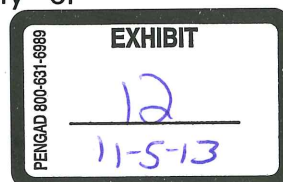


JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court
(Incumbent)

Full Name: THOMAS A. RUSSO
Business Address: 180 N. IRBY STREET, MSC-O, FLORENCE, S.C. 29501
Business Telephone: (843) 665-3020

1. Why do you want to serve another term as a Circuit Court Judge?
I absolutely love my position working with lawyers and litigants in seeing that their cases move through our trial courts fairly and impartially and in serving the people of S.C. I feel I have much more to contribute to our system of Justice in this State and this is the best way for me to serve the people of S.C.
2. Do you plan to serve your full term if re-elected?
Absolutely, barring any unforeseen reasons which would interfere with my service
3. Do you have any plans to return to private practice one day?
I have no plans to return to private practice. I feel my best contribution to our legal community is on the Bench of our State.
4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice?
Yes, I have.
5. What is your philosophy regarding ex parte communications? Are there circumstances under which you could envision ex parte communications being tolerated?
I believe ex parte communications are inappropriate and must be avoided except as permitted under Canon 3 of the Code of Judicial Conduct such as scheduling, administrative purposes and emergency situations. However, even under those situations under Canon 3, I would seek and make every effort to involve the other parties and avoid ex parte communication. If the other side could not be reached I would make every effort to communicate the conversation to the other side as soon as possible. Except for those very limited exceptions, ex parte communications are improper and I do not allow them.
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 believe if a judge is unable to objectively and impartially hear a matter for any reason he/she should recuse and once removed should have no further involvement in the matter either procedurally or



substantively. As for cases involving lawyer-legislators, former associates or law partners, I do not believe recusal is required based solely on the fact that the lawyer is a legislator, former associate or law partner. I believe the test remains if your ability to objectively and impartially hear a matter is compromised due to the prior relationship or any other reason, than you must step aside. A judge's ability to be objective, impartial and open-minded is the utmost concern and if that is the least bit compromised, than recusal is called for. Now in the case of former associates or law partners, if the judge still has some financial interest in his old firm, than whether he/she can be objective, impartial and open-minded is irrelevant and that fact alone would demand recusal. Remember we must always avoid even the appearance of impropriety and having a financial interest with someone would certainly, in my mind, bring that into question and should always be avoided.

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?

Even if I personally believed my impartiality was not affected, if a party to the action moved for my recusal, I would give great deference to such motions and if the basis for the motion had reasonable merit, I would grant those motions. However, if it became obvious that the motion was made simply as a tool for "judge shopping" and there was no reasonable basis for the motion, I would allow each side to fully make a record of their position and if I believed there was no reasonable basis for the motion or that the motive was one of "judge shopping", I would not be inclined to grant it in that situation. Again, if there is some reasonable evidence of even the appearance of impropriety, even though I felt I could be impartial, I would recuse.

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

We are called to avoid even the appearance of impropriety, so in those situations, I would recuse and have another judge hear the matter so as not to jeopardize the integrity of our judicial system.

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

I strive to adhere to the standards set out in the Code of Judicial Conduct and do not accept any gifts or social hospitality unless for room and travel expenses while working to develop the practice of law as a whole.

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

In the case of a lawyer, if the violations or misconduct violated the Rules of Professional Conduct and/or, in the case of a fellow judge, violated the Code of Judicial Conduct, I would report the person to the appropriate authority whether it be The Commission on Lawyer Conduct, in the case of a fellow lawyer or The Commission on Judicial Conduct, in the case of a fellow judge.

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

No, I do not believe so. I have always been very active in the Fellowship of Christian Athletes, and was asked this past year to serve on the Pee Dee Region Board of Directors. I explained that, as a judge, I would not be able to assist in or be actively involved in the solicitation of money or contributions for the organization. They have understood that and my role on the Board is simply that of an advisor and to assist in running the camps and ministering to the young athletes who attend and are seeking to further develop their Faith in God.

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

I have no outside business interest.

13. How do you handle the drafting of orders?

If counsel represents all parties I contact the prevailing party's lawyer and set forth my ruling and the basis for that decision. I then have the prevailing party prepare a proposed order consistent with my ruling. I then instruct that attorney present a copy of the proposed order to the attorneys representing the other side/sides to review and if all agree the proposed Order accurately reflects the Courts ruling, I then have them send it to me for my review and signature. If they did not agree I would meet with both sides to resolve any conflicting issues. If one party appears pro se, I draft those orders myself regardless of who prevailed. A layperson may not understand our system where the prevailing party drafts the order in compliance with the court's ruling, so to avoid misunderstandings and maintain the integrity of the court system to the layperson I draft the orders in those matters.

14. What methods do you use to ensure that you and your staff meet deadlines?

My Administrative Assistant and Law Clerk work closely together and with me to keep up with deadlines and court business. We cross-reference our notes on Orders that we are expecting from lawyers and with the deadlines I have set with the lawyers on when those Orders are due. We closely maintain our list of Matters Under

Advisement and try not to allow any matter to exceed 30 days under advisement, if possible. We double check our records with the Clerk of Courts records to assure we are all on the same page regarding timeliness of things due. I also periodically make it a point to stress to my administrative assistant and clerk the importance of being timely on matters due and to develop a sense of professional pride in our office being the one that sets the example for the lawyers to follow.

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

I believe if a trial judge properly does his/her job and follows the precedence in prior cases set by the higher courts and/or rules on the law as it was enacted by the legislature, then you eliminate "judicial activism." It is not the place of the judiciary to legislate but to interpret and apply the law so that the intent of the legislature is carried out. Judges are to sit impartially, so there is no room for a judge who desires to promote a certain public policy. Judges are not policy makers and take an oath to set aside personal "agendas" and to rule fairly and impartially on the issues before the Court, applying the law then existing, whether the judge personally agrees with it or not. We are called to apply the law as it is written, fairly and impartially, to all parties before the Court. It is not our duty to make or promote public policy. We are an independent one third branch of our government and it is the job of the Legislative Branch to make laws that meet the needs of the public and is the job of the Judiciary to interpret and apply those laws fairly and impartially to all our citizens.

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?

Before becoming a lawyer I was a teacher in the South Carolina public schools for several years. I have a heart for teaching so I made myself available to teach at legal seminars, speak at schools and various civic activities promoting the legal system and assist in any legal training classes where I can contribute to helping others in the legal field. I made myself available to preside over Drug Court in our circuit. I have served as both a scoring judge and presiding judge in our States Mock Trial competitions for our public and private schools as well as the Trial Academy sponsored by the S.C. Defense Lawyers Association. I also am active with both in State law schools in their respective internship programs allowing law students to spend time with me in court and assisting them in understanding what it takes to be an ethical and effective lawyer.

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?

If you really want to discuss career pressure, try being a high school football coach and having your job and future depend on the performance of 52 high school teenagers! Most anything else is a "piece of cake." Seriously though, for me the very nature of being in the legal field both as a private lawyer as well as being a public defender and solicitor, in addition to my time as a teacher/coach, has made career pressure ever present in my life. There are career pressures in most all careers but I do not feel that my career as a Circuit Judge is any greater pressure than when I practiced law or was a teacher/coach. In all my career changes I have felt that family communication is essential in handling these pressures. I have made it a point of talking with my family and helping them to understand what I do and how pressure can develop. On occasion, where it has been appropriate, I have had my wife bring my children to court to watch and observe to actually see what their Daddy does during his work days. Having my family understanding what I do has been a big help in reducing stress. Open communication and talking out the issues rather than allowing the stress to build by keeping quiet has always worked with my wife and me. Also, we maximize our leisure time and try and make our children our priority during those times. We do things as a family that promotes trust and closeness and we laugh as much as possible. My family and I have a very deep and strong committed faith in our Lord and we overcome many obstacles through prayer and seeking God's guidance. My children are young (12, 10 & 8 years old) so travel during the school year can be hard. I commute when possible and when I do have to be away from home for an extended time, with technology such as Face Time, I can not only talk to them but see them over the computer screen which helps so much as they share with me the things that have gone on in their day. I am also blessed to have a wonderful extended family base that steps up and assists my wife during those times. The travel requirements, so far, have not been a problem during the past 8 years I have been 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.

a. Repeat offenders: Obviously the facts surrounding the case greatly determine sentencing. Questions such as, Are they before the Court for the same crime; was it a greater or lesser crime; Violent or not; Committed alone or with others; etc. However, generally I tend to look more critically at someone who is a repeat offender than a first

time offender and in most cases am probably firmer with a repeat offender. I believe this is one of the criteria to consider when deciding where an offender falls within a particular sentencing range set by the Legislature.

b. Juveniles (that have been waived to the circuit court): Our legislature has determined that certain offenses committed by juveniles are serious enough to waive up and for those individuals to be treated as an adult. However, I take many factors into account when imposing sentence. Depending on the crime and the facts surrounding the crime, I try hard to fashion a sentence that would somehow place the juvenile in the best position to receive rehabilitation and correction rather than just mere punishment. The goal here is to fashion a sentence that would promote a situation where correction can occur and reduce the odds of the juvenile becoming a re-offender. Again, the facts of each case are so important to any sentence.

c. White collar criminals: I treat these cases as all criminal cases, in a fashion appropriate with the facts. Most of the time these cases involve restitution and the victim's feelings on this issue obviously needs to be considered. Also, to what effect the defendant's action impacted the surrounding community and whether or not they have a prior record for this activity is important in fashioning an appropriate sentence. However, I would not reward or punish a defendant based on their financial worth and/or their "social status" in the community.

d. Defendants with a socially and/or economically disadvantaged background: These are factors to be considered toward mitigation just as all the aforementioned factors but certainly not an excuse for people to commit crimes. In my response to the previous section regarding white collar criminals, I stated that I would not reward or punish a defendant based on their financial worth and/or their "social status" in the community. I also would not reward or punish a defendant for their lack of financial worth and/or their "social status" in the community. Again, these factors may go toward mitigation but not any more than the other factors mentioned.

e. Elderly defendants or those with some infirmity: Sentencing is a process of balancing the needs of society with those of correcting or punishing a defendant. Here I consider some accommodation in dealing with these types of defendants based on the resources available with the Department of Corrections and Probation and Parole. Once again, the crime committed and the facts dictate how to handle these defendants and to what extent mitigation is considered.

19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?

No, I am not.

20. Would you hear a case where you or a member of your family held a de minimis financial interest in a party involved?

Even though the rules allow a judge to hear a case if the financial interest is considered de minimis and full disclosure is made and no objections are voiced, I would likely recuse myself and allow another judge to hear the matter. I believe it would be proper to avoid even the appearance of impropriety.

21. Do you belong to any organizations that discriminate based on race, religion, or gender?

No, I do not.

22. Have you met the mandatory minimum hours requirement for continuing legal education courses?

Yes, I have.

23. What do you feel is the appropriate demeanor for a judge?

A judge should present himself/herself with humility, courteousness and patience. He/she should adhere to the Golden Rule and treat those who come before the court as they would wish to be treated. The judge's demeanor should reflect respect for those before the court and treat people with dignity and civility. A firm control of the courtroom tempered with calmness and respect for others evokes confidence and respect for the legal system in those who are in court.

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?

We have been told on several occasions that we are not judges just Monday – Friday, 9 to 5, but that we represent the Judiciary whenever and wherever we are. These traits mentioned above should be the make-up and order of the judge's character, not some act that is turned on or off depending on where you happen to be. If these traits are not part of the person than they will not consistently be present in your daily task as a judge. No, these traits are not who you need to be only while you wear the robe but traits of who you are every day, 24/7, 365 days a year.

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?

Obviously we all get frustrated and maybe even angry at times. The key is not whether you get frustrated or angry but how you handle that anger or frustration and how it manifest itself outwardly to the person or public. It is the judge's responsibility to maintain the respect and dignity of the court. The courtroom must remain a place

where people can come to resolve their legal issues without the fear of intimidation, humiliation or treats. This applies to everyone who comes into the court, both civil and criminal litigants as well as their lawyers. Anger in the courtroom is an inappropriate emotion for a judge. A firm control over the courtroom and the exercise of authority over the proceedings can be accomplished through a firm showing of courtesy and respect without resorting to outburst of anger. That should never occur in court, in your chambers nor anywhere else. Maintaining your composure and wielding your authority in a respectful and dignified manner is always the proper actions of a judge.

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?

None

27. While campaigning for this office, have you used judicial letterhead or the services of your staff for your campaign?

No, I have not.

28. Have you sought or received the pledge of any legislator prior to this date?

No, I have not.

29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening?

No, I have not.

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, I have not. I am not aware of anyone contacting any member of the General Assembly on my behalf.

31. Have you contacted any members of the Judicial Merit Selection Commission?

No, I have not.

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 am.

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

s/THOMAS A. RUSSO

Sworn to before me this 7th day of August, 2013.

Emily L. Hinson

Notary Public for South Carolina

My commission expires: February 4, 2020