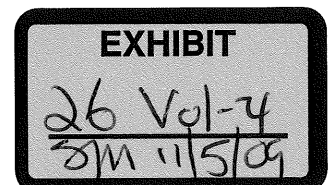


JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE

Court, Position, and Seat # for which you are applying:
Circuit Court, 16th Circuit, Seat 1

1. NAME: Mr. John Calvin Hayes, III
BUSINESS ADDRESS: Moss Justice Center
1675-1H York Highway
York, South Carolina 29745
E-MAIL ADDRESS: jhayesj@sccourts.org
TELEPHONE NUMBER: (office): 803-628-3047
2. Date of Birth: 1945
Place of Birth: Rock Hill, South Carolina
3. Are you a citizen of South Carolina? YES
Have you been a resident of this state for at least the immediate past five years? YES
5. Family Status: Divorced on November 20, 1990, Union County, South Carolina. Mr. Hayes was the moving party. One Year's Separation. Married on September 28, 1991. Six children.
6. Have you served in the military?
U.S. Army Reserve - E-6 Serial No. XXX-XX-XXXX
1968-1974
Honorably Discharged
NCO of the Year (1973)
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
 - (a) University of the South, Sewanee, Tennessee 1963-64
Transferred to University of S.C.
 - (b) University of South Carolina, B.A. (English) 1964-67
 - (c) University of South Carolina School of Law, J.D. 1967-71
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.
South Carolina 1971
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.
 - (a) University of the South Varsity Football, Phi Gamma Delta Fraternity (pledge)
 - (b) University of South Carolina - Kappa Sigma Fraternity



- (c) University of South Carolina School of Law - Law Review, Phi Delta Phi Fraternity
10. Describe your continuing legal or judicial education during the past five years. Include only the title and date of any continuing legal or judicial education course completed.
- | <u>Conference/CLE Name</u> | <u>Date(s)</u> |
|---|------------------|
| (a) S.C. Bar Annual Criminal Law | Update (2004-09) |
| (b) S.C. Bar Annual Civil Law Update | (2004-09) |
| (c) Annual Judicial Conference | (2003-08) |
| (d) Circuit Court Judges Association Annual Meeting | (2004-09) |
11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?
- (a) Solicitors' Association - participated on panels and seminars
- (b) S.C. Defense Trial Lawyers Assoc. - conducted presentations
- (c) S.C. Bar's CLE Division - programs
- (d) New Judge's Orientation - conducted presentations
- (e) Chief Judges School - conducted presentations
- (f) High School and Middle School Mock Trials (including nationals in Charlotte, N.C.)
- (g) Defense Trial Lawyer's Trial Academy
12. List all published books and articles you have written and give citations and the dates of publication for each.
- (a) Mail Fraud - 22 SCLR 434 (1970)
- (b) Torts - IntraFamily Immunity 21 SCLR 813 (1969)
13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.
- (a) All South Carolina State Courts, 971
- (b) U.S. Federal District Courts, 1971
- (c) U.S. Fourth Circuit Court of Appeals, 1972
14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.
- (a) 1971-72
Law Clerk of Chief Justice Joseph R. Moss
- (b) 1972-91
Hayes, Brunson and Gatlin
General Practice - 1972-91
My practice was primarily civil litigation. I also, throughout my practice, handled worker's compensation cases, social security disability cases, simple wills, and some estates. I have also handled real estate transactions including title searches and loan closings.

15. What is your rating in Martindale-Hubbell? BV - last known rating
22. Have you ever held judicial office?
South Carolina Circuit Court - 1991 to present - Elected
23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported. Also list citations to any appellate review of these orders or opinions.
- (a) Burbach v. Investors Management Corp.
326 S.C. 492, 484 S.E.2d 119
 - (b) Glaze v. Grooms
324 W.E. 249, 478 S.E.2d 841
 - (c) Keith L. Simpson v. State
97-CP-42-1911
Unreported
 - (d) State v. Thurmon O'Neil Smith
2002-GS-46-2525 and 2526
24. Have you ever held public office other than judicial office?
- (a) Solicitor, City of Rock Hill - appointed (approx. 1 year)
 - (b) South Carolina House of Representative, 1980-84 - Elected
 - (c) South Carolina Senate, 1984-91 - Elected
 - (d) South Carolina Coastal Council (Fifth Congressional District) 1980
Elected
- Ethics reports always timely filed.
25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor. NONE
26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office?
Yes, Court of Appeals 2003 and 2007
27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office? NO
28. Are you now an officer or director or involved in the management of any business enterprise? NONE
29. A complete, current financial net worth statement was provided to the Commission.
30. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. Explain how you would resolve any potential conflict of interest. NONE
31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law,

regulation, or ordinance, or any other law, including another country's law?
NO

32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? NO

33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy?

The IRS levied on our law firm, in error, based on our employer's quarterly return. The return had been paid in full months prior to the levy.

34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law?

Approximately five (5) years ago I was served a Summons and Complaint regarding an outstanding bill from a Charlotte eye clinic. This was a Mecklenburg County, N.C. case. I had not received a bill or any notice prior to service. (The law firm had copies of 2 letters addressed to me, but I did not receive them). The bill was one that the clinic was supposed to have submitted for insurance payment. They had failed to do. I went to Charlotte and paid the bill and court costs to the clinic's counsel the first business day after service. I thereafter went to the eye clinic's business office and ultimately insurance paid the bill and my recollection is that I was reimbursed for the amount that insurance paid. This was not a deliberate failure to pay or even an oversight. This was an embarrassment that came from the blind side. Had I known the clinic had not followed through on the bills submission, this would have been cleared up by me short of litigation.

I was named in one or more lawsuits in my capacity as chairman of the South Carolina Coastal Council. I also have been sued several times, unsuccessfully, in Federal Court and once in State Court, in my capacity as judge.

36. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? NO

37. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? NO

38. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. N/A

39. S.C. Code § 8-13-765 provides, in part, that "[n]o person may use government personnel, equipment, materials, or an office building in an election campaign." Please detail any knowledge you have of any formal charges or informal

- allegations against you or any other candidate for violations of these provisions. NO
40. 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. NONE
41. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. NONE
42. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? NONE
43. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? If so, give details. Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? NONE
44. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? NO
45. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? NO
46. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
South Carolina Bar
47. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere. None
48. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek. NONE
49. References:
- (a) Robert C. Brown
Carolina First Bank
2609 Mills Park Drive
Rock Hill, SC 29732
(803) 325-9170
 - (b) C. Alex Barron, Jr.
168 Club Circle
Pawleys Island, SC 29585
(843) 237-1807

- (c) Simms M. Leitner
Leitner Construction Co., Inc.
1800 Saluda Road
Rock Hill, SC 29731-2190
(803) 324-5665
- (d) Congressman John M. Spratt, Jr.
201 East Main Street
Rock Hill, SC 29730
(803) 327-1114
- (e) Karen Blankenship
1912 Hempstead Road
Rock Hill, SC 29732
(803) 366-0787

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: John C. Hayes, III

Date: August 4, 2009

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

Circuit Court
(Incumbent)

Full Name: John Calvin Hayes, III
Business Address: Moss Justice Center
1675-1H York Highway
York, South Carolina 29745
Business Telephone: 803-628-3047

1. Why do you want to serve another term as a Circuit Court Judge?
This is the career I chose to pursue.
2. Do you plan to serve your full term if re-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?
No *ex parte* communications are proper except as specifically allowed by law. (Examples: Death penalty expenses and temporary restraining order. See Rule 501, SCACR)
6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?
Since I have not practiced in over eighteen (18) years and I have not been in the legislature since 1991, I do not believe I have any recusal situations in this regard. As to recusal generally, I do so if a situation involves my wife's employer, close social friends and, of course, those arising by blood or marriage.
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 would err in favor of recusal.
8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?
Dissuade their participation in such conduct.
9. What standards have you set for yourself regarding the acceptance of gifts or social hospitality?
Those within the ethical guidelines for judges.
10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?

I would first discuss it with the party to be sure my perception was accurate. If "misconduct" warranted, it would be reported. (Note: many minor instances of "misconduct" can be addressed at the circuit court level.)

11. Are you affiliated with any political parties, boards or commissions that, if you were re-elected, would need to be re-evaluated? NO
12. Do you have any business activities that you would envision remaining involved with if reelected to the bench? NO
13. How do you handle the drafting of orders?
I, along with my clerk, read the necessary documents and testimony, research the issues and I write the Order personally.
14. What methods do you use to ensure that you and your staff meet deadlines?
We expedite all matters and none are set aside longer than it takes to attend to higher priority matters. We keep track of all motions and post-conviction hearings and orders.
15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?
Our courts must be active in the sense that like the rest of the world jurisprudence is not static. The court must, and has shaped, our laws as needed. (Examples: Comparative negligence, punitive damages oversight). As to public policy, I feel the court is not in the business of "setting" public policy but can be responsive to public policy. However, the court should not yield to public policy.
16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities do you plan to undertake to further this improvement of the legal system?
I try now to speak to groups such as the Bar and University classes. I had signed on to the speakers bureau for the ABA's Judicial Division approximately five years ago, but was not called upon. I have participated in High School and Middle School Mock Trials, including the High School Nationals in Charlotte, N.C. I have been a presiding judge for the Defense Trial Lawyers Trial Academy.
17. Do you feel that the pressure of serving as a judge strains personal relationships (i.e. spouse, children, friends, or relatives)? How do you address this? NO
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: My sentencing philosophy is the same as to all offenders. I weigh the facts, the evidence, the prospect for rehabilitation, their record, societal concerns, their need for substance abuse or other counseling, and victims concerns. Judge Richard Fields established my basic approach to sentencing when I went on the

bench and asked him his sentencing philosophy he said he tried to differentiate between the truly evil and the misguided. I am no Judge Fields, but I think his is a good basic standard to apply in sentencing.

- b. Juveniles (that have been waived to the circuit court): See (a)
 - c. White collar criminals: See (a)
 - d. Defendants with a socially and/or economically disadvantaged background: See (a)
 - e. Elderly defendants or those with some infirmity: See (a) - additionally, as to these defendants, some consideration must be given to the services available in the South Carolina Department of Corrections.
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
21. Do you belong to any organizations that discriminate based on race, religion, or gender?
I belong to a dance club that holds two formal dinner dances a year for married couples only. The memberships are in the husband's names. I have reviewed the Judicial Canons of Ethics and do not see any prohibition for this situation.
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?
Calm, confident control
24. Do the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or do these rules apply seven days a week, twenty-four hours a day? All the time.
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 a pro se litigant?
Anger is never an appropriate response in any professional situation.
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? To date, I have spent no money.
27. While campaigning for this office, have you used judicial letterhead or the services of your staff for your campaign? 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? 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? YES

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

s/ John C. Hayes, III

Sworn to before me this 4th day of August, 2009.

Notary Public for South Carolina

My commission expires: 10-02-2016

Laurie Traywick

From: Andy Fiffick
Sent: Tuesday, October 27, 2009 8:56 AM
To: Laurie Traywick
Subject: FW: John C. Hayes III, PDQ
Attachments: Doc1.docx

This is what he sent me . . .

From: Hayes, John C. III [mailto:JHayesj@sccourts.org]
Sent: Monday, October 12, 2009 9:21 AM
To: Andy Fiffick
Subject: John C. Hayes III, PDQ

Andy, please amend my answer to question #34 to include the attached letter from Sled. If you need a hard copy of a letter please let me know. John

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

MARK SANFORD
Governor



REGINALD I. LLOYD
Director

To: To file 37-09-0004
From: Gennie Jacobs
Re: Background for the Judicial Merit Selection Commission
John C. Hayes, *J. III*

The United States District Court, District of South Carolina, records reflect the following cases concerning John C. Hayes, III.

0:07-CV-02696 is a civil rights case that involves the plaintiff, L. W. Benjamin (prisoner), vs. South Carolina 16th Circuit Court of Common Pleas, Judge Paul Short, Jr. and Judge John C. Hayes, III. This case was dismissed on December 21, 2007, against the defendants.

9:08-CV-02627 is a civil rights case that involves the plaintiff, John Benjamin Aplin (prisoner), vs. Judge John C. Hayes, III and Warden Stevenson Roberts. This case was dismissed without prejudice on September 8, 2008.



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