



JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE
FRANKLIN G. "FRANK" SHULER, JR.
(AMENDED SEPTEMBER 29, 2020)

11.(b) If you are a candidate for Circuit Court, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years, and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years, and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, and whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background and procedural knowledge has prepared you to preside over such matters as a Circuit Court judge, or how you would compensate for your lack of experience in this area. Please also indicate the frequency of your appearances before a Circuit Court judge within the past five years.

I have handled two criminal cases in my career: (1) an assault & battery claim arising out of a workplace incident that was tried before a jury in Allendale Summary Court on August 13, 1997, which resulted in a defense verdict; (2) a criminal contempt proceeding in Tennessee state trial court in the early 1990s. The issue arose from the alleged violation of an injunction arising from picketing. I cannot tell you the parties or court 30 years later. I do remember I got a defense verdict. My only other "criminal" experience arises in the context of civil matters, Post-Conviction Relief (PCR). I have handled at least five court-appointed PCRs, all of which "tried," and at least one of which we took depositions and sought certiorari with the South Carolina Supreme Court. See Kinard v. Battle, No. 5:14-4391-BHH, 2016 U.S. Dist. LEXIS 35494 (D.S.C. Jan. 28, 2016), report and recommendation adopted, 2016 U.S. Dist. LEXIS 33617 (Mar. 16, 2016), appeal dismissed by, certificate of appealability denied, 2016 U.S. App. LEXIS 20615 (4th Cir. S.C., Nov. 17, 2016) (discussing the underlying issues in the PCR case in the context of a habeas corpus proceeding). All required me to learn criminal law to effectively represent my client.

As should be clear from any review of my PDQ, I am a labor and employment lawyer by trade since 1984; however, civil litigation has always been at the center of my practice over the years although the form has changed over time. As a central part of my litigation practice, I have written innumerable briefs. Although I attended USC Law School for only one summer semester, I had the good fortune to have Professor Thomas Haggard for a writing credit. I learned more in that course that has helped me during my career than any other course I took in law school. I pride myself in my ability to research and write.

My first associate position was with an insurance defense firm in Mobile, Alabama. During the year with the firm, I was able to second chair three federal court jury trials. I also tried my first solo jury trial, as well several bench trials in disputes under \$5000.

While practicing with Cooper, Mitch in Alabama from June 1984 through December 1991, I represented plaintiffs, unions, and employees. This particular position presented a unique opportunity because the firm split after I accepted the job, but before I started. I was thrust into a federal court trial practice with only one year of experience. The first case I ever tried in South Carolina – before I ever moved here – was a four-day jury trial in federal court where I was lead counsel for the defendant union. See Smith v. Local 7898, United Steelworkers of America, 834 F.2d 93 (4th Cir. 1987). I tried 30+ arbitrations along with several jury and non-jury trials in Alabama, Tennessee, South Carolina, and Virginia during this period, not to mention trying untold cases before the NLRB and handling more injunction hearings than I care to remember. Because of the economic downturn in the 1980s, I even tried two employment-related cases in

Bankruptcy Court, one in Tennessee and the other in Texas. I argued cases in the Alabama Supreme Court, and briefed or argued cases in the Fourth, Sixth and Eleventh Circuit Courts of Appeal during this period.

Since moving to my present firm in 1993, my practice has primarily included the representation of defendants/employers. Most employment cases result in either summary judgment or settlement. This, and the fact that most cases today are subject to mandatory mediation, has limited my opportunities to try cases recently.

I have handled every kind of employment case imaginable although my present practiced consists of approximately 50% ERISA cases, which are non-jury and are resolved by way of cross-briefs if not settled. Additionally, over the years I have routinely practiced in other areas of the law (unfair trade practices, bankruptcy, commercial litigation, debt collection and foreclosure, arson, director and officer liability, public entities).

AMENDMENT:

I spent several days in August 2020 observing Judge Donald Hocker preside over a murder trial, State v. Elmore, in the Laurens County Court of General Sessions. This was the first criminal trial held since Covid-19 closed the courts.

I recently purchased the following books from the SC Bar in order to review criminal law and procedure: 1) Pocket Prelims; and 2) The Criminal Law of the SC, Sixth Edition. Furthermore, I have been reviewing recent criminal cases in the SC Advance sheets.

22. Provide, as a separate attachment, your continuing legal or judicial education report from the past five years.

Response: See attached Appendix B

AMENDMENT:

I have completed the following criminal law CLE's since filing my judicial application:

- 1) On August 2, 2020, I completed a three hour, on-line CLE, "2019 Criminal Law Update Convention: Where Are We and What are We Doing?";
- 2) On September 24, 2020, I completed a 6.25 hour, Live Webcast CLE, "2020 Criminal Law Practice Essentials."

36. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek. If you have spent over \$100, have you reported your expenditures to the House and Senate Ethics Committees?
\$10.00, Fingerprints, July 6, 2020; \$7.75, USPS, July 6, 2020.

AMENDMENT:

I have also spent the following:

July 2020	Stationary, Envelopes, and Stamps to mail	
	Letters of Introduction to House Members and Senators	\$228.77;
July 2020	Joshua Aaron Photography (photo for post card)	\$125.00;
August 2020	Judicial Candidate Post cards	\$509.08;
August 2020	SC Bar Criminal Law CLE	\$180.00;
August 2020	SC Bar Big Ticket for CLE (for 9/24/20 2020 Criminal Practice CLE)	\$495.00;

September 2020 2 SC Bar books on Criminal Law and Procedure (Pocket Prelims and The Criminal Law of SC 6th Ed.)

\$207.36.

YOUR SIGNATURE WILL BE HELD TO CONSTITUTE A WAIVER OF THE CONFIDENTIALITY OF ANY PROCEEDING BEFORE A GRIEVANCE COMMITTEE OR ANY INFORMATION CONCERNING YOUR CREDIT.

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

Signature: *Frank D. Self*

Sworn to before me this ^{1st}~~29th~~ day of ^{October}~~September~~, 2020.

Margaret H. Smith
(Notary Signature)

Margaret H. Smith
(Notary Printed Name)

Notary Public for South Carolina
My Commission Expires: February 19, 2025

