 1985.
14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.
- 14.(b) If you are a candidate for Circuit Court, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background has prepared you to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area.

From August of 1985 through August of 1987, I was a law clerk to the Honorable C. Weston Houck, US District Court Judge for the District of SC. Following my clerkship, my wife and I chose to remain in our new home of Florence (we are both previously from Clemson where I fathers both taught at the University). I joined the firm of Rogers & McBratney as an associate.

I worked as an associate with the firm from August of 1987 through March of 1991. I became a partner in the firm in April of 1991 and the firm name was changed to Rogers, McBratney, & Josey. I remained with this firm through December of 1993 when I left to start my own solo practice. Throughout my years of practice with these attorneys, I was engaged in the general practice of law with an emphasis on litigation – both civil and criminal. I also practiced in the family court.

I was in the solo practice of law at 401 W. Cheves Street, Florence, SC, from 1 January 1994 to 17 May 1996. The nature of

my practice was very much as it had been before – general litigation matters of many varieties. In addition, I began handling appeals in association with other firms. I enjoyed appellate research and particularly writing.

Florence County was one of the initial pilot counties for a mandatory ADR program and I received the necessary training early in the program's development. I served on the initial Florence County list of mediators who could be appointed. I conducted many mediation sessions in the 1994-96 period.

While my practice had always had a federal criminal defense component, it reached a peak when I was in solo practice. My office location was very close to the federal courthouse and I was a frequent choice of the US Magistrate for appointments since it facilitated timely hearings – particularly before the Federal Public Defender opened a full-time office in Florence.

In February 1996, I was recommended by US Senator Ernest F. Hollings to be the US Attorney for SC. Following the vetting process, I was formally nominated by the President.

Pending confirmation by the US Senate, I was appointed by the US Attorney General and US District Court as an interim US Attorney on 17 May 1996 and I closed my private practice. On the motion of Senator Strom Thurmond, my nomination was forwarded out of the Judiciary committee in weeks and I was unanimously confirmed by the US Senate just before their Memorial Day recess.

My work as US Attorney was again focused on diverse litigation – both civil and criminal, and both as civil plaintiff and civil defendant. While much of my time and effort was spent leading and managing the office effort as a whole across the district, I intentionally sought opportunities to participate directly in grand jury and courtroom work -- both to enhance my leadership with the office and to personally learn from many skilled Assistant US Attorneys. As US Attorney, I also personally participated with Assistant US Attorneys in several important mediation sessions. During my service as US Attorney, the Assistants in the office honored me with an inaugural "Trial Dog" Award for my active participation with them in the trenches of the courtroom.

During my federal service I also spent considerable time working on communication and coordination with local law enforcement and local prosecutors whom I grew to respect very much. With the growth of electronic communication, I enjoyed reflective writings to my staff on a regular basis.

At the conclusion of my term as US Attorney, I resigned to aide the transition for the new administration (24 February 2001). I chose to join the law firm of Turner, Padgett, Graham & Laney working

primarily from its Florence office. I began my work with the firm in March of 2001.

While I work on the business and commercial litigation team, my practice has again become quite diverse including both criminal and civil matters. The civil matters have included both tort actions and contract actions. I have worked for both plaintiffs and defendants. I have worked on both state criminal matters in several circuits and federal criminal matters. I have renewed my certification as a mediator and served in that capacity on several matters. I serve on both state and federal certified lists of available mediators. I often handle appeals for other members of the firm.

In the past five years I have handled a wide range criminal matters including, but not limited to, tax evasion, child abuse and neglect, possession of child pornography, the Pollution Control Act, drug PWID, obtaining drugs under false pretenses, Medicare and Medicaid fraud, mortgage fraud, felon in possession of firearms, assault and battery high and aggravated and with intent to kill, lottery fraud, government procurement fraud. In the past five years, I have handled civil litigation including, but not limited to, commercial lease disputes, environmental claims, banking law matters, probate law matters, slander claims, products liability claims, trademark claims, and employment law matters.

15. What is your rating, if any, by any legal rating organization, such as, Best Lawyers, Chambers, Legal 500, Martindale-Hubbell, Who's Who Legal, Super Lawyers, etc.? If you are currently a member of the judiciary, list your last available rating, if any.

My rating is AV and has been since my first year of eligibility to move from BV to AV (10 years of private practice required).

I have been listed in SC Super Lawyers both in 2008 (business litigation), 2011(criminal defense) and 2012 (criminal defense).

I have been listed in Best Lawyers in America every year since 2007 in the Appellate Law category.

I have been listed in Best Lawyers in America every year since 2008 in both the White Collar Crimes and General Criminal Law categories.

16. What was the frequency of your court appearances during the last five years?
- (a) federal: Probably an average of once a month, more for filings.
  - (b) state: Probably an average of twice a month, more for filings.
17. What percentage of your practice involved civil, criminal, and domestic matters during the last five years?
- (a) civil: 65%;
  - (b) criminal: 30%;
  - (c) domestic: 5%.
18. What percentage of your practice in trial court during the last five years involved matters that went to a jury, including those that settled prior to trial?

(a) jury: 65% My practice is divided between jury and non-jury matters as indicated -- although most jury matters end without trial.

(b) non-jury: 35%

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters? About equally in each role over the past 5 years.

19. List five of the most significant litigated matters you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.

(Actually, some of the appeals listed in response to questions 20 and 21 might be considered more significant matters, but I did not want to list the same cases twice.)

(a) Evans v. Country Squire Mobile Homes (Appellate No. 89-719)

This involved a breach of warranty in the sale of a mobile home.

I represented the purchasers of the mobile home. The case was significant because the jury apparently awarded damages under the Uniform Commercial Code for the intangible elements of emotional distress and mental anguish. The matter was appealed to the SC Court of Appeals and the verdict was affirmed. It also was significant because I believe it was my first solo trial in Circuit Court and I believe it was Judge Kinnon's final trial in Circuit Court before his retirement.

(b) United States v. Theodore McFarlin (Case No. 4:97-736)

This case is significant because it represented the first successful prosecution of this former Sheriff of Williamsburg County; to me, his conviction symbolized a purification of a corrupt segment or link in the criminal justice chain and thereby helped restore public confidence in the system. I tried this case as US Attorney with Assistant US Attorney Scarlett A. Wilson (now Assistant Solicitor). McFarlin was convicted of all counts including drug conspiracy and perjury. McFarlin was ably defended by I.S. Levy Johnson, Esq.

(c) Goodson Construction v. United States of America (Case No. 4:02-4184), 2006 U.S. Dist. LEXIS 91342, 64 ERC (BNA) 2112.

This was an environmental clean-up action brought by my private client against the federal government for property that had once been used as an Army bombing range in Horry County. The Army had certified the land was "dedudded" or clean after its use; it was not. The matter was settled after the first half of a bifurcated trial before The Honorable Bryan Harwell. The case was settled for \$6.2 million dollars payable toward clean-up costs.

(d) United States v. James Coury Holmes and Marcus Mandel Ellis (6:00-107)

This was a multiple armed bank robbery trial in Greenville before US District Judge Henry Herlong. I tried it with Assistant US Attorney

Jeanne Howard. This case is significant to me primarily because it represents the most fun I have ever had in trial.

The defendants had committed a string of unsolved car thefts followed by masked armed robberies with assault rifles. The victims were most appreciative and cooperative. Local law enforcement had done a good job of finally cracking the case. The FBI had secured a great deal of circumstantial evidence as well as provided several excellent expert witnesses (dye stain chemist and photogrammetry analyst).

The trial went well (50 witnesses in 3 days) and resulted in convictions. Appeals were successfully handled by Ms. Howard.

(e) United States v. Bill Prince and Don Prince

I participated with two other prosecutors in this trial against the Prince brothers for their conspiracy to hire a hit man to assassinate the key trial witness in an earlier criminal matter against brother Bill Prince. The proof against Bill Prince was largely circumstantial and dependent upon the introduction of the entire historical context of Bill Prince's earlier conviction. It was my first trial as a prosecutor (June 1996). The defendants were ably defended by Jack Swerling, Esq. and the late Jack Lawson, Esq.

20. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported.

(a) Trayco, Inc. vs. United States (Case No. 4:89-361), 967 F.2d 97 (4<sup>th</sup> Cir.1992), 994 F.2d 832 (Fed. Cir. 1993)(after transfer from the Fourth Circuit).

This was an importer's action in US District Court to recover a customs penalty assessed on an inaccurate factual basis. This case is significant because it apparently represents the first time an importer has successfully invoked the jurisdiction of a District Court to obtain judicial review of a customs penalty. I represented the importer, Trayco, Inc.

This matter was tried before the Honorable C. Weston Houck, US District Judge, and subsequently heard by both the US Court of Appeals for the Fourth Circuit (published opinion) and the US Court of Appeals for the Federal Circuit (published opinion).

(b) Shores v. Pennsylvania Mutual Insurance Company (Case No. 90-CP-21-1597), 315 S.C. 347, 433 S.E.2d 913 (1993).

This case involved the interpretation of SC's mandatory automobile insurance law. It is significant because it represents the first time that an appellate court of this state held that the mandatory minimum liability insurance could not be defeated by the failure of an at-fault motorist to give notice to the insurance carrier. I represented Linda Shores as the personal representative of her brother's estate.



This matter was tried in the Florence County Court of Common Pleas before the Honorable C. Victor Rawl, Circuit Judge. The matter was subsequently heard by both the SC Court of Appeals and the state Supreme Court.

- (c) Wachovia Securities vs. Brand, 2010 U.S. Dist. LEXIS 88505 (D.S.C., Aug. 26, 2010), aff'd, 671 F.3d 472; 2012 U.S. App. LEXIS 3047; 33 I.E.R. Cas. (BNA) 679 (4<sup>th</sup> Cir. 2012).

This was an employer's action against former employees (stock brokers) for alleged theft of trade secrets, etc. I served as co-counsel on the case. Although I did not argue the matter in the Court of Appeals, I did contribute to the brief and helped present the case in the court below and at arbitration. The case resulted in a judgment requiring the employer to pay the employees over \$1.3 million in attorney's fees and interest for pursuit of unwarranted claims.

- (d) Drew v. United States, 217 F.3d 193 (4th Cir. 2000), vacated en banc and district court affirmed, 231 F. 3d 927 (2000).

I did not write the brief in this matter, but I presented the oral arguments for the US both before the initial three judge panel of the Fourth Circuit Court of Appeals and subsequently before the entire Court sitting en banc. This has been my only opportunity to present an en banc argument to the court.

The issue involved the ability of a tort claimant to alter their initial theory of the case after having exhausted administrative remedies with a different theory of the case; the District Court's dismissal of the altered claim for lack of exhaustion was reversed by the panel, 2-1, and then affirmed by the Court en banc, 5-5 (ties defer to the trial court).

The closeness of the decision also corresponds to the closeness of the issue itself which made it somewhat difficult to advocate; essentially, the question was: how much claim alteration is too much?

- (e) Gay v. Ariail (Case No. 06-CP-23-5958), 381 S.C. 341, 673 S.E.2d 418 (2009).

The case obtained declaratory judgment action interpreting the Youthful Offender Act in an expungement setting; it successfully challenged an Attorney General's Opinion mis-interpreting these statutory provisions. The brief, like my briefs in Shores and Trayco, addresses statutory interpretation and application. The legislature subsequently amended the statute to effectively reverse the case.

- (f) Other reported civil appeals include: Fountain v. First Reliance Bank, 2012 S.C. LEXIS 135, Opinion No. 27141(Supreme Court July 11, 2012)(recent successful defense of defamation claim) and David v. McLeod Regional Medical Center, 367 S.C. 242; 626 S.E.2d 1( 2006).

21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported.

By definition, my best criminal work – for which I have been repeatedly recognized by my peers – involves the resolution of charges and/or investigations in such a manner that there are no appeals (sometimes no charges at all). Nevertheless, here are some criminal matters which did reach the appellate stage. Also notably, most clients who retain my services are satisfied with the resolution and do not appeal. Thus, most of these matters are older and involve indigent appointments in federal court.

(a) United States v. Henry Monroe Rayford, a/k/a Junebug (District Case No. 4:92-216, Appellate No. 93-5423)

This was a federal criminal prosecution involving a conspiracy to possess drugs with an attempt to distribute as well as allegations of money laundering. The case is significant because the money laundering conviction was reversed (unpublished opinion of the US Court of Appeals for the Fourth Circuit, February 7, 1995) based upon the trial court's erroneous omission of evidence. I represented the defendant Rayford (there were multiple defendants with differing appellate issues, but one composite brief was submitted).

(b) United States v. Benjamin Harden, et.al. (Appeal Record No. 97-4791)

This was an unsuccessful appeal from the trial court's dismissal of the indictment for violation of the Speedy Trial Act. As US Attorney, I began personal work on this matter following the trial court's dismissal. I prepared the brief with assistance from Assistant US Attorney Scarlett A. Wilson (now Solicitor) (she signed the final brief) and I argued the matter before the Fourth Circuit Court of Appeals.

(c) State v. Michael White (Case No. 20-GS-10-0604)

This was a felony DUI matter. It is the only criminal appeal that I recall handling in the State system. I was not trial counsel and the matter arises more in the form of a post-conviction jurisdictional challenge. Because of the unusual procedural position of the matter (post-conviction motion for sentence reconsideration), my appellate brief was never filed in this matter; nevertheless, it was prepared in draft form and has been presented to the Assistant Solicitor.

Interestingly, while the Brief is entirely my composition, some of the preliminary research was done by Mr. White in prison and I followed up on his insightful work. As a result of this briefing and negotiations, a new plea agreement was reached, involving the victim, and a reduced sentence imposed. Mr. White is now a success story following his incarceration (employed, continuing his education).

(d) United States of America v. Danny Myers (No. 4:90-430, Appellate No. 91-5562)

I represented the defendant, Danny Myers, pursuant to an appointment under the Criminal Justice Act. The defendant was charged with conspiracy to possess with intent to distribute illegal drugs, possession with intent to distribute illegal drugs, and a firearm violation. After

tendering a plea to the firearm count, the defendant stood for trial on the narcotics charges.

The case is significant because it represents the first trial of mine in which the defendant was prosecuted with "historical" evidence only. The matter was subsequently appealed to the US Court of Appeals for the Fourth Circuit, where the conviction was affirmed (unpublished opinion). The defendant's petition for certiorari to the US Supreme Court was denied.

(e) United States v. Rigney (Appeal No. 89-5617)

This was a drug conspiracy case and my first criminal trial. I was appointed to represent the defendant William O. Rigney who was a decorated Navy Veteran with no criminal record. There was limited direct physical evidence of his involvement but significant circumstantial evidence and direct testimony of co-conspirators. One of these witnesses made reference to the polygraph during her examination and this became the issue of the subsequent appeal. This was also my first criminal appeal.

22. Have you ever held judicial office?

I have never held judicial office.

23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported.

Not Applicable.

24. Have you ever held public office other than judicial office? If so, list the periods of your service, the office or offices involved, and whether you were elected or appointed. Also, state whether or not you have timely filed your report with the State Ethics Commission during the period you held public office.

From May 1996 through February 2001 I served as the US Attorney for the District of SC. I was appointed by the President and unanimously confirmed by the US Senate. Because this was a federal office, I filed federal ethics reports; as I recall, these were all filed in a timely manner and no penalties imposed.

In March of 2001, I was appointed by Florence City Council to serve as a commissioner on the Florence Civic Center Commission – the public body with oversight responsibility for the regional auditorium/arena located in Florence. Our commissioners did not serve as the chief administrative officer of this facility; like many such public buildings, this function is filled by an independent contractor. See S.C. Code § 8-13-1110(B)(6)(requiring such chief administrative officer to file Economic Interest Report with State Ethics Commission).

25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Not Applicable.

26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office? If so, give details, including dates.

I unsuccessfully ran for Florence County Council in 1994.

In the Fall of 2002, I was a candidate for Circuit Court Judge, At-Large Seat #9, and was found qualified, but not nominated by the Judicial Merit Screening Committee.

In the Fall of 2006, I was a candidate for the Court of Appeals, Seat #4, and was found qualified, but not nominated by the Judicial Merit Screening Committee.

In the Fall of 2007, I was a candidate for the Court of Appeals, Seat #6, and was found qualified, but not nominated by the Judicial Merit Screening Committee.

In the Spring of 2007, I was a candidate for the Court of Appeals, Seat #7, and was found qualified and nominated by the Judicial Merit Screening Committee. After initial rounds of voting revealed the commitments to other candidates, I withdrew from the race.

In the Spring of 2008, I was a candidate for the Court of Appeals, Seat #9, and was found qualified and nominated by the Judicial Merit Screening Committee. When discussions revealed the commitments to other candidates, I withdrew from the race.

27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office?

I was a part-time Political Science instructor at Francis Marion University (teaching one section each semester of American Government). This was in the 1992- 1993 academic year and was in addition to my full-time practice of law. The chairman of the department at the time was Dr. Neal Thigpen.

I have been involved in the rental of real estate. Specifically, my wife did own and rent a commercial building – originally to my law practice and later to another. She later sold that building. She also owns a home in the mountains of SC which we originally attempted to rent out to vacationers; because of changing circumstances, we abandoned that effort. I was involved with her property rental business to the extent that I assisted my wife with certain landlord responsibilities – such as scheduling and supervising maintenance and improvements. This activity is expressly permitted by Section 4D (2) of the Code of Judicial Conduct. At this point, we are no longer leasing out any property.

28. Are you now an officer or director or involved in the management of any business enterprise?

No. I do serve as Chairman of our church finance committee but I do not consider the church a business enterprise. I believe my term ends at the end of this year.

29. A complete, current financial net worth statement was provided to the Commission.

30. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek.

None. If elected, I would take steps to exit my present law firm where I am a shareholder so that no residual business relationship would exist.

31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law?

None although I believe I may have paid more than \$125 for some speeding violations.

While I know the Committee's staff performs a thorough background check of judicial candidates, I have also undergone an extensive FBI background investigation as part of my screening for service as US Attorney. As a result of that investigation, I was cleared for service and given a top secret security clearance with the US. Thus, the Committee and the legislature can be comfortable that I would be a jurist of integrity and without any hidden character issues.

32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No.

33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? No to all.

34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law? If so, give details, including but not limited to dates, and resolution.

I have been named as a party defendant in three lawsuits, two filed in 1996 (Backus and Jackson) and one during my service as US Attorney (Cabe). The plaintiff in each of these cases was an inmate at a correctional facility; each was acting as their own attorney. Each case was dismissed with prejudice at a preliminary stage.

The first two cases essentially involved allegations that I acted negligently in my duties as the attorney for the particular inmate involved. Each of these lawsuits was frivolous and was dismissed.

The first suit was brought in Florence County Common Pleas Court by John Henry Backus. Mr. Backus is an inmate at Evans Correctional Institute in Bennettsville, S.C. Mr. Backus is presently serving two concurrent 18-year sentences for his guilty plea to two counts of assault and battery with intent to kill.

Mr. Backus pled guilty to assault and battery with intent to kill on November 7, 1991. Mr. Backus was represented in these proceedings by Assistant Public Defender Scott Suggs of the Florence County Bar. In 1992, Mr. Backus filed a civil petition seeking post-conviction relief. Such civil actions for post-conviction relief are governed by statute in the State of SC.

As a matter of routine, attorneys of the County Bar are appointed to represent each applicant. Pursuant to this routine procedure, I was appointed to represent John Henry Backus on May 18, 1992.

Although the record from the original plea, as well as the post-conviction proceeding reveals that Mr. Backus was somewhat rushed to decide whether to enter a plea and made this decision with little time to consult with his attorney, the trial court nevertheless found that the plea was constitutional; accordingly, the application for post-conviction relief was denied.

Following the denial of Backus's petition for post-conviction relief, I filed a notice of appeal in the post-conviction matter. The subsequent appeal was handled by Daniel T. Stacey of the SC Office of Appellate Defense. Mr. Stacey filed an Anders brief on behalf of the prisoner, John Henry Backus. The appeal was denied. Over four years later, I was served with a summons and complaint filed by Mr. Backus in the Court of Common Pleas alleging negligence in my representation with regard to the post-conviction relief matter.

My malpractice carrier retained counsel on my behalf. I was defended in this matter by Charles J. Baker, III. The matter was dismissed with prejudice.

The second suit against me was brought by Ronald Jackson. Ronald Jackson is an inmate at Lee Correctional Institute in Bishopville, S.C. Mr. Jackson was a retained client of my former partner. Specifically, Mr. Jackson retained our firm to represent him with regard to a federal firearms charge. Mr. Jackson may have also retained the firm's services with regard to a state criminal action in Marlboro County (I am not sure).

The defendant's federal charges were disposed of by a guilty plea taken on October 22, 1990 before the Honorable C. Weston Houck. Specifically, the defendant pled guilty to Count One of the pending indictment which charged him with violation of Title 18 U.S.C. §922(g) (felon in possession).

My only involvement with Mr. Jackson's charges was to assist in the selection of a jury for Mr. Jackson in the federal court. Specifically, on October 1, 1990, I assisted in the selection of twelve jurors and two alternate jurors to serve in Mr. Jackson's criminal trial. Because Mr. Jackson subsequently pled guilty, these jurors were never used.

Although Mr. Jackson's complaint, which was filed in the Court of Common Pleas for Marlboro County, alleged numerous acts of negligence, my only involvement was the jury selection on October 1, 1990. Because this jury was never used in a trial of Mr. Jackson, the selection of these jurors was not the proximate cause of any injury allegedly suffered by him.

My liability carrier gave me permission to represent myself in the preliminary stages of the litigation in an effort to avoid unnecessary defense costs which would not be covered (because of my \$5,000 deductible). I was

successful in filing dispositive motions bringing the matter to a quick conclusion.

Mr. Cabe's pro se lawsuit alleged that Mr. Cabe's civil rights had been violated by law enforcement searches. These searches were conducted pursuant to a valid warrant obtained from a US Magistrate by Assistant US Attorney Dean Eichelberger. Mr. Cabe's lawsuit was defended by the US Department of Justice and the complaint was dismissed.

36. Have you ever been investigated by the Department of Social Services? If so, give the details and the resolution. Has your name ever been enrolled on the Central Registry of Child Abuse and Neglect? No and No.
37. If you are in private practice, are you covered by malpractice insurance and, if so, how long have you carried malpractice insurance? If applicable, have you ever been covered by a tail policy? If so, please explain when you were covered by a tail policy. Also, if applicable, indicate your coverage and deductible for your current malpractice policy.

I have always maintained malpractice insurance in private practice. I believe I had a tail policy when I transitioned from private practice to government service. I may have also had a tail policy in the past when transitioning from one carrier to another. My present coverage is with Beacon One and is provided by my firm. Our coverage limits are \$10 million and our deductible is \$ 75,000.

38. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? No and No.
39. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No.
40. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." None.
41. S.C. Code § 8-13-765 provides, in part, that "[n]o person may use government personnel, equipment, materials, or an office building in an election campaign." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. Include the disposition, if any, of such charges or allegations. None.
42. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek. None at this time.

43. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. None.
44. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No and No.
45. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? If so, give details. Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?  
I have not. I am unaware of any friends or colleagues making such contact.
46. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No.
47. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate?  
I have not. I am unaware of any others making such contact.
48. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
- (a) Federal Bar Association, SC Chapter  
President, September 2006-07  
President Elect 9/05 to 9/06  
Treasurer 9/04 to 9/05  
Board of Directors Member 2001-08
  - (b) Florence Bar Association  
President 2007  
President-Elect 2006  
Secretary 2005  
Treasurer 2004  
Treasurer 1989-90
  - (c) SC Bar Association
  - (d) National Association of Former US Attorneys
49. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.
- (a) 2010 Winner, Compleat Lawyer Award, University of SC School of Law
  - (b) Commissioner, Florence Civic Center, 2001-08, appointed March 2001, elected Chairperson, July 2002



- (c) Director, Montessori School of Florence, 2001-May 2007, elected Vice-Chair, 2002, assumed Chair 2005
- (d) Central United Methodist Church, Stewardship Committee 2002, Administrative Board 2003-07, and 2012, Finance Committee 2010-present, Chair 2012, State Conference Delegate 2005-07, Choir
- (e) Team Manager, Florence Fire Boys Soccer Team 2002-03, Treasurer 2011-12

50. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek.

It has been said, "much of what we are is the sum of our life experiences." God has blessed me with a wealth of experiences that will make me an effective judge. I appreciate the opportunity to describe some of those experiences and try to give the Commission insight into my abilities to serve the State as an effective judge.

#### Childhood Experiences

I enjoyed a loving and supportive childhood. As the child of two educators who sacrificed to put me through college and graduate school, I was determined to work hard in school and make their sacrifices meaningful. My parents also provided me with value-shaping experiences. A mother treating African-American students with dignity in a dilapidated and segregated school taught me that all persons should be treated with respect. A father willing to work nights to return to graduate school taught me the value of hard work and the importance of following a vocational call.

#### Spiritual Experiences

Growing up, I had a special relationship with my grandparents – particularly my paternal grandmother with whom I shared a birthday. I grew up observing this grandmother's abiding faith and dutiful study of scripture (some 40 years as the leader of the Women's Missionary Union at a rural Baptist Church). These observations, among others, promoted my life-long relationship with the church and personal Christian faith. I joyfully participate in many activities of Central United Methodist Church.

My faith has led me to value every life and look for the good in each person -- even while seeking to hold them accountable for the consequences of their personal choices (particularly as a prosecutor). My faith has also led me to value our world and its limited resources of which we must serve as stewards.

#### Adult Family Experiences

Most fortunately, I have had the experience of a wife's support for 22 years – a wife who shares my core values. My wife offers her strengths as a compliment to my weaknesses in our partnership.

I had the experience of being with my mother as she died a premature death from breast cancer. This experience brought home the fragileness of

life and the need to seize opportunities to share ourselves with those we love.

As a parent, I have experienced the joy that only hope in a new generation can bring. I have also seen the obsessive tendencies that parents sometimes show (in youth sports or educational settings), and risk passing on to their children. I also have felt the thrill of my boys' successes, but I try never to let winning be more important than simply watching my sons give their best, show improvement, and enjoy themselves.

#### Professional Experiences

As a manager of a statewide law office, I had the experience of trying to build teams and set goals. On a very few occasions, I had to counsel, discipline, or terminate an employee. Management experiences taught me the value of regular communication and straight talk. I saw the effectiveness in praising others and subordinating self. In this role, I had the opportunity to meet the late Stephen Covey and became more committed to developing principle-centered leadership.

Lastly, my professional work experiences have provided me with sustained opportunities to practice law and view litigation from almost every angle. Initially, my two-year clerkship in the federal trial court gave me the opportunity to observe and assess numerous litigators with a judicial mentor.

As a practitioner, I have prosecuted those accused of crimes – both violent and non-violent. I have defended persons accused of crimes – violent and non-violent, remorseful and not remorseful, from isolated mistakes to repeat offenders. On the civil side, I have represented the innocent and not so innocent spouse in family court. I have served as an investigative guardian for a young boy bitterly sought by two parents who loved him. I have steered new parents through the joyful process of adoption. I have represented those injured, those harassed, those terminated, and those addicted. I have also represented business interests -- sometimes protecting those inequitably targeted simply as deep pockets and sometimes mitigating for those genuinely at fault. As a mediator, I have helped bring adverse parties together to end the continued risk and cost of litigation.

#### Conclusion

How will all these experiences make me an effective judge? Because I represented people at their best and possibly at their worst, I can appreciate their respective positions; but, more importantly, I can appreciate the need for our legal system to make sense of those respective positions in a way that advances the concept of justice and serves the citizenry as a whole.

My extensive litigation experiences have given me insight into how the Courts have accomplished this task in the past – both successfully and on occasion unsuccessfully. My personal experiences and family support give me the stable and balanced perspective needed to serve in a sometimes isolated role. My previous management experiences will help me be an

effective team player on a Court that functions in panels with a need to seek consensus.

Above all, my life experiences have contributed to the development of my values and character – values and character that will make me an effective jurist.

51. References:

- (a) Dr. Fred L. Carter, President  
Francis Marion University
- (b) Mr. Frank J. Brand, II  
Florence City Council
- (c) Mr. Eugene P. Warr, Jr.  
Chairman, Univ. of SC Board Trustees
- (d) Mr. Fred F. DuBard, Jr.  
Retired Businessman, Former Beer Distributor
- (e) Mr. John L. Hanna  
Vice President and City Executive  
SCB&T Florence

YOUR SIGNATURE WILL BE HELD TO CONSTITUTE A WAIVER OF THE CONFIDENTIALITY OF ANY PROCEEDING BEFORE A GRIEVANCE COMMITTEE OR ANY INFORMATION CONCERNING YOUR CREDIT.

I HEREBY CERTIFY THAT MY ANSWERS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

Signature: J. René Josey

Date: August 8, 2012

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

Circuit Court  
(New Candidate)

Full Name: Jon Rene' Josey  
Business Address: 507 Oleander Drive  
Florence, SC 29501  
Business Telephone: (843) 656-4451

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

I felt called to pursue a legal career in order to help others – and I have done that. In 1990 the State Bar chose to honor me as the Pro Bono Lawyer of the Year. Then after serving private clients, I had the opportunity to serve the public as United States Attorney for almost 5 years – the longest tenure of any US Attorney in the state for at least 60 years. When I was asked to serve in that role, I accepted the opportunity because of the honor in being asked – I really hadn't sought the position, but what I found is that non-partisan, legal public service brought me a new level of self-fulfillment. That is why I want to leave a successful private practice to return to public service -- essentially, at this point in my career, it is a vocational calling to serve in this capacity. Of course, I also am confident that I could serve well and I know that effective judicial service is needed. Indeed, that is undoubtedly one reason behind the creation of these new at-large positions.

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?

I have no definite plans to return to private practice. If I enjoy judicial service as I expect, I would hope to serve as long as circumstances will allow.

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?

As a general rule ex parte communications should not be allowed and should be proactively discouraged by judges. The core concepts of fundamental fairness guaranteed by procedural due process are notice and opportunity of litigants to be heard. Inappropriate ex parte communications regarding the merits of a matter undermine each of these concepts by withholding notice and denying a concurrent opportunity to be heard.

Of course, ex parte communications are allowed in certain limited contexts, such as an initial application for a temporary restraining order, but such communications in those circumstances should be limited and controlled by the judge so as not to exceed the scope allowed. Ex parte communications regarding administrative matters such as scheduling might be tolerated if controlled, not abused by counsel, and helpful to efficient delivery of judicial services. Ex parte contacts are covered by Section 3B (7) of the Code of Judicial Conduct.

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

The Code of Judicial Conduct provides that recusal shall occur when "(a) the judge has a personal bias or prejudice concerning a party or a party's lawyer...." Section 3E (1) (a). Absent such a subjective bias or prejudice, which I generally do not have, recusal may still be required by the general language of section 3E (1) if impartiality is reasonably questioned. Factors I would consider in evaluating the reasonableness of any such question would include the nature and duration of my relationship with the particular attorney (or party) as well as the nature and length of separation in the case of former associates and partners.

As for lawyer-legislators, there may be an appearance concern with their practice before any state tribunal but they are not prohibited from such practice and, by necessity, some judge must hear their matters; unless a particular legislator played a unique individual role in the corporate judicial election process, I do not believe a "reasonable" question of bias is raised. Nevertheless, I believe every precaution should be taken in those matters involving lawyer-legislators to guard against both actual bias and the perception of unfairness.

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 the disclosure objectively "had" the appearance of bias, I would grant the motion in accordance with Section 3E (1) of the Code of Judicial Conduct which states, "A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned...." (Emphasis added). Although the subdivisions of section 3E (1) specify numerous circumstances requiring recusal, the list is not exhaustive and the general provision mandates recusal based upon the reasonable appearance of a question. Such recusal is required regardless of the subjective lack of actual bias.

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

If the financial or social involvement of a spouse with a litigant or a matter is more than de minimis, then recusal is required by Section 3E (1) (c).

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

In accordance with Cannon 4 of the Code of Judicial Conduct, found in Rule 501 of the South Carolina Appellate Court Rules, I would respectfully decline gifts or social hospitality unless predicated on the existence of a friendship outside of any judicial relationship. Only gifts or hospitality consistent with the occasion and the non-judicial relationship would be accepted. This is also consistent with South Carolina Bar Ethics Advisory Opinion 97-40.

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

Section 3D of the Code of Judicial Conduct provides, "(1) A judge who receives information indicating a substantial likelihood that another judge has committed a violation of this Code should take appropriate action. A judge having knowledge that another judge has committed a violation of this Code that raises a substantial question as to the other judge's fitness for office shall inform the appropriate authority.

(2) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct contained in Rule 407, SCACR, should take appropriate action. A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate authority." (Italics Added).

Appropriate action according to the commentary may include directly communicating with the judge or lawyer involved in the suspected violation of the rules. I would act cautiously hoping to preserve and protect both the integrity of the judicial process and the professionals within the process. I would likely discuss the matter directly and investigate the matter to determine if further action is warranted or if the matter needs to be reported to the appropriate authority (Disciplinary Counsel).

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

I am not an officer in any political party. Other than church committees and the church administrative board, I am not presently serving on any board or commissions. From my preliminary review of

Section 4C(2) and (3) of the Code of Judicial Conduct, it seems likely that I could possibly continue service on the church board and committees with some restrictions.

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?

An order which bears my signature should be one which I completely adopt. Ideally, a judge would prepare all orders for his or her signature. Unfortunately, my experience tells me that this is not possible with present caseloads. Nevertheless, I would endeavor to personally prepare most difficult orders myself using law clerks to the extent of their abilities. If and when proposed orders were submitted or sought from litigants, they would be exchanged among all parties with appropriate opportunity for response. I would only use such a proposed order (or portion thereof) after such exchange and response time, and then only if the order (or portion thereof) accurately reflects my decision as judge.

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

First and foremost, I consider myself industrious and believe the work ethic that I would bring to the bench would be appreciated. As for meeting specific deadlines, I would employ Calendar systems similar to that used in private practice to meet litigation deadlines. Files are tickled for follow-up on both my Outlook calendar and that of my staff. My calendar system is backed up both on a smart phone but in hard copy as well.

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

Each of three branches of government is critical to good government. But each of the three should not play the same role in setting public policy. All three play a role in promoting public policy.

The executive branch sets policy by the legislative and budgetary proposals it advocates and by its use of discretionary powers and priorities. The legislative branch sets ultimate policy, of course, by the Acts and resolutions it passes. The judicial branch generally does not have a role in setting public policy; on the other hand, its role in enforcing public policy is critical whether it be by presiding in General Sessions court or over a Common Pleas matter applying statutory law.

Judges should be vigilant not to engage in making decisions which are more appropriately and effectively made by one of the other two branches of government. Of course, judges should not shy away from necessary decisions – ones that cannot be made by the other branches.

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?

Historically I have been active with the South Carolina Bar serving on numerous committees, the Board of the Bar Foundation, and the Board of both local and state legal aid organizations. I am presently the President of the Florence County Bar. I have also served as a speaker and panelist at continuing legal education events and previously served as the director of attorney development for my present law firm. As a judge, I would hope to continue service to the Bar through program and committee participation both with local bars and the State Bar.

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?

As I was once told by a senior jurists (now deceased) of this state and as I have repeated, "the law is a jealous mistress." This has been true in every phase of my practice (big firm, small firm, government firm and solo) and I do not expect it to change if I am fortunate enough to be elected. The strain on my family is actually lessened when I feel both called to my work and successful with it. We are a close family with a wealth of love and mutual support; I am very blessed in that regard.

Nevertheless, if elected, I would expect to travel away from home on a regular basis and thereby possibly strain those relationships. From my service as United States Attorney, my family learned to adapt to the travel and strain; indeed, we tried to use it as a positive opportunity – my family often visited Columbia when my work was here (thanks to my wife's flexible work schedule). They spent more time at the zoo and museum; we enrolled them in some Columbia-based summer camps. We used our lake house for a meeting spot as it provided me quicker access to Columbia and the upstate. I am involved with my children's lives and activities (school, scouts, soccer, choir, etc.). I intend to remain as involved with my children's lives. If elected I am sure our family would adjust to the change and focus on those precious relationships that mean the most (and which serve as the ballast for my proposed ability to serve). If needed, my wife is prepared to reduce her working hours to facilitate our family's flexibility.

Fortunately, my friends are a supportive group and tolerant of inattention caused by my vocational pursuits of the heart. My closest friends in the legal profession have often been both my allies and my adversaries in our adversarial system; our friendships are not based upon casual acquaintance or common litigation objectives, but on



shared faith, values, and life experiences (often children). I do not believe this service will strain those few true friendships. And again, public service has also provided an opportunity for making new friends in more diverse places and professions.

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.

Most of my criminal litigation experience has been in the federal system where some such classifications are directly addressed in the Sentencing Guidelines. Of course, each case is unique but certain offender characteristics should be considered in each case even when not required by an enhanced sentencing provision of the statutes or an applicable guideline system.

a. Repeat offenders: Unfortunately, many (if not most) offenders do repeat criminal conduct. The causes of this phenomenon are undoubtedly many, but a sentencing judge must definitely consider this fact as he or she seeks to fashion a sentence that adequately protects society and punishes the offender. In most cases, the repeat offender should certainly expect more punishment whether provided for by statute or not. To the extent that the cause of the recidivism is expertly identified, the subsequent punishment might also direct more specific treatment for that cause, if available (e.g., drug or alcohol abuse).

b. Juveniles (that have been waived to the circuit court): Another unfortunate fact is that serious offenses are being committed by younger offenders. While an offender's age is a factor for the court to consider in determining an appropriate sentence, youth does not excuse criminal conduct and does not diminish the public's need to be protected from it – particularly a crime serious enough to be waived to the circuit court. Presumably an offender's youth would suggest that additional maturity will (or could) occur and improve the offender's future conduct; ideally, a sentence would promote the opportunity for guided maturity to occur while still protecting the public.

c. White collar criminals: There is sometimes an unfortunate perception that non-violent crimes are not serious or dangerous. To the contrary, the response to these crimes is often important to the stability of our economic systems – whether the crime be financial fraud or illegal pollution of our regulated environment. Other forms of punishment may be equally effective against these offenders – like the disgorgement of an illegal profit. However, courts must guard against the perception that such criminals are treated differently – perhaps because of different demographics.

d. Defendants with a socially and/or economically disadvantaged background: With the support of a good family during my formative

years and with educational opportunities and encouragement, I have always considered myself blessed and have supported charitable work for those less fortunate. But it is not someone's background that gets them in trouble, it is their choices; and while their choices may be fewer than I had, everyone has the choice not to engage in unlawful activities. And in a civil society governed by the rule of law, there must be consequences to the choice to engage in illegal conduct.

Punishment under such circumstance might be tempered by the limited choices available to a defendant, but it still must be adequate to punish poor choices and deter others from similar conduct. Punishment under such circumstances might try to incorporate, if resources allow, educational or vocational opportunities to give the offender greater choices if they return to private life.

e. Elderly defendants or those with some infirmity: Like youthful offenders, age or infirmity is a factor that should be considered by the court in determining an appropriate sentence. Unlike youth, however, elderly or infirmed adults presumably have mature judgment when they commit offenses; thus, the court might respond with more punishment. On the other hand, age and infirmity may lessen the risk that such an offender poses to the public. Age and infirmity may also represent circumstances more difficult to address in correctional facilities. Each case would again need to be assessed on an individual 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?

It would depend upon the totality of circumstances. As noted in response to question 8 above, recusal is required by Section 3E (1) (c) if the financial or social involvement of a spouse with a litigant or a matter is more than de minimis. Thus, in this hypothetical, recusal would not be automatic; however, there may be other circumstances surrounding the de minimis interest that would make it more appropriate for another jurist to consider the matter.

21. Do you belong to any organizations that discriminate based on race, religion, or gender?

Like most churches, my church, Central United Methodist Church, does restrict membership to those who declare faith or transfer from other Christian churches; my church does not discriminate on the basis of race or gender,. Because the church does not stigmatize those who are not members (indeed, it seeks them out), this is not invidious discrimination and is not violative of Section 2C of the Canons of Judicial Conduct.

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 needs to be both patient and wise. A judge must be decisive but not impulsive. A judge must be in control but must not direct the decisions to be made by litigants or their counsel. A judge should be courteous to litigants, counsel, jurors, and staff; a judge's demeanor should leave a positive impression on those citizens who must encounter our third branch of government.

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?

Because these attributes are generally characteristics that a person has (or does not have) by a certain stage in life, a good judge should exhibit them all the time. Moreover, because the public forms its opinions of our judiciary at each and every encounter, judges should seek to always display those characteristics which will reflect well upon the justice system as a whole. Indeed, section 2A of the Code of Judicial Conduct requires that "A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." (Emphasis added). Naturally, judges should be most vigilant regarding the impressions they make in those circumstances where they are acting in a judicial capacity.

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?

Undoubtedly, there are times when judges may feel angry, but they should not act out of anger. There may be times when circumstances warrant a firm response, either toward a litigant or attorney, but that decision should not be made in anger but as an appropriate, reasoned response to the circumstances. I am sure this is easier said than done, but all the more reason that judges should practice patience. This is required by Section 3B (4) of the Code of Judicial Conduct.

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 not spent any money at this point. I would anticipate printing and mailing expenditures.

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.

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 and 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.

Jon Rene' Josey

Sworn to before me this 8 day of August, 2012.

Notary Public for S.C.

My Commission Expires: 08/07/13 \_\_\_\_\_

August 21, 2012

Jane O. Shuler, Chief Counsel  
Judicial Merit Selection Commission  
Room 104 Gressette Building  
P.O. Box 142  
Columbia, S.C. 29202

Re: Amendments to PDQ for Circuit Court At-Large Seat 14

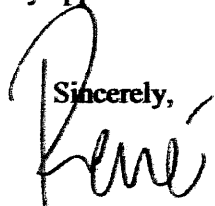
Dear Jane:

Pursuant to your e-mail instructions, I am writing to amend my PDQ answers to questions 48 and 49 with the following additions – which occurred to me only recently.

I would amend question 48 to add item “(e)” as follows: Local Rules Advisory Committee of the U.S. District Court, District of South Carolina, 2009 to present.

I would amend question 49 to add item “(f)” as follows: Charleston School of Law, Advisory Board, 2009 to present.

I apologize for my initial oversight. Please let me know if you need any further information regarding these additions or my application.

Sincerely,  
  
J. René Josey

JRJ:jj

## Laurie Traywick

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**From:** Jamey Goldin  
**Sent:** Friday, September 28, 2012 10:20 AM  
**To:** Laurie Traywick  
**Cc:** Jane Shuler  
**Subject:** FW: Addresses for Josey References

I received this directly from Rene Josey.

Jamey Goldin  
Assistant Staff Counsel  
South Carolina House of Representatives  
Labor, Commerce, and Industry Committee  
803-734-3015  
[jameygoldin@schouse.gov](mailto:jameygoldin@schouse.gov)

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**From:** Josey, J. Rene [mailto:JJosey@TurnerPadget.com]  
**Sent:** Wednesday, September 26, 2012 4:58 PM  
**To:** Jamey Goldin  
**Cc:** Josey, J. Rene  
**Subject:** Addresses for Josey References

Jamey,

Here are the addresses for my references. I look forward to meeting with you next month. Let me know if you need anything else.

Rene'

## TURNER PADGET

TURNER PADGET GRAHAM & LANEY P.A.

**J. René Josey**  
Trial And Appellate Advocacy  
Certified Mediator

PO Box 5478, Florence SC 29502  
Historic Florence County Library  
319 South Irby Street  
843-656-4451

Frank J. "Buddy" Brand, II  
Financial Advisor  
Stifel Nicolaus  
1325 Cherokee Road  
Florence, SC 29501

Dr. L. Fred Carter, President  
Francis Marion University  
P.O. Box 100547  
Florence, SC 29502

Fred F. DuBard Jr.  
2467 N. Williston Road  
Florence, SC 29506

John L. Hanna  
South Carolina Bank & Trust  
1600 W. Palmetto Street  
Florence, SC 29501

Mr. Eugene Preston Warr Jr.  
Lucas Warr & White  
2917 W. Palmetto Street  
Florence, South Carolina 29501

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