

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

**Circuit Court  
(New Candidate)**

Full Name: Benjamin Alexander Hyman

Business Address: 1208 3<sup>rd</sup> Avenue Conway, SC 29526

Business Telephone: 843-248-2024

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

I have known for some time that I wanted to be a public servant. My experiences in both life and my chosen career have led me to the realization that there is no greater gift that we can give to others than our time. I have always been very passionate about my clients and have aimed at always making them feel as though their case was the most important case I had. As a Circuit Judge it would be my duty to give each litigant that same attention. I understand the stress that lawyers feel and would welcome the opportunity to help them resolve their case expeditiously and fairly. I feel that my personality and demeanor along with my broad range of experience would aid in the resolution of cases.

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?

If elected I would plan on spending the rest of my career as a public servant.

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*

# Sworn Statement

communications being tolerated?

Ex Parte communications are not to be permitted except for the limited exceptions as provided by law under Canon 3B. I could see Ex Parte communications being tolerated in a limited capacity under rule 65(b) SCRPC.

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?

Canon 3E mandates that a judge disqualify himself if the impartiality can be reasonable questioned. I would imagine that if a party requested the recusal it would be because they believe that my impartiality is in question. If that is the case, you must give deference and recuse yourself.

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 disclose it to all parties on the record and recuse myself if there was the slightest hint of impropriety or impartiality.

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

I would not accept gifts from lawyers that may appear before me or from anyone if the gift could be perceived as intended to influence me. Social Hospitality is acceptable in some instances under Canon 4D, but I would absolutely follow the law accordingly.

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?

I would confront the party and urge them to self-report the misconduct. Additionally, the rules would require me to report the misconduct as well.

10. 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. I am not.

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

I am a member of the Waccamaw Sertoma Club. We raise money by selling Christmas trees every year. 100% of the proceeds are then spread amongst various local charities. I also donate money to my church and other charitable organizations.

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?

Generally, I would ask the prevailing party to draft an order and provide it to opposing counsel. If all parties agree, I would then sign it. I believe there are instances when asking both parties to submit orders is also proper when matters have been taken under advisement. There may also be instances where I would want to draft my own orders after diligent research.

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

I am somewhat tech savvy and would implement a calendar system that would be accessible not only by computer but also phone with set reminders and due dates. I would also envision having weekly staff meetings with my administrative assistant and law clerk to manage our future terms of court.

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

A judge's duty is to strictly interpret the law as written not to set policy or allow personal feelings to distract him. Applicable law should always be the guiding light.

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?

I would like to help establish a seminar for training young lawyers. I would also like to work with clerks of court to provide further training on the e-filing system for all lawyers. Additionally, I would like to continue participating in my local Inn of Court and the Waccamaw Sertoma club.

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?

I have been very open with my wife and children concerning a potential Judicial appointment. We have prayed as a family about it, and my family will always be what matters the most to me.

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:

The punishment for a repeat offender must reflect the fact that they have been given opportunities, and that a prior punishment was not sufficient to deter them from committing further crimes. A judge must also attempt to discover the reason that the individual is committing the crime. Are they a drug addict? Have they ever received any treatment? These factors must also be contemplated before imposing a sentence.

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

I think that the two factors that should be considered are why the juvenile was waived up and what kind of sentence would help to not only deter further criminal behavior but also help to rehabilitate them. Sometimes judicial discretion can change the path of a young person for the better or the worse.

c. White collar criminals:

Unfortunately, sentencing of white-collar crime generally boils down to whether or not the defendant can pay back what was taken. A judge must consider the cost to the victim if the defendant is sentenced to prison verses the ability to pay the restitution. This is a somewhat tricky balancing act between what punishment is versus trying to make the victim whole again.

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

I have dealt with so many men and women who unfortunately are a product of their environment. So often these defendants are easily influenced, and the crimes are a byproduct of that influence. I would try to determine if the defendant is truly a product of their environment or simply using it to excuse criminal behavior and sentence accordingly.

- e. Elderly defendants or those with some infirmity:

While a judge should treat everyone equally, he must give extra care in cases involving elderly persons or those with infirmities. Sentencing can have unintended consequences and discretion should be used to accomplish justice.

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. I would recuse myself.

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

Yes

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

A judge should always lead by example. If a judge is punctual and prepared it will be reflected by the attorneys and court staff. A judge should always be humble and respectful to all parties that come before him. Above all else, a judge should be patient.

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

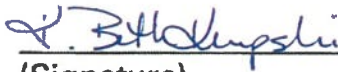
appropriate in dealing with attorneys or pro se litigants?

I do not believe that there is ever a time when a judge should exhibit anger against a member of the public, a defendant, an attorney, or a pro se litigant. I am certain that there will be times when a judge is frustrated but anger only demeans our profession and its reputation.

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 20 day of July, 2020.

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

K. Beth Kempster  
\_\_\_\_\_  
(Print Name)

Notary Public for South Carolina

My Commission Expires: 11/14/2021



