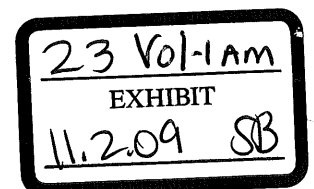


JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court
(New Candidate)

Full Name: Donald Bruce Hocker
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1. Why do you want to serve as a Circuit Court judge?
I am humbled and honored to have the opportunity to apply for this Circuit Court Judge's position. I want to serve as Circuit Court Judge for several reasons. I want to be able to apply my skills I have learned and developed as a practitioner over the past 28 years and as a part-time Judge for the past 25 ½ years all in a full-time judicial capacity. Secondly, I want to serve the public and the legal community. Finally, I truly enjoy being a Judge and I take being a Judge very seriously.
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 would follow Canon 3(B) (7) to govern how I would handle these situations. They are to be avoided to every extent possible. However, *ex parte* communications would be tolerated in emergency situations as long as notice and disclosure are afforded as soon thereafter as possible. Also, purely ministerial/administrative matters or scheduling issues can cause *ex parte* communications to be warranted. The Court must make sure that substantial matters clearly within the merits of the case are not involved. Also, the Judge needs to further make sure that the other side is not prejudiced in any way by the *ex parte* communication.
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 have always taken the position, during my tenure on the bench, that if there is any hint of a need for recusal, it is better to "err on the side of caution" and recuse oneself from a case. The Judge must always appear to be fair and impartial. A Judge must always allow the litigants to feel they have been treated fairly and given every opportunity to



present their case knowing that they were given every consideration. I have never had a law partner or associate so that would never be an issue. Lawyer-legislators, on the other hand, practice across the state in every Court every day. If a Judge believes he or she cannot be fair or impartial because counsel is a legislator, then recusal is warranted. If the opposite is true, then recusal is not warranted. The issue should be controlled by Canon 2 of the code for Judicial Conduct as it sets forth the test for the existence of an "appearance of impropriety". It must be determined whether the conduct would create in reasonable minds a perception that the Judge's ability to carry out his responsibilities with integrity, impartiality, and confidence is impaired.

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? More likely than not, I would grant the Motion for Recusal but would require the moving party to make clear record of why recusal was necessary. I, as the Judge, would also make a clear record why I did not believe there was any prejudice but out of fairness, I would grant the Motion. This in actuality happens very rarely.
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 handle it in accordance with number seven (7) above.
9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?
I believe Canon 4(D)(5) must be followed. Ordinary social hospitality is certainly acceptable in most situations and gifts from a relative or friend for a special occasion likewise would be acceptable in most situations. Gifts not intended or perceived to influence the Judge in the performance of his duties are also acceptable. These gifts and acts of hospitality must not be intended or perceived to influence the Judge in the performance of his duties. If they are given for that purpose, they must be avoided.
10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?
Cannon 3(D) (1) and (2) provides for "misconduct" to be substantial that affects a Judge's fitness or a lawyer's fitness to practice law. Therefore, if the act fits the definition of "misconduct" then a report must be made. However, a very careful and thorough review must be made before a formal report is filed.
11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be re-evaluated? No.
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?

Because of the volume of work, I would direct counsel to prepare most Orders with the opportunity by opposing counsel to review the same. However, in some situations, I prefer to prepare my own Orders.

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

I would install paper and computer "tickler" systems.

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

Judges, first and foremost, must follow and enforce the law. They should, however, be able to engage in activities that promote the law or advance the teachings of the law. Judges should not promote public policies that would often times create a conflict between the teachings of the law and public sentiment. As stated in number 16 below and Canon 4, Judges should be able to teach, lecture, and speak on matters advancing the improvement of the law, the legal system and the administration of justice. Going beyond that would not be proper for a Judge to engage in.

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 continue to speak and lecture at seminars and I would enjoy teaching law related courses.

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?

No. It has not ever been a problem over my 25 ½ years on the bench.

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.

Canon 5 only allows me to state that I will make a faithful and impartial performance of the duties of my office. I could not make statements that the public would view as a commitment to a particular decision or course of conduct in a particular case or fact situation. I can and will give my general judicial views and overall philosophies.

a. Repeat offenders: I am a firm believer that in many cases (not all) everyone is entitled to some leniency if it is a first-time offense or first-time offender situation. However, if a Defendant violates that privilege and commits a subsequent crime, then he or she must be dealt with more severely. The Court must follow those sentencing statutes where enhanced penalties are applicable for repeat offenders.

b. Juveniles (that have been waived to the circuit court): Once a Family Court determines that the statutory requirements are met to

transfer a juvenile case to Circuit Court, I do not believe that sentencing should be viewed any differently just because the Defendant is a juvenile. Also we have certain mandatory sentences where the Court is without discretion. I am mindful, however, that some juveniles are in fact children and others are closer in reality to adults. Certainly in those situations where the Court has discretion, the age of the Defendant would certainly be taken into consideration along with all other applicable facts.

c. White collar criminals: I believe applicable to any sentencing situation the Court can not be influenced by whether the Defendant is white or black, poor or rich, young or old. The Court has to consider: Type of offense; Defendant's criminal history; Sentencing statute; Remorse on behalf of the Defendant; Whether the crime is victimless or not.

c. Defendants with a socially and/or economically disadvantaged background: I believe that this can be one factor among many factors that the Court would look at in determining an appropriate sentence. This in and of itself would not be a basis to apply a more strict sentence or a more lenient situation in a case. I have been a defense lawyer my entire career and this fact alone generally does not mitigate an otherwise applicable sentence by the Court but again must be taken into account along with all factors.

e. Elderly defendants or those with some infirmity: This is a "special" area that I know gives Judges a lot of concerns when faced with imposing an appropriate sentence. The Court has to be cognizant of the fact of whether or not the advanced age of the Defendant or the Defendant's physical or mental infirmity would in fact actually enhance the punishment while in prison in contrast to a Defendant who is not elderly or one who does not have some infirmity. This would create additional concerns for the Court in determining an appropriate sentence along with consideration of all applicable factors.

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?
If I believed I could not be fair and impartial then I would not hear the particular case. I believe it would be a rare occurrence where this de minimis financial interest issue would be involved. If I elected to hear the case it would be conditioned upon counsel and litigants providing their consent on the record.
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?
At all times, the Judge must show respect, courtesy, fairness, and impartiality to litigants, lawyers, staff, jurors, and others in the Courtroom.
 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?
It should apply seven days a week, twenty-four hours a day.
 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. Anger is never appropriate with attorneys or litigants.
 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?
I have spent \$155.40 on postage and stationary for letters of introduction and qualification. Yes, I have made the necessary reporting.
 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 have not asked for support or pledges and I have not asked anyone to gain support or pledges on my behalf from anyone in the General Assembly.
 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/ Donald Bruce Hocker

Sworn to before me this 2nd day of August, 2009.

Notary Public for S.C.

My Commission Expires: 08-16-2016 _____