



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

**Circuit Court
(Incumbent)**

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1. Why do you want to serve another term as a Circuit Court Judge?
I enjoyed practicing law immensely and it provided well for me and my family. It was exciting serving as an advocate for people who were charged with a crime or engaged in a civil dispute. In our system, it is imperative to have lawyers on both sides fighting zealously for their client's interest. Practicing law is competitive in nature, which gives you a feeling that is similar to participating in an athletic event. It is an awesome responsibility to ensure that a person's rights are protected when they retain your services as a lawyer.

During the last twelve years, I have learned that it is quite different wearing a black robe and facing the back of the courtroom. While fulfilling the role of a judge, it is incumbent upon me to ensure that everyone's voice is heard and that justice prevails. While acting as a lawyer, your goal is to achieve the goal of your client within the bounds of the law. However, when acting as a judge, it is incumbent upon you to do what is right and fair to all concerned.

I want to serve another term as a Circuit Court Judge because I truly feel that it is the most fulfilling, challenging and rewarding endeavor in the whole United States of America.

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
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 require both lawyers to be present when discussing the merits of a case. I require conference calls with all parties present when discussing a case on the telephone. In a non-jury setting, I handle my ruling in one of the following manners a) rule from the bench with both parties and court reporter present; b) rule by conference call with all lawyers present; c) rule by memo sent to all parties with instructions to draft order; d) draft order myself. In a criminal setting, I absolutely prohibit any *in camera* discussion of a case, unless the solicitor and defense counsel are present. Quite often criminal defendants themselves contact my office by phone or letter. My law clerk, secretary and I will not allow such contact unless all parties are present.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you? Under no circumstances will I hear a case where a former law partner is or was representing a party. When the issue of recusal presents itself, I first ask myself whether I could be fair and impartial. If the answer is "no", the recusal is automatic. The next analysis is whether or not it would create an appearance of impropriety if I were to preside over the given case. I err on the side of recusal. There are rare occasions where I may have had some contact or relations with a litigant or lawyer. I then comply with the ethical provisions that allow me to place the contact or relations on the record in front of the lawyers and parties. I then dismiss myself from the Bench and allow them to discuss the matter outside of my presence and only proceed if the parties and litigants waive any possible conflict.

If there is an issue or concern with a lawyer-legislator I, in the past, have recused myself and asked Court Administration to appoint an active-retired judge who is not subject to reelection.

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 there is not unanimous consent, I 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 distinguish these circumstances from a personal conflict. I would allow the same proceeding as set forth in my response to Question #6.

9. What standards have you set for yourself regarding the acceptance of gifts or social hospitality? I do not accept food, meals, beverages, lodging, transportation, entertainment, social hospitality or other things of value, unless in the context of the Defense Lawyers Convention or Trial Lawyers Convention, which is disclosed on the annual ethics report.
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 I had first-hand knowledge of infirmity or misconduct, I would report it to the Commission on Lawyer Conduct or Commission on Judicial Conduct.
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? Most often, I will ask the prevailing party's attorney to draft an order pursuant to my instructions and provide opposing party with a copy prior to submitting to me. Occasionally, I will ask each attorney to submit an order and, after review, I will sign one. I sometimes draft my own order.
14. What methods do you use to ensure that you and your staff meet deadlines? We maintain a paper calendar and electronic calendar accessible to all staff.
15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy? I feel as though the role of a judge is to interpret and enforce the statutory, common and constitutional law. I do not practice judicial activism nor am I an advocate of judicial activism.
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 am participating in the planning and construction of the Florence County Judicial Center. This is a forty-three million dollar project that is ten years in the making. There have been countless meetings to plan what, I believe, will be the best Judicial Center in South Carolina. We plan to occupy the building in January 2018. Judge Russo, Judge

Seals, Judge Brown and I have volunteered to host the spring Judicial Conference.

I have particular interests in measures to ensure that all people have access to justice.

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? I can envision serving as a judge could be a strain on one's family, particularly if the judge has young children. My situation is that all of my children are grown and living independent lives. I lost my spouse in 2014 and I find the duties of being a judge and, particularly the travelling, to be stimulating and enjoyable.
18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.

- a. Repeat offenders: A person's criminal history is an integral part of fashioning a fair sentence. Obviously, repeat offenders will be treated more harshly, particularly, when dealing with violent crimes.

In every term of court, you have several defendants who have numerous, sometimes countless, Shoplifting charges. Quite often, offenses are related to homelessness, drug addictions, and mental illness. The law allows for an individual to be incarcerated for a period of up to ten years for Shoplifting 3rd Offense or greater. It's hard to say in a vacuum what a particular sentence should be. All factors should be considered, prior record, the harm caused, and the cost of incarceration.

- b. Juveniles (that have been waived to the Circuit Court): Youth should be a factor in the sentence of a particular defendant. In the many cases that I have handled, I have received reports from psychiatrists who testify that the brain of a juvenile is not developed in such a way as to allow them to understand the gravity and consequences of their actions. This is certainly a consideration.

If it is a non-violent offense and the defendant's first appearance in General Sessions Court, it is proper to consider 1) Drug Court, if applicable; 2) Probation; 3) Youthful Offender

Sentence; or, 4) Youthful Offender Sentence with a special recommendation of shock incarceration.

In all circumstances, it is incumbent upon the judge to discern the difference between the truly wicked and merely the wayward. There is such a circumstance where a juvenile is truly a danger to the public at large and which warrants a lengthy period of incarceration.

- c. **White collar criminals:** As a lawyer, I handled a number of cases involving people accused of white collar crimes. The federal sentencing guidelines place a premium on the amount of money involved. The more money, the higher the sentence. I am not a proponent of sentencing guidelines but the concept of the amount of money taken should be a factor. Quite often, people accused of white collar crimes have no prior criminal record and this is certainly a factor to be considered. Over the years, I have sentenced people accused of white collar crimes, who have stolen money from a local fire district, a county treasurer, a school superintendent, and countless cases of embezzlement. Each case stands on its own with considerations to 1) the wishes of the victim; 2) recommendation of law enforcement; 3) restitution; 4) prior record; and, 5) the issue of deterrence.
- d. **Defendants with a socially and/or economically disadvantaged background:** As a trial judge, it is critically important to take into consideration all facts and circumstances of the case when deciding a fair and just sentence.

As I reflect upon this particular factor, I have come to the realization that the vast majority of the people on the criminal docket are from socially and/or economically disadvantaged backgrounds. One of the prevailing common denominators is that they quite often have a tenth grade education (which is the year that Family Court stops enforcing truancy violations). Lack of education leads to poverty.

On a rare occasion, a criminal defendant appears before me with a private lawyer, two loving parents, and a host of family members and friends begging for mercy. I am quick to point to the defendants in the courtroom who could not make bond and are shackled in orange jumpsuits while waiting in the jury box. These defendants most often appear with their public defender

and no family support. I frequently ask the question to the affluent defendant if I should be more or less harsh on his sentence in view of the fact that he started out with all of the advantages of a loving and supportive family.

Poverty and broken homes are a harsh reality of life. It is a factor to be considered along with the circumstances of their case.

- e. Elderly defendants or those with some infirmity: Age and health of a defendant is certainly a factor to be considered in rendering a fair and just sentence.

There are situations where an elderly individual is to be sentenced for a serious violent crime. One of the considerations is his life expectancy, which best can be estimated by the life expectancy tables set forth in the South Carolina Code.

One's state of health is also a consideration. There have been circumstances where I order home incarceration with electronic monitoring so an individual can receive medical care and still be separated from the community at large.

Health and infirmity is a factor but not a determinative of the sentence.

- 19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality? No
- 20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved? 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 feel that the appropriate demeanor for a judge is to be 1) courteous; 2) respectful; 3) calm; 4) kind; 5) attentive; and, 6) patient. This demeanor should prevail on and off the Bench.
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? I do not feel that anger is ever an appropriate emotion. The courtroom is filled with people who have made poor choices in life. It is paramount to deal with members of the public and criminal defendants with respect. Inappropriate conduct should be dealt with in a firm but fair way. I constantly keep in mind that parties and lawyers deserve to be treated fairly. Additionally, jurors quite often have never been in a courtroom before and are getting a first impression of how our Judicial Branch of Government is run. It is important for our democracy to inspire respect for the law and our country.

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)

(Print Name)
Notary Public for South Carolina
My commission expires: _____