

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



Circuit Court
(Incumbent)

Full Name: The Honorable Roqer E. Henderson

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

I would like to continue to serve as a Circuit Court Judge in order to complete my career of public service. I have spent the past twenty-two years as both a Family Court and Circuit Court Judge and have always strived to be fair and impartial to all who have appeared before me. I want to continue to serve the citizens of South Carolina.

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

Yes

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

No. 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 twenty-two years and I no longer see a conflict concerning appearances by my former partner or associate. I do however let the parties before me know of the prior relationship between my former law partner and associate and if they request that I recuse myself, I will in that situation. That has occurred only one time in the past five years. 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 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 have 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 or appearance of infirmity 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. In the situation where there appears to be infirmity of a lawyer or judge, I would take appropriate action, which

may include a confidential referral to an appropriate lawyer or judicial assistance program.

11. Have you engaged in any fund-raising activities with any social, community, or religious organizations? Please describe.

No

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

No

13. How do you handle the drafting of orders?

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 after I instruct him or her as to my decision and request an order from them.

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

My law clerk, administrative assistant and I each maintain a log and calendar to ensure that deadlines are met by attorneys and myself.

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. 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 strains personal relationships (i.e. spouse, children, friends, or relatives)? How do 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. Are you a member of any organization or association that, by policy or practice, prohibits or limits its membership on the basis of race, sex, religion, or national origin? If so, please identify the entity and explain if this organization practices invidious discrimination on any basis.

No

22. Have you met the mandatory minimum hours requirement for continuing legal education courses for the last reporting period?

Yes

23. What do you feel is the appropriate demeanor for a judge and when do these rules apply?

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.

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

24. 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 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.

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

Sworn to before me this ____ day of _____, 2017.

(Signature)

Gale E. Griggs
Notary Public for South Carolina
My commission expires: 09/24/2020