



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

**Circuit Court  
(Incumbent)**

Full Name: Roger Mack Young

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

I find this is the most stimulating and challenging job imaginable. I look forward to going to work every day. It's a great privilege to be able to do this. I have a front row seat where human conflict is resolved. I can't imagine doing anything else.

As I have gotten older and more experienced, I find myself enjoying working with the newer judges as they start their judicial careers. It's very encouraging to see the quality of our new judges, and it's very satisfying to mentor them. It gives me great hope for the future of the judiciary in this state.

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 tell my law clerks this is something they have to be vigilant and on guard about because it has been my experience that lawyers know better than approach a judge directly and don't try to have ex parte communications with me about a case. However, they sometimes try to tell the law clerk about the case, which may influence the law clerk about a case, which in turn may influence me when we talk about it. So, I carefully explain that to them when they begin their employment.

Other than that, I only talk to lawyers about a case ex parte if it involves a scheduling matter, which is permitted. However, while permitted, it seldom makes any sense to do so because you still have to get in touch with the other side to let them know something got scheduled, and invariably they aren't available at that time. So, unless it's an emergency, I don't waste my time with it.

6. 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 have found it usually works to explain to them that it's my job to preside over the court, make rulings, and sometimes ultimately make a judgment on who prevails. One of the most important aspects of a trial is that the parties feel they received a fair hearing. I tell them I respect their concerns, and that if I really felt uncomfortable making a rule either for or against them, I would bring in another judge to hear the case. We have others, so it's not a problem to get another judge if the appearance were reality. Most people seem to appreciate that approach.

I've only had a couple of occasions where I've had anyone request that I recuse myself. Once it was because the lawyer was making an ethical accusation against one of my former law clerks. I agreed to recuse myself because I would have a difficult time believing this particular former clerk would be capable of doing anything unethical. The only other time I can recall was when a litigant mistakenly thought I was the judge who had ruled against him years before on some other case. Once we checked the records and determined it was another judge, he withdrew his request.

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

I would want to determine if there was a non-pretextual reason for the recusal request. In any event I would not preside over a case with a close family member as a party or witness.

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

I have friends who are attorneys and they will occasionally offer to pick up a lunch check when we are out. We either split the check or alternate who pays. The only time anyone pays for my hotel room is when we are at conventions like SCAJ or SCDTAA and they invite all the judges and pay for their expenses. These are permitted and disclosed annually. My non-lawyer friends are basically family members who think I make a bunch of money and never seem to offer to buy me lunch or dinner other than for Father's Day.

9. 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?

On misconduct issues I sit down with them to hear their side of the story, and if I find it is something that should be reported, I give them an opportunity to self-report. I inform them I will report it if they do not. If you sanction a lawyer in a case, you are required to report it.

I have had a couple of unfortunate experiences with lawyers who seem to be struggling because of substance abuse or infirmity due to age. With the substance abuse cases I'll contact an appropriate member of the Bar who can contact them for help. With age issues, I have consulted with lawyers who are close friends of the affected lawyer who can assist with getting family members involved and their cases attended to properly.

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

No.

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

No.

12. How do you handle the drafting of orders?

I usually have my law clerks prepare a first draft of most of the routine orders based on how I tell them I want to rule. In non-jury bench trials, I

often have the attorneys submit proposed orders in lieu of closing arguments. If I rule from the bench on motions, I often have the prevailing party prepare a draft proposed order which is to be shared with the opposing lawyer(s) before submitting to me for consideration. I usually only have the opportunity to write an entire opinion 2-3 times a year, and those are on exceptionally difficult cases. Writing helps me clarify my thoughts and reasoning.

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

My law clerks and I keep a running list of Matters Under Advisement utilizing a Microsoft Excel template one of my law clerks created a few years ago. I also have developed a backup system of tracking Matters Under Advisement for me that I created using a computer program called Evernote. Finally, I have also created a workflow using folders and sub-folders in Microsoft Outlook.

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

I’m a state trial court judge. Most of the things state circuit court judges do involve presiding over trials and making sure rules of procedure and evidence are followed. Occasionally we’ll rule on something that could be considered a policy matter, and as a former legislator I respect and appreciate the role that legislative debate has in our society. If at all possible, I defer to the legislative process and confine my role to attempting to determine legislative intent. Trial judges are bound by precedent, so if there is something with which I disagree, I am bound to apply the law as it is currently, and to let the appellate courts move the legal system in another direction on an issue.

15. 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 frequently speak to groups, especially at CLEs. I counted 58 events I have spoken at over the years when I was answering another part of this application. I find I like working with younger judges and lawyers more as I’ve gotten older. I guess I see myself at a different time. Hopefully I can help them avoid making mistakes I made along the way.

In addition, Chief Justice Toal appointed me to be one of the three original Business Court judges for South Carolina, and I've served on that court continuously since 2007. Chief Justice Pleicones asked me to be the first Chief Judge of that court and Chief Justice Beatty has continued that appointment several times now. Business Court has grown from three to nine judges with roughly 90 or so active cases at any given time. About a year and a half ago I decided to begin a study project to assess whether we should continue the Business Court as it is currently structured or whether we should consider modeling ours like some other states. I made an initial report to Chief Justice Beatty last fall who gave the go-ahead to continue the study. Judge Clifton Newman has been a vital member of the Business Court, and he and I met with some members of the Bar earlier this year to form a study group. Those lawyers are now gathering information from other lawyers who have experience with the Business Court to assist us in making recommendations to the Chief Justice.

16. 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 got divorced in 2008 and while I can't blame it on the job, it's impossible to say it had no effect whatsoever. I was on the road for most of 2006 and 2007. That probably didn't help. My children love me and are proud of what I do. I have been a judge most of their lives, so they have grown up knowing I can't discuss cases. They view me as a father who happens to be a judge. They are now 33 and 31 and don't seem intimidated in the slightest by what I do. I got re-married in 2012, and we talk about the stresses of the job and what it means to be a judge's wife more than I did in my first marriage. It seems to be working.

17. 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: Most repeat offenders are there because of drugs or alcohol - if not directly, then certainly indirectly. If they aren't charged with a violent crime, I'd like to see them get some help because tossing them in jail doesn't fix the problem and we can't afford to send every drug addict and alcoholic to prison. We don't have the space or the resources. By the same token, if the crime is serious enough and the person does not seem to a good candidate for probation, then some prison time is usually appropriate.
- b. Juveniles (that have been waived to the Circuit Court): I've dealt with a lot of real heartbreak in this area. Every case is too fact specific to have a general philosophy other than I wish there was some way to change human nature so that young people didn't

make mistakes that can ruin the rest of their life. Thankfully, we have a good youthful offender system to take care of most of those that deserve some jail time. I was delighted to see the General Assembly offer a way to get some YOA sentences expunge after five years.

- c. White collar criminals: In General Sessions court white collar criminals tend to be people who defrauded a credit card company or stole a check. We don't see many high-profile, big money fraud cases. Most of the time the state and the victims agree to probationary sentences so the victims can get paid restitution.
- d. Defendants with a socially and/or economically disadvantaged background: Depends on what they are charged with. Generally, people who are convicted of violent crimes go to prison while people who are convicted of non-violent crimes get probation or county jail time. Most people who appear in General Sessions court fit this category.
- e. Elderly defendants or those with some infirmity: If an elderly person appears before me, especially if they have no record, I usually send them to get evaluated because it is invariably a sign of diminishing capacity and they need medical help. Senior citizens don't typically start a life of crime at the end of their life. If a person has a mental infirmity and is competent to stand trial or plead, I listen to what their medical doctor has to say to see if it affected why they committed the crime. If so, that is certainly an appropriate sentencing consideration.

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

No.

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

Probably not, but I can see situations where I and my family members have a technical *de minimis* interest but I do not think recusal would be required. For instance, I have my home and auto insurance with a large, national mutual insurance company, and as a result we technically have a *de minimis* ownership interest in the company as policy holders. However, I routinely hear cases where that company either defends insureds or is a defendant itself. *De minimis* by definition means your interest is so minimal as to be insignificant and not likely to be affected by the outcome. If there was a class action lawsuit and I technically fit the class member definition, I would recuse. I would recuse myself if any of my family members were a named party in a lawsuit.

20. 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.

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

Yes.

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

Treat other people like you would like to be treated - with dignity and respect. Since you're a judge 24/7, you should follow this rule at all times. (It's actually a pretty good rule for non-judges as well).

23. 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?

Judges should avoid displaying anger while wearing the robe. You can express your feelings about a particularly bad act or course of action without resorting to emotion, whether dealing with a criminal defendant, a pro se party or an attorney. It is also self-defeating because it raises a side issue of judicial temperament, which takes away from the confidence people should have in the courts.

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

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Sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
(Signature)

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