



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

Circuit Court
(New Candidate)

Full Name: Robert Michael Madsen

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

My entire legal career has been focused on public service whether as a prosecutor or a public defender. These positions have given me the necessary skills to continue my public service as a Circuit Court judge. I have the intelligence, work ethic, and desire to be a Circuit Court judge.

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

Yes

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

No

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 believe that a fair and impartial judiciary should not take part in *ex parte* communications. *Ex parte* communications call into question the impartiality and integrity of judicial decisions. They should be discouraged and only allowed if all the criteria of Canon 3B(7) are met. *Ex parte* communications can be appropriate in scheduling, administrative and emergency situations as long as no party gains a procedural or tactical advantage.

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 would not recuse myself unless I had a personal bias or prejudice that caused my impartiality to be questioned. I would recuse myself from any matters that were pending when I had an association with the lawyer.

7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

I would give great deference to a party requesting my recusal in any situation in which my impartiality may reasonably be questioned. Out of an abundance of caution, I would most likely grant the motion, but it is hard to give a definitive answer without more facts.

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 disclose to the litigants the potential conflict. Further, I would disqualify myself from the proceeding if my spouse or a close relative had an economic interest in the action or in a party to the proceeding.

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

In no case would I ever accept any gifts from litigants, potential litigants, or attorneys that appeared before me even if they were proper under Canon 4(D)(5). I would accept ordinary social hospitality as long as I did not feel that it in any way affected my impartiality or had any appearance of impropriety.

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?

As required by Canon 3(D), I would inform the appropriate authorities.

11. 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.

I am not a member of any such organization.

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

I have not engaged in any such activities.

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

I do not have any such business activities.

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

Generally, I would have the prevailing parties draft proposed orders subject to my review unless I believed that I or my law clerk could prepare the order in a more expedited manner.

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

I keep a desk calendar in my office and I also digitally calendar all events through Outlook, which flows through to my cell phone. Additionally, I would use any case tracking system offered by the Judicial Department.

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

I believe the judiciary's sole responsibility is to interpret laws as promulgated by the legislative branch of government based on case precedent and subject to the Constitutions of South Carolina and the United States. Judicial interpretation of laws may have an ancillary effect of promoting public policy, but generally public policy falls within

the purview of the legislature.

17. 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?

If invited, I would continue to speak at continuing legal education seminars. Additionally, as the public defender representative, I have been involved in youth leadership programs, which familiarize students with our judicial system. I would continue my involvement with this program.

18. 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?

I do not feel that it would strain any personal relationships. My job as the Eleventh Judicial Circuit Public Defender can require long hours and be quite stressful. My wife and children have always been understanding.

19. 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:

An offender's prior criminal record should be considered in determining what is an appropriate sentence. An extensive criminal record could weigh toward a harsher sentence; however, factors such as mental health, substance abuse, etc. could indicate that treatment of the problem within the community would be a better sentencing option.

- b. Juveniles (that have been waived to the Circuit Court):

I would consider the age of an offender during sentencing. Anyone who has dealt with juveniles understands that the hallmarks of youth are impetuosity and an inability to forecast consequences. Nonetheless, there are situations where a substantial sentence can be justified for the safety of the community.

c. White collar criminals:

White collar crime can have a devastating financial and emotional effect on its victims. However, obtaining restitution is one of the only ways the judicial system can actually make a victim whole. Depending on the amount and circumstances of the theft a probationary sentence could be appropriate in certain cases; however, there are situations where a harsher punishment could be warranted.

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

It is tough for someone who has not been raised in a socially and/or economically disadvantaged environment to understand the potential trauma such individuals have faced growing up, which can certainly be a mitigating factor. At the same time, I believe that we live in a time and in a country that allows any individual the ability to lead a productive, successful, and law abiding life.

e. Elderly defendants or those with some infirmity:

I would consider the age or infirmity of a defendant in determining what is an appropriate sentence. A limited prior record of an elderly defendant would certainly mitigate punishment, while despite the defendant's age, a consistent repeat offender would be an aggravating factor. Additionally, the incarceration of elderly or infirmed defendants has been shown to place a great financial strain on the Department of Corrections. However, significant incarceration can be warranted to ensure the safety of the community from some elderly and infirmed defendants.

As a caveat, I will say that I find it extremely difficult to give any type of sentencing philosophy in a vacuum. Each individual and situation is different and deserves to be considered based on the facts and circumstances presented in court. Only after all the mitigating and aggravating circumstances are weighed can a just sentence be rendered.

20. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?

I do not have any such investments.

21. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?

Each situation would need to be independently evaluated, but generally, I would hear such matters in compliance with Canon 3E(1).

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

I do not belong to any such organizations.

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

I have met the mandatory hours for continuing legal education courses for the past reporting period.

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

I believe that a judge should always have a pleasant and courteous demeanor.

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?

I do not believe that a judge should ever express anger when dealing with any attorney or litigant. However, I do envision times when a judge would need to have a stern demeanor.

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: _____