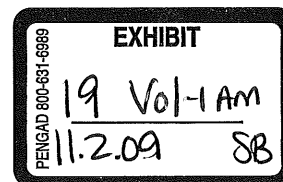


JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court
(New Candidate)

Full Name: The Hon. Frank Robert Addy, Jr.
Business Address: P.O. Box 1210
Greenwood, SC 29648
Business Telephone: (864) 942-8625

1. Why do you want to serve as a Circuit Court judge?
First, I am not running for this position out of a desire for prestige, money, power, or to otherwise better my personal station. My current judicial position more than adequately meets my personal, financial, and professional needs, and I have seriously deliberated on the implications for my family and myself in seeking this seat because success in the election would mean less freedom, a more exacting schedule, and substantial time away from my family. My faith is very personal to me, and for that reason, I hesitate mentioning it, but being a person of faith I am running because I firmly believe that everyone is blessed with certain talents which are unique to that individual and that our obligation in this life is to apply those talents to our community's common betterment, in service to man and to our maker. Overall, I have enjoyed being a judge and practicing law, and I am confident that my unique talents and varied personal and professional experiences would serve the bench well. Not only have I previously served in virtually all legal capacities in the circuit court, including serving as a circuit judge numerous terms by special appointment, I have had a wide variety of other jobs which gives me insight into other occupations. I have trucked vinyl siding, and I have worked in a warehouse; I traded bonds at one bank and processed cancelled checks at another; I have worked for an asbestos manufacturer and in a retail family business. In short, I have insight and understanding of all walks of life, which reaffirms my long-held belief that all honest labor, regardless of its perceived class or position, has value, dignity, and honor. My greatest personal mentor was my father who owned a successful retail jewelry business. My father was a very humble but fun man blessed with incredibly good judgment about things, and he gave me two pieces of advice which I value. First, do what you love. There is no reason to spend a third of your life working in a job you hate. At its most basic, a judge's job is to apply the law to resolve problems. Luckily, I enjoy the intellectual demands of being a judge, applying the law, and working with lawyers and the public to resolve their problems. I couldn't imagine doing anything else, and it is easy to do a job well when you are enthusiastic about it. Second, "move your inventory." This is the most practical and true piece of



professional advice I have ever received. You cannot make money in retail if your inventory doesn't sell. Similarly, courts break down if they can't move their cases. Docket backlogs have many causes, some of which are legitimate, but judges must consistently do everything they can to keep cases moving. Having practiced extensively before the late Judge Jim Johnson and having grown up literally next door to Justice Jim Moore, these two jurists remain my professional role models. I sincerely hope that I may continue my service as a jurist and someday match their abilities.

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? I am uncertain, but if I retire from the bench, I may elect to return to private practice at that time.
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? *Ex parte* communication is improper except in situations where the law expressly permits such contact, such as an *ex parte* TRO under Rule 65, SCRCF. Certainly, Rule 65 (b) contemplates circumstances where *ex parte* communication may be necessary to obtain a TRO.
6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you? It has been over ten (10) years since I was associated with any other lawyer or firm, and I have no outstanding financial interest with any lawyer or firm, so I doubt recusal would be necessary because of any such prior association. I recuse myself in any matter in which I could not reasonably be expected to be fair or impartial or where I would personally have some stake in the outcome. On those occasions that lawyer-legislators have appeared before me, neither they nor their client received special treatment. Additionally, as attorneys and officers of the court, it would be improper for them to attempt to use their position in such a manner.
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 assume that the focus of this question relates to remittal of disqualification after the potential conflict has been disclosed and that the moving party still requests my recusal despite assurances that I could remain unbiased. The circumstances of each case are different, but I would give great thought and deference to the request for recusal simply to avoid the appearance of impropriety, especially in circumstances where my disclosure had the appearance of bias. Even if I knew that I could rule fairly, in all likelihood I would still recuse myself

simply because the moving party might doubt the integrity of the judicial system and the outcome if I were to hear the matter and rule against them.

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

Of course, any matter involving my spouse or a close relative would likely require my recusal, regardless of whether the parties are willing to offer a remittal of my disqualification. Unless involving only a *de minimis* interest, I would decline to hear the matter.

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

Gifts from lawyers are inappropriate. Social hospitality, which I have always considered synonymous with common courtesy, may be accepted if not provided with the intention to or appearance of influencing the judge. Certainly, judges should be careful in their personal relationships and the potential public perception of same.

10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?

First, if I had actual knowledge of misconduct which substantially reflects on the person's fitness or honesty as an attorney or judge, I would speak with the lawyer or judge privately and discuss the fact that I have become aware of their misconduct and instruct them that disciplinary counsel would have to be informed. Contemporaneously with my informing the lawyer that I would have to report the matter, I would recommend that lawyer or judge self-report the matter to disciplinary counsel. Second, if I merely suspected misconduct, I would again speak with the lawyer and get their input into my understanding of the facts. If I was completely satisfied that my suspicions were unwarranted, I would proceed no further. If I still harbored suspicions, I would take appropriate action as required under the rules. For example, if I had concern that a lawyer was developing a drinking problem but I was confident that no harm had yet befallen his clients, I would likely confront the lawyer with my concerns, get the lawyer involved with Lawyer's Helping Lawyers, and make reasonable efforts to monitor the situation. Of course, any serious or substantial matters which reflect upon a lawyer's trustworthiness or fitness must be reported.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be re-evaluated?

Because my current position is subject to popular election, I am affiliated with a political party. That affiliation would cease upon election.

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

No, aside from continuing to manage my father's trust f.b.o. my mother.

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

Historically, I have drafted 95% of my orders, and would prefer to continue to do so in certain situations, such as when it would simply be more efficient to draft the order myself. In all likelihood, because of the increased volume of cases requiring orders, I will largely rely upon counsel to draft most of the orders in situations where a form order would not suffice. I have begun to increasingly rely upon the lawyers to draft the order and submit it to me electronically. I then edit the order, often extensively because, if I am putting my name to an order, I want it to be an accurate reflection of the evidence presented and my views on the issues decided.

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

Excel spreadsheets have proven very useful in my office for tracking pending cases and activity. A spreadsheet is also easy to access electronically when away from the office, and it provides a quick way to get an overview of what remains pending or what deadlines are approaching. Orders which are pending submission would be entered onto the spreadsheet, and my staff or I would contact the lawyer who was requested to prepare the order if the order is not submitted timely.

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

Judicial activism is inappropriate for a judge in that judges should merely administer the law as written. Judges are charged with overseeing application of the law, not making law. However, judges do have an obligation to the greater community to make their concerns known discretely to those in government who might be able to improve upon a law or procedure. Therefore, if problems arise concerning how a particular law or rule of procedure works in practice, a judge has an obligation to write or speak with a legislator to inform them of the problem. Whatever action is subsequently taken is purely within the providence of the Legislature, and the judge must never publicly comment on the problem or any subsequent resolution.

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 currently serve as judge for the Eighth Circuit Drug Court, having assisted in establishing the drug court for my circuit, and I will continue in this position if elected. Drug courts are a valuable tool in preventing recidivism by providing defendants with the opportunity to conquer their addiction, and I fully support the concept for certain defendants.

I also support any educational efforts, such as the high school moot court program and "Law School for Non-lawyers," which help inform and educate citizens on how the court system operates.

The Chief Justice's Advisory Committees are also a good way to communicate ideas for improvement through appropriate channels.

Finally, I would be willing to serve on any existing or *ad hoc* committees and offer my insight into matters concerning our state's courts.

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?

My personal relationships would not be strained in any meaningful way.

My wife and I have a very strong and committed marriage, and my wife and my children are aware of what being elected to this seat would involve. My family knows that they are the most important people in my life, and this does not change simply because I change positions.

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:

I sentence them more harshly than I do first time offenders. Repeat offenders have been through the criminal justice system and have usually had ample opportunities to conform their conduct to the requirements of the law. Therefore, they are generally more deserving of a harsher sentence if they reoffend.

b. Juveniles (that have been waived to the circuit court):

Certainly, they have to answer for their crimes, but so long as a genuine possibility for rehabilitation exists, I have an obligation to craft a sentence which speaks justice for the victim and protects the community while still providing opportunities for rehabilitation and redemption.

c. White collar criminals:

I am aware that many judges and even some solicitors do not consider white collar, financial crimes to be as deserving of retribution as "blue collar" crimes. My opinion differs. If you wipe out a person's savings or a nest egg by your illegal conduct, you have probably harmed that person more than if you had broken their arm or stolen their car. Wounds normally heal, but bilking a person out of their life savings is something from which most people will never recover. Certainly, white collar criminals should be treated *at least* as harshly as any other criminal, and the argument could be made, under proper facts, that they should be sentenced with greater severity.

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

Although a defendant may be socially or economically disadvantaged, this fact does not excuse culpability. That a defendant may not have had the best opportunities should be taken into account at sentencing, but such factors certainly do not excuse the criminal nature of the defendant's conduct.

In such circumstances, I attempt to craft a sentence which minimizes the likelihood of reoffending. For example, if the solicitor recommends

probation and the defendant lacks job skills or did not finish high school, I may make it a condition of his probation that he goes to vocational rehab or obtains his GED. If the appropriate sentence involves prison time and his social history has contributed to a defendant's drug problem, I would strongly recommend screening for alcohol and drug abuse treatment while in prison.

e. Elderly defendants or those with some infirmity:

Again, being elderly or disabled does not excuse criminal conduct, but it is a factor to be taken into account at sentencing. Common sense dictates that a 10 year sentence for a 70 year old is not the same as a 10 year sentence for a 20 year old in that, for the older defendant, such a sentence may well constitute a life sentence. Otherwise, I would evaluate the sentence for an elderly person the same as I would for any other defendant: consider their criminal history, previous incarceration, severity of the crime, the victim's input, and any mitigating facts.

19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?
Most of my investments are in publicly traded companies, and the value of such investments is unlikely to be affected in any meaningful way by any rulings. If I had concerns about the appearance of impropriety in hearing a case concerning a publicly traded company in which I owned stock, I would discuss the possibility of remittal of disqualification with counsel.
20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?
Generally, a *de minimis* interest is not grounds for disqualification so long as my impartiality could not reasonably be questioned. I have heard such cases in the past, but my usual practice has been to disclose the facts on the record, reassure the parties that I would remain impartial, and give counsel an opportunity to discuss the matter with their client. In every instance which has arisen in the past, all concerned have agreed that there was no conflict in my hearing the case.
21. Do you belong to any organizations that discriminate based on race, religion, or gender? No.
22. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes.
23. What do you feel is the appropriate demeanor for a judge?
Patient, thoughtful, wise and knowledgeable, and an excellent listener. At times, a sense of humor is very helpful, too, because a judge must never lose their temper or become angry or visibly frustrated with an attorney or a party. Every party must receive, and hopefully feel as if they have received, a full and fair hearing. The ability to listen, reason, know the law, and apply wisdom remain the most essential traits of a good jurist.

24. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?
Being a judge is a full-time commitment, and it affects every aspect of your life. A judge should always make every effort to conduct himself or herself in a respectable manner, be slow to anger, and considerate of anyone with whom the judge comes into contact.
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?
No. Judges sometimes have to be firm, but anger or acrimony should never be demonstrated. To show anger only damages the reputation of the bench as neutral administrators of the law.
26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees?
\$279.37 has been spent on postage, bond paper, envelopes, and business cards. These expenses have been reported to the appropriate legislative committees.
27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? No.
28. Have you sought or received the pledge of any legislator prior to this date? No.
29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No.
30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?
I am aware that friends and colleagues may have contacted members of the General Assembly, but I have been exceedingly attentive in explaining the prohibition on seeking pledges to anyone offering to assist.
31. Have you contacted any members of the Judicial Merit Selection Commission? No.
32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted?
Yes.

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

s/ Frank R. Addy, Jr.

Sworn to before me this 11th day of August, 2009.

Notary Public for S.C.

My Commission Expires: 02-01-2018

Frank R. Addy, Jr.
Candidate for Circuit Judge
Eighth Judicial Circuit, Seat 1

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October 30, 2009

Bonnie B. Goldsmith, Esq.
Assistant Chief Counsel
House Judiciary Committee
Post Office Box 11867
Columbia, South Carolina 29211
Via Hand Deliver

RE: Frank R. Addy, Jr. – Amendments to PDQ and Sworn Statement

Dear Ms. Goldsmith,

Please note the following amendments to my PDQ and Sworn Statement:

Question #10, PDQ

Since the submission of my application, I have attended the following CLE's:

(gg)	16 th Annual Probate Bench/Bar	September 11, 2009
(hh)	2009 SC Solicitor's Conference	September 27-30, 2009
(ii)	61 st Annual SCAPJ Conference	October 18-21, 2009

Question #11, PDQ

In the interim, I recently gave the following lecture at the SCAPJ conference:

"Motion Sickness - Motions Practice in the Probate Court: A Comparison with the SC Rules of Civil Procedure"

SCAPJ, October 9, 2009

- This presentation addressed the application of the SC Rules of Civil Procedure to the probate courts and covered topics such as amendment of pleadings and the recent *Gause* case, summary judgment, discovery abuses and sanctions, and relief under Rule 55 as compared to Rule 60.

Question #13, PDQ

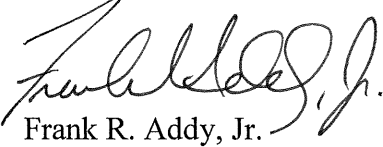
I was admitted to the South Carolina Bar on November 15, 1993, not 1995.

Question #26, Sworn Statement

On October 22, 2009, I spent \$17.12 on a name badge. Therefore, to date I have spent \$296.49 in this race.

Thank you for your kind attention.

Sincerely,

A handwritten signature in cursive script, appearing to read "Frank R. Addy, Jr.", written in black ink.

Frank R. Addy, Jr.