

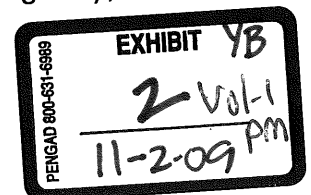
JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court
(New Candidate)

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1. Why do you want to serve as a Circuit Court judge?
I have dedicated my legal career to public service. Serving as a Circuit Court judge would allow me to continue with that public service while at the same time meeting new challenges, broadening my legal experience and having the opportunity to meet members of the legal community across the State. I also firmly believe that I have the intelligence, demeanor and disposition necessary to be a fair and effective Circuit Judge.
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? *Ex parte* communications should be avoided whenever possible so that every person who has an interest in the proceedings may be heard on the matter. If representatives of all the parties could not reasonably be included in the communication, then I would follow Canon 3B(7) of the Code of Judicial Conduct and only engage in non-substantive *ex parte* communications unless otherwise expressly authorized by law to do so.
6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?
Generally, recusal is appropriate in situations where the judge's impartiality might reasonably be questioned. With regard to lawyer-legislators, I do not believe that the Canons of Judicial Conduct would require recusal based solely upon a lawyer's status as a legislator. If that were true it would be impossible for a lawyer-legislator to appear in any court. Because I have been a lawyer in a government agency, I



do not under the Canons of Judicial Conduct have associates or law partners. My wife is an attorney practicing primarily in Family Court. I would disqualify myself if she were to appear before me in Circuit Court.

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?

Under Canon 3E(1) if my impartiality could reasonably be questioned, I would err on the side of caution and likely disqualify myself so as to maintain the integrity and impartiality of the judiciary.

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 disqualify myself.

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

I would generally not accept gifts, and would urge family members not to accept gifts, except as allowed under Canon 4D(5). I would accept ordinary social hospitality.

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

If I had actual knowledge of misconduct I would, pursuant to Canon 3D(1)(2), notify the appropriate disciplinary authority. If I only had information indicating a substantial likelihood of misconduct, I would speak with that individual about the situation before deciding whether to notify the appropriate disciplinary authority.

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? My preference would be to write my own orders with the assistance of my law clerk; however, I recognize that this may be an unrealistic goal given the volume of cases that move through the Circuit Court. I can envision situations where I would ask the attorney for the moving party, or the attorney for the prevailing party, to draft the order. If his situation arose I would not sign the proposed order until opposing counsel had an opportunity to review it, and I had compared its contents to my notes from the hearing to ensure that it included all of the salient points.

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

I currently utilize a paper calendar to coordinate the activities of myself and the four other attorneys I supervise. I would intend to use a similar calendar, either paper or, ideally, computerized, to ensure the

- meeting of deadlines.
15. What is your philosophy on “judicial activism,” and what effect should judges have in setting or promoting public policy?
The General Assembly sets public policy, not the judiciary. I would follow the sentiment expressed in South Carolina Farm Bureau Mut. Ins. Co. v. Mumford, 299 S.C. 14, 19 (Ct. App. 1989), wherein the Court observed that “[o]nce the Legislature has made [a] choice, there is no room for the courts to impose a different judgment based on their own notions of public policy.”
 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 have when requested, and when time has allowed, spoken to a variety of groups about legal issues. If I were elected I would continue with those activities.
 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 current position already places restraints and pressures on my family and social life. Travel would likely be the biggest additional strain that serving as a judge would place on my personal relationships. Luckily I have a very supportive network of friends and family, and I do not foresee that serving as a judge would pose any unmanageable problems.
 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.
I would begin by making the observation that every defendant is different and every case is different so it is somewhat difficult to generalize about the appropriate type of sentence for a class of offenders. In addition to the factors listed below, I would certainly take into consideration the defendant’s demeanor. I would also find it significant if the defendant suffers from an addiction or mental illness that contributed to the crime. If so, I might structure a sentence to address those issues.
 - a. Repeat offenders: Generally repeat offenders should be punished more harshly than first-time offenders. Factors that would be important in sentencing would include the relative seriousness of the defendant’s prior convictions, the length of any previous incarceration, and whether the defendant had ever violated probation or parole.
 - b. Juveniles (that have been waived to the circuit court): If a juvenile is waived to the circuit court, one could presume that the charges are fairly serious. An appropriate sentence would strike a balance between the seriousness of the crime and the juvenile’s tender

- age. A sentence under the Youthful Offender Act would be worthy of consideration. Conditions of the sentence that addressed education and job training might contribute to the rehabilitation of a young offender.
- c. White collar criminals: If an individual uses his education or status to take advantage of less privileged persons, I would think they should be punished more harshly, especially if they have been placed in a position of public trust.
 - d. Defendants with a socially and/or economically disadvantaged background: Much as I discussed with regard to juvenile offenders, conditions of a sentence that addressed education and job training might be appropriate to assist a socially and/or economically disadvantaged individual into becoming a more productive citizen.
 - e. Elderly defendants or those with some infirmity: One practical consideration with regard to the elderly or infirm is the burden that the Court's sentence may place on the State; however, that is only one consideration that must be taken together with the nature of the crime and the history of the defendant.
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? It would be permissible to hear the case, but out of an abundance of caution I would only do so if, after full disclosure, all parties agreed on the record for me to hear it. Otherwise, I would disqualify myself from the proceeding.
 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? I believe that patience is one of the most important virtues for a judge to possess. In that regard, a judge should remember the pressures under which lawyers operate. Additionally, a judge should be willing to patiently listen to every person who has an interest in a proceeding. Of course, a judge should always be courteous and fair.
 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? Those rules apply at all times. Canon 2 of the Code of Judicial Conduct states that a judge shall act "at all times" to promote public confidence in the integrity and impartiality of the judiciary.
 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? I think it is important that a

judge have the ability to be firm so that he may maintain appropriate decorum in the courtroom; however, I do not think that anger is an appropriate emotion for a judge to display. If a judge directs anger towards a litigant, one could perceive that the judge is not impartial.

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 no money on my campaign at this time.
27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? Not applicable.
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? No.
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?
I am familiar with the rule.

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

s/ Andrew Michael Hodges

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

Notary Public for S.C.

My Commission Expires: 02-04-2013