

Progressive Family Life Center  
Child Development Department

284 Progressive Way

Denmark, SC 29042

Ph.: (803) 793-5628 ♦ E-mail: pflc@bellsouth.net

I, Johnita Johnson, do remember talking to someone about the minor about three years ago but I do not remember their name. This person asked a few questions concerning the minor. The questions were: How is the minor doing?, Is he adjusting?, and Does he seem happy? This person also told me that they would be visiting the facility to see the minor but as of this day I've never seen them.

I AFFIRM THE ABOVE STATEMENT.

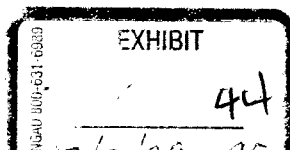
Johnita Johnson Teacher  
Signature Title

SWORN TO AND SUBSCRIBED BEFORE ME

This 18<sup>th</sup> day of November, 2008.

Ella Reed  
Notary Public for South Carolina

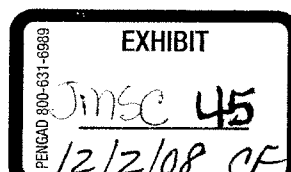
My Commission Expires: May 17, 2010



**JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying: Circuit Court, First Judicial Circuit, Seat #1

1. NAME: Mr. James B. Jackson, Jr.  
BUSINESS ADDRESS: 631 Bass Drive, PO Drawer 349  
Santee, SC 29142  
BUSINESS NUMBER: (803) 854-4484
  
2. Date of Birth: 1955  
Place of Birth: Orangeburg, SC
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: Married on July 23, 1977, to Cynthia Martin Jackson.  
Never divorced. Two children.
6. Have you served in the military? No.
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) Emory & Henry College, Emory, VA 1973-1977; Bachelor of Arts  
Degree in Political Science;
  - (b) University of South Carolina School of Law, 1977-1980  
JD Degree.
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, 1980.
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) In college from 1973 through 1977 I served on the student government council for two years and was involved in the Sigma Alpha Kappa Fraternity where I held most of the leadership positions.
  - (b) I also played on the golf team at Emory & Henry College.
  - (c) In law school, I was chairman of the elections commission for two years, where I ran the student elections during 1979 and 1980.
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) Representing Volunteer GALs in Family Court  | 03-14-08;      |
|  | (b) 2007 Commercial Real Estate                  | 12-14-07;      |
|  | (c) Mortgage Fraud: Hidden Costs                 | 12-06-07;      |
|  | (d) Training for Attorneys appointed in Fam. Ct. | 08-17-07;      |
|  | (e) 2007 Legal Education                         | 03-20-07;      |
|  | (f) Civil Court Mediation Certification          | 08-11-05;      |
|  | (g) Attorney ECF Training                        | 06-30-05;      |
|  | (h) See What's Cooking in 2005                   | 04-04-05;      |
|  | (i) Family Court Bench/Bar                       | 12-03-04;      |
|  | (j) Oath Seminar                                 | 11-17-04;      |
|  | (k) Advanced Cross-Examination                   | 05-14-04;      |
|  | (l) Cool Tips from the Hottest Lawyers           | 04-25-03;      |
|  | (m) Litigation under the SC Torte Claims Act     | 08-15-03;      |
|  | (n) Ethical Handling of Conflicts                | 06-19-03;      |
|  | (o) Hot Tips from the Best Domestic Lawyers      | 09-20-02;      |
|  | (p) Basic and Advanced West Law                  | 05-31-02;      |
|  | (q) Tips from the Bench                          | 12-13-02.      |
11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs? If so, briefly describe each course or lecture.  
I spoke at a seminar put on by the National Business Institute on March 31, 2008 on the topic of Ethical Considerations in the practice of Family Law.
12. List all published books and articles you have written and give citations and the dates of publication for each.  
I wrote an article for the seminar mentioned above, which was published in the written materials for the seminar on Ethical Considerations in the practice of Family Law.
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.  
I was admitted to the South Carolina Bar in November of 1980. I was also admitted to the Bar for the Federal District Court for the State of South Carolina in 1981 and to the Bar of the Fourth Circuit Court of Appeals in 1981.
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.  
I first began working with Thomas O. Lawton, Jr. in Allendale, SC in September of 1980 after taking the bar examination, but prior to receiving my bar examination results. I continued to work for Mr. Lawton from October of 1980 through January of 1983. This was a general practice of law in a small town where I did criminal work, civil work, and work in the family courts. I also had the opportunity to appear in the Magistrate's Court on numerous

occasions during this time. In February of 1983, I opened my own office in Orangeburg, SC where I practiced by myself through December of 1987. This was also a general practice of law in which I did work in the family courts, civil courts and criminal courts. From April of 1984 through December of 1988, I was employed as a part-time Public Defender for Orangeburg County and continued in the private practice of law. On January 1, 1988 I became employed with the Office of the Solicitor for the First Judicial Circuit, where I worked full-time through December of 1989. During this time period, I tried numerous criminal cases ranging from driving under the influence cases to murder cases. On January 1, 1990 I entered into partnership with F. Hall Yarborough and Ronald E. Hutto in the firm of Yarborough, Hutto & Jackson where I practiced until September 30, 2007. During this time I continued to work in a general practice of law, which included all of the litigation that was done by this firm. I litigated cases in Civil Court, Probate Court, Magistrate's Court, General Sessions Court, and before the Master-in-Equity. On October 1, 2007, I entered into practice with Ronald L. Nester, Sr. in the firm of Nester & Jackson where I continue to practice law today. I continue to be involved in a wide variety of cases as a general practitioner. I continue to practice law in Civil Court, General Sessions Court, Family Court, Probate Court and before the Master-in-Equity.

If you are a judge and are not seeking a different type of judgeship, the following questions are inapplicable:

- (b) If you are a candidate for **Circuit Court**, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background has prepared you to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area.

I am a candidate for Circuit Court, and I believe that I am well qualified to be a Circuit Court Judge. Over the last five years, I have been involved in many cases in Civil Court, both as plaintiff's attorney and as defendant's attorney. Most of my plaintiff's cases are automobile accident cases and other cases involving personal injury, and most of those cases have settled prior to going to a jury trial. However, I have been actively involved in the motions practice of handling civil litigation, and have been involved in several jury trials. The defense work that I do

is mostly representing governmental agencies through the South Carolina Insurance Reserve Fund. Most of the cases that I have tried in the last five years have been Insurance Reserve Fund cases. As a result, I have been involved in the motions practice of law as a defense lawyer and have tried several of these cases to a jury verdict. In addition, I have been retained and have been appointed to numerous criminal cases. Again, most of these criminal cases are resolved prior to having a jury trial, and I do not believe that I have actually tried a criminal case to a jury verdict within the last five years. However, during my time as a public defender and as a prosecutor, I tried numerous cases before the Court of General Sessions back in the 1980's. In 1993 and 1996 I also trial a death penalty case involving a defendant named James Neal Tucker. The sentence in Mr. Tucker's first trial was reversed, and so a second sentencing hearing was held in Calhoun County, South Carolina. Therefore, I have experience in handling death penalty cases. Also, I tried a death penalty case in 1986 involving a defendant named Marvin Duggins, who ultimately received a death sentence. As a result, I have a wide and varied experience in both General Sessions Court and Common Pleas Court, which I believe would assist me in becoming a Circuit Court Judge.

15. What is your rating in Martindale-Hubbell?

My rating in Martindale-Hubbell is "B".

**Retired judges/justices and judges/justices applying for reelection to their current position may omit Questions 16-21. If a candidate is seeking a judgeship different than his or her current position, Questions 16-21 should be answered based on experience prior to serving on the bench.**

16. What was the frequency of your court appearances during the last five years?

(a) federal: none;

(b) state: I appear frequently in Civil Court and General Sessions Court.

17. What percentage of your practice involved civil, criminal, and domestic matters during the last five years?

(a) civil: 25%;

(b) criminal: 10%;

(c) domestic: 25%.

18. What percentage of your practice in trial court during the last five years involved matters that went to a jury?

(a) jury: Approximately 50% of my trial practice involves cases on the jury docket. However, of all of these cases in the last five years have settled short of an actual jury verdict;

(b) non-jury: 50%.

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters?

In all of my cases in the last five years I have served as sole counsel for my client.

19. List five of the most significant litigated matters that you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.
- (a) The State vs. James Neal Tucker – original trial – 1993 – 320 S.C. 206, 464 S.E. 2d 105 (1995); this was a death penalty case where the sentence of death was reversed by the Supreme Court.
  - (b) The State vs. James Tucker – re-sentencing trial – 1996 – 334 S.C. 1, 512 S.E.2d 99(1999); this was the re-sentencing trial of Mr. Tucker.
  - (c) William Martin Joyner vs. South Carolina Department of Transportation, Bamberg County – 2006 – this case involved a single car accident where the car slid off the road due to excessive water thereon. The case was tried to a hung jury first and was later tried to a verdict for the Plaintiff.
  - (d) Taylor vs. South Carolina Department of Transportation, Orangeburg County – 1995 – this case involved a small cave-in due to a cracked pipe under the ground and resulted in a verdict for the Department of Transportation.
  - (e) The State vs. Marvin Duggins, Orangeburg County – 1984 – this was a death penalty case in which the Defendant was convicted of murder and armed robbery and received a sentence of life in prison.
20. List up to five civil appeals that you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported.
- (a) ULMER v. ULMER, 368 S.C. 486 (2006, 632 S.E. 2d 858;
  - (b) HOWARD v. SOUTH CAROLINA DEPARTMENT OF HIGHWAYS, 343 S.C. 149 (Ct. App. 2000), 538 S.E.2d 291;
  - (c) O'CAIN v. O'CAIN, 322 S.C. 551 (Ct.App. 1996), 473 S.E.2d 460;
  - (d) VARN v. SCDHPT., 311 S.C. 349 (Ct.App. 1993), 428 S.E.2d 895.
21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported. Please attach one copy of briefs filed by you in each matter.  
I have not handled any criminal appeals.
22. Have you ever held judicial office? Describe the jurisdiction of each of the courts and note any limitations on the jurisdiction of each court. No.
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.
24. Have you ever held public office other than judicial office? If so, list the periods of your service, the office or offices involved, and whether you were elected or appointed. Also, state whether or not you have timely filed your report with the State Ethics Commission during the period you held public office. If not, were you ever subject to a penalty? If so, give details, including dates. N/A.

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. N/A.
26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office? No.
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? Explain the nature of the business, your duties, and the term of your service. No.
29. A complete, current financial net worth statement was provided to the Commission.
30. Describe any financial arrangements or business relationships that 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? No.
34. Have you ever been sued, either personally or professionally?  
I was sued by a disgruntled public defender client in 1986. This client filed his own pleadings and represented himself, and this case was dismissed on a motion for summary judgment made by my attorney. The plaintiff's complaint was that his sentence was greater than that of his co-defendant's in his case, which he concluded was my fault.
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.

I have no knowledge of any such charges or allegations being made against me.

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.

I have no such knowledge of any charges or allegations being made against me.

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? No.

43. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No.

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.

(a) South Carolina Bar Association;

(b) Orangeburg County Bar Association, President 1987.

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.

Orangeburg Kiwanis Club, President 1996.



48. Provide any other information which 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. This information may include how your life experiences have affected or influenced the kind or type of judge you have been or plan to be.

From the time I was a small child, I remember wanting to grow up to become a judge. I have felt all my life that I would make a good judge, and I would like to have that opportunity. I have tried cases in Common Pleas Court as a Plaintiff's attorney and as a defense attorney, and I have been a prosecutor and a public defender in General Sessions Court. As a result, I believe that my experience would make me an excellent Circuit Court Judge.

49. References:

- (a) Michael Wolf  
Community Resource Bank;
- (b) Richard B. Crawford;
- (c) W. O. Brodie, III  
Brodie, Summers, & Wilkes, LLP, CPA's;
- (d) Richard Fowler;
- (e) Ronald L. Nester, Sr.  
Nester & Jackson, P.A.

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.

s/James B. Jackson, Jr.

Date: 09/25/08

**NESTER & JACKSON, P.A.**  
**Law Offices**

**James B. Jackson, Jr.**  
**Attorney at Law**

P. O. Drawer 349  
631 Bass Drive  
Santee, SC 29142

(803) 854-4484  
Fax (803) 854-4485  
jay@nesterjackson.com

December 1, 2008

TO: THE JUDICIAL MERIT SELECTION COMMISSION

FROM: JAMES B. JACKSON, JR.

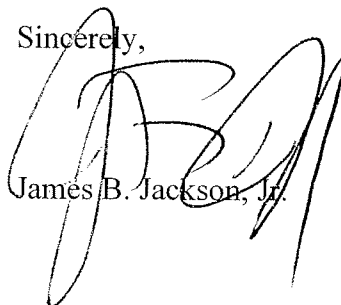
RE: Circuit Court Judgeship: First Judicial Circuit, Seat No. 1

Dear Sir/Madam:

This is to advise that I would like to amend question #17 on my Personal Data Questionnaire that was previously submitted to the Commission. Unfortunately, an error was made in this answer, which showed that my civil practice during the last five years was 25%. This figure should have been 65%, and I simply did not catch this error before submitting the Personal Data Questionnaire. Therefore, please accept this amendment to reflect that my civil practice represents 65% of my total practice.

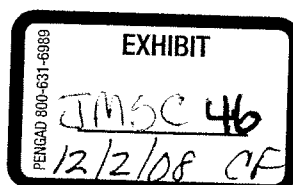
With kind regards, I am

Sincerely,



James B. Jackson, Jr.

JB Jr/jh

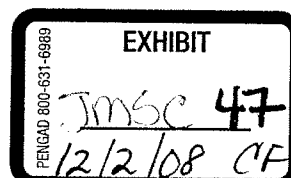


JUDICIAL MERIT SELECTION COMMISSION  
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court  
(New Candidate)

Full Name: James Benjamin Jackson, Jr.  
Business Address: PO Drawer 349  
631 Bass Drive  
Santee, SC 29142  
Business Telephone: (803) 854-4484

1. Why do you want to serve as a Circuit Court judge?  
I believe that I am well qualified to serve as a Circuit Court judge, having practiced before the Court of Common Pleas and the Court of General Sessions for many years. I have now been practicing law for approximately 28 years, and feel that my experience would serve me well as a Circuit Judge. Quite frankly, I have always wanted to be a judge and can remember wanting to hold that position even as a child. I feel that I can be fair to all parties, and that I can make appropriate decisions to further the ends of justice as a 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?  
I believe that *ex parte* communications are inappropriate and should be avoided at all cost by any Circuit judge. I believe that there are very few circumstances under which *ex parte* communications could be tolerated, and those would only be situations where informal greetings are exchanged between the judge and only one of the parties. Even when this occurs, I believe it would be the duty of the judge to point this out on the record to the other party who is not present so that party can be apprised of the situation and make their own determination as to whether or not they should take any action as a result of the *ex parte* communication. Obviously, any *ex parte* communications by one party to the judge in regards to the case at hand cannot be tolerated.
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 that recusal is not appropriate when lawyer-legislators appear before the Court. All judges have to deal with lawyer-legislators, and they need to be treated just like all lawyers are treated by each individual judge. I think that the



judge should recuse himself when former associates or law partners appear before him regarding matters in which they were actively involved in the office when the judge was still practicing law. However, on matters that arose with a former associate or partner after the judge left the office, I believe do not require recusal because at some point, the judge is going to have to deal in court with the former associates and partners, all of whom need to be treated like all other lawyers by the judge.

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 give great deference to any motion made by a party for my recusal. I believe that I would grant such motions most of the time because I believe that the system of justice works best when there is no appearance of impropriety by the judge.
8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?  
It would depend on the depth of the financial or social involvement of my spouse or close relative to determine the significance of the appearance of impropriety. Certainly, if there was any significance to the appearance of impropriety, I would recuse myself from the case.
9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?  
I would accept no gifts or social hospitality from any individual lawyer.
10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?  
My obligation as a lawyer requires me to report any misconduct of any lawyer or any judge to the South Carolina Bar Association.
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 cases handled by judges in this state, most orders would be drafted by one of the lawyers appearing before the court. I would certainly read each order before I signed it to make sure that this was the decision I made in the case. However, there may be certain situations where I would draft my own order, and I would have no reluctance to do so in any case in which I deem that to be appropriate.
14. If elected, what methods would you use to ensure that you and your staff meet deadlines?  
My staff and I would keep appropriate calendars, notes and copies of dockets and would keep up with orders or other documents that need to be presented by lawyers appearing before the court. My staff would call lawyers to make sure

- that all orders that need to be submitted are done so on a timely basis.
15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?  
I believe that no judge should have any effect on setting or promoting public policy, and I would not be involved in any judicial activism other than exercising my right to vote.
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 gladly be involved in seminars as a speaker in order to assist educating lawyers about courtroom procedures and the current state of the law, and would be happy to write articles or to assist the Bar in any other manner in helping educate lawyers.
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 wife is very much in favor of my becoming a judge, and my children are both married and out of the house. Therefore, I believe there would no pressure or strain on any of my personal relationships.
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 believe that repeat offenders should be treated more harshly than first-time offenders, and that the court should make an effort to ensure that the repeat offender receives a sentence that is greater than the previous sentences he has received for his past offenses. I believe that giving a repeat offender a harsher sentence than he previously received is the only way to convince him that crime does not pay.
  - b. Juveniles (that have been waived to the circuit court):  
I would certainly consider the age and youth of these juveniles in handing out any sentence, but would also have to take into account the crime for which they are charged. I would balance these matters along with a number of other factors including family support, their educational background, their prior record and other such matters in determining an appropriate sentence.
  - c. White collar criminals:  
I believe that white collar criminals and their crimes can be as damaging as any other crime. I would take into account the educational background of these persons and would factor into their sentence the fact that they certainly know better than to commit crimes. Most of these criminals would have little or no prior record, which would also need to be taken into account.
  - d. Defendants with a socially and/or economically disadvantaged Background:

I would take into account all the disadvantages of this defendant, as well as the crime that he committed. As a part of his sentence, I would try to ensure that he received further education, counseling, and other assistance to guide him in improving his situation.

e. Elderly defendants or those with some infirmity:

I would take into account the age and physical health of any defendant before me along with all the other factors discussed in arriving at an appropriate sentence. I would certainly look at whether or not these persons could receive the kind of treatment they need while in prison in making my determination.

NOTE: I believe the court should take into account all of the above considerations in reaching an appropriate sentence. However, the most important aspect of determining a sentence is to ensure that the defendant is properly punished for the actual crime that he committed under the circumstances presented to the court.

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?

I would make any such financial interest known to all parties and would request whether or not they wish for me to hear the case. The parties might waive any such appearance of impropriety or potential conflict of interest. If one of the parties requests that I recuse myself, I would probably do so depending on all of the circumstances presented at that time.

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 judges should remain as even keeled as possible and should rule over their court on a fair and equal basis. I believe that judges can occasionally be too serious and sometimes not serious enough in court. I would try and strike an appropriate and even balance between the seriousness of court and the fact that funny things do occasionally occur in the courtroom. I would try and avoid anger at all costs, and if I felt that I was getting angry for any reason, I would declare a recess so that I could make sure that I was not making rulings based on the fact that I may be angry at someone 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?

I believe that the rules for appropriate demeanor for a judge 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?  
I believe that anger is never an appropriate emotion for a judge to have while making rulings in court. As I previously indicated, if I felt I was getting angry, I would declare a brief recess in order to compose myself before proceeding further with court. Because I believe that anger is not appropriate for a judge, I do believe that I could compose myself fairly quickly in all such situations.
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 no spent no money on my campaign to this point in time.
27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office?  
N/A
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/James Benjamin Jackson, Jr.

Sworn to before me this 25 day of September, 2008.

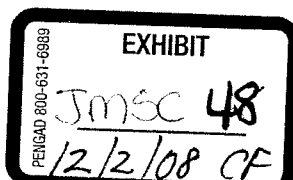
Notary Public for S.C.

My Commission Expires: 11-16-2017 \_\_\_\_\_

**JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying: Resident Judge of the Circuit Court, First Judicial Circuit, Seat 1

1. NAME: Mr. Michael P. Horger  
BUSINESS ADDRESS: 160 Centre Street  
Orangeburg, S. C. 29115  
E-MAIL ADDRESS: mhorger@horgerlaw.com  
BUSINESS NUMBER: (803) 531-1700
  
2. Date of Birth: 1953  
Place of Birth: Frankfurt, Germany
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: Married on July 16, 1983, to Patricia Anne Nevils. Never divorced. Two children.
6. Have you served in the military? No.
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) The University of South Carolina – attended fall semester 1970 through fall semester 1976;
  - (b) Bachelor of Science in Economics from the College of Social and Behavioral Sciences conferred May 11, 1974;
  - (c) Juris Doctor from the Law School conferred December 31, 1976.
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.  
Admitted to practice by the Supreme Court of the State of South Carolina on May 11, 1977.
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) January 15, 1975 to December 31, 1976  
Law Clerk in the office of Governor James B. Edwards involved with Governor's appointments to Boards and Commissions which included advice and consent by the Senate;
  - (b) November 15, 1972 to January 15, 1975 Clerk/Law Clerk in the office of Governor John C. West involved with Governor's





appointments to Boards and Commissions which included advice and consent by the Senate;

(c) 1972 to 1973

Actively involved in rush program of Sigma Alpha Epsilon which revitalized the Fraternity to become one of the leading fraternities on campus;

(d) 1970-1971

Senator – Towers Residence Government.

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>Dates</u>
(a)	Joint Meeting	07/27/03;
(b)	Ethics Roadshow	12/17/03;
(c)	Annual Meeting	07/22/04;
(d)	Revised Lawyer's Oath	08/16/04;
(e)	Sophisticated Section 1031 Transactions in SC	11/16/04;
(f)	Joint Meeting	07/28/05;
(g)	Attorney ECF Trailing Online	08/03/05;
(h)	Judges & Attorneys Substance Abuse and Ethics	12/02/05;
(i)	Joint Meeting	07/27/06;
(j)	The Probate Process from Start to Finish	12/20/06;
(k)	Masters in Trial	11/16/07;
(l)	Judges & Attorneys Substance Abuse	12/07/07;
(m)	Annual Meeting	04/09/08.

11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?

As a member of the South Carolina Bar Ethics Advisory Committee, ethics issues were discussed before a class of Professor Nathan Crystal at the Law School.

12. List all published books and articles you have written and give citations and the dates of publication for each. None.

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.

South Carolina Supreme Court, May 11, 1977

U.S. District Court, District of South Carolina, November 2, 1979

U.S. Court of Appeals, Fourth Circuit, November 26, 1979

U.S. Court of Appeals, Eleventh Circuit, April 24, 1997

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.

If you are a candidate for **Circuit Court**, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background has prepared you to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area.

Although, I have not routinely handled criminal matters in the last five years, I am familiar with criminal procedure and sentencing from my experiences in practice over 31 years and my service as an assistant city Judge for the city of Orangeburg. I recently represented a person charged with receiving stolen goods. In that process I coordinated my clients cooperation with the law enforcement investigation which resulted in the charges being dismissed. I believe the issues on evidence which would come up at trial in criminal cases would not be a problem because of my vast experience in regard to evidence issues in civil cases. There are statutory parameters for sentencing and sentencing guidelines which would assist when presiding over criminal matters. I was certified by the South Carolina Supreme as an as a Mediator on 3/13/96 and as an Arbitrator on 5/23/96. Although the amount of civil cases I have actually going to trial have decreased, my experience in mediation and my practice as a mediator has increased and I have still tried a number civil cases. I have been local counsel on several major cases with one trial lasting almost three weeks. Early on in my practice, my father, one other attorney and I managed over 6,000 asbestos cases in three states. I believe I am particularly capable of handling the administrative responsibilities of a Circuit Court Judge and my 31 years experience in the court room afford me a vast experience to draw on when presiding over trials.

15. What is your rating in Martindale-Hubbell? Av.

**Retired judges/justices and judges/justices applying for reelection to their current position may omit Questions 16-21. If a candidate is seeking a judgeship different than his or her current position, Questions 16-21 should be answered based on experience prior to serving on the bench.**

16. What was the frequency of your court appearances during the last five years?

- (a) federal: typically have a case per year which requires one actual appearance before the court per year.;
- (b) state: frequently appear in the Circuit Court several times per week. On average I have one to three terms of court per week in four out of five weeks.

17. What percentage of your practice involved civil, criminal, and domestic matters during the last five years?
- (a) civil: 85%;
  - (b) criminal: 5%;
  - (c) domestic: 10%.

18. What percentage of your practice in trial court during the last five years involved matters that went to a jury?
- (a) jury: 95%;
  - (b) non-jury: 5%.

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters? Sole Counsel.

19. List five of the most significant litigated matters that you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.

- (a) Intersystems Design and Technology v. Manville Forest Products Corporation

Plaintiff ran a foam line assembly to produce panels and alleged the Defendant's paper product was defective resulting in production of panels with lack of flatness. I represented the Defendant which alleged the lack of flatness was due to the Plaintiff's failure to run the face material into the foam line assembly at the proper tension. After a week long trial in which the Plaintiff presented \$2,059,637.00 in damages, the jury returned a verdict for the Defendant.

- (b) Ayers v. First National Bank and Burgess

I represented the Plaintiff who alleged the Defendant assumed the duty to secure title to a mobile home when it made a loan and disbursed the proceeds directly to the Seller to obtain the title to record its lien. The Seller did not provide the Title to the trailer to the Bank then the Bank denied it had any duty to the Plaintiff to secure the title to the trailer. During the trial of the case, the case was settled with the Bank releasing the Plaintiff from any obligation to repay the financed amount of \$13,645.48.

- (c) Lewis L. Grubbs, Jr., v. Johnny Atkinson, Carol Atkinson, and South Carolina Farm Bureau Insurance Company

The Plaintiff took a default judgment against the Defendants, Johnny and Carol Atkinson, in the amount of \$155,050.75 for injury resulting from a boating accident then brought this action to determine whether the Defendant, South Carolina Farm Bureau Insurance Company, was obligated to pay the judgment under the Defendant Atkinson's Homeowner's Policy. I represented the Insurance Carrier, South Carolina Farm Bureau Insurance Company. After losing the case in a non-jury trial before the Master-In-Equity for Aiken County, an appeal was taken to the Court of Appeals. The Court of Appeals fully

reviewed the law and the facts and decided the insurance carrier afforded no coverage for the occurrence under its policy.

(d) Gruber v. Santee Frozen Foods, Inc., et al

This action went to the jury on the theory of negligent misrepresentation. The Trial Judge initially directed a verdict against Webber Farms, whom I represented, however, during the evening the Judge reconsidered his ruling and the next day reversed himself directing a verdict in favor of Webber Farms with respect to all parties. The Plaintiff and the Co-Defendant, Santee Frozen Foods, appealed from the jury verdict. The verdict was sustained on Appeal thereby affirming the Lower Courts directed verdict in favor of Webber Farms with respect to all parties.

(e) Carroll v. Guess

I represented the Defendant Guess in an action brought against him and in the alternative an unknown driver, John Doe. The Lower Court denied the Defendant Guess Motion for Change of Venue to the county of his residence. The Court of Appeals reversed affirming that the right of the Defendant to a trial in the county of his residence is a substantial right.

20. List up to five civil appeals that you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported.

(a) Carroll v. Guess, 394 S.E.2d 707, 302 S.C. 175

Supreme Court of South Carolina, Decided August 6, 1990.;

(b) Gruber v. Santee Frozen Foods, Inc., 419 S.E.2d 795, 309 S.C. 13

Court of Appeals of South Carolina, Decided May 26, 1992;

(c) Lewis L. Grubbs, Jr., v. Johnny Atkinson, Carol Atkinson, and South Carolina Farm Bureau Insurance Company

Court of Common Pleas Aiken County, Supreme Court of South Carolina, unpublished opinion.;

(d) Teorges Farmer v. Vernon D. Rhone

Court of Common Pleas Colleton County, Supreme Court of South Carolina, unpublished opinion.;

(e) Northwestern Mutual Life Insurance Company v. Arliss Diane Sharperson a/k/a Arliss Deputy Sharperson and Leslie Yvonne Sharperson

Eleventh Circuit Court of Appeals, unpublished opinion.

21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported. None.

22. Have you ever held judicial office?

Appointed by the City Council to Assistant Municipal Court Judge, City of Orangeburg 1982-1983.

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.  
As Assistant Municipal Court Judge, I made determinations on probable cause for the issue of warrants, held bench trials, took guilty pleas and imposed sentences. I know of no appeals taken from any order or opinion which I issued.
24. Have you ever held public office other than judicial office? No.
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.  
Appointed by City Council to Assistant Municipal Court Judge, City of Orangeburg, 1982-1983. The City Judge to whom I was an Assistant was The Honorable James D. Nance.
26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office?  
Yes, ran for Seat 2, 1<sup>st</sup> Judicial Circuit in 1998. The election was won by Diane S. Godstein.
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? Explain the nature of the business, your duties, and the term of your service. No.
29. A complete, current financial net worth statement was provided to the Commission.
30. Describe any financial arrangements or business relationships that 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.  
Upon leaving the practice of law I would not be able to hear any matter in which I had been involved. Typically, matters in a judge has a conflict of interest are heard by visiting Judges.
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? No.
34. Have you ever been sued, either personally or professionally?

- (a) Clarence E. Jones, Pro Se, v. Michael P. Horger, William A. Horger and Lewis C. Lanier, d/b/a Horger, Horger & Lanier, Civil Action Number 94-CP-38-695

Mr. Jones was a non-client who was dissatisfied with results of a temporary hearing denying him alimony against the firm's client. The case was summarily dismissed on Motion for Summary Judgment.

- (b) Michael P. Horger v. United States of America, Civil Action Number 2:85-1106-8 and United States of America v. Michael P. Horger, Civil Action Number 2:85-1644-8

The initial action was brought for judicial review of the agency action of The Corps of Engineers. The United States of America filed a separate action and they were consolidated. The parties resolved the matter by Final (consent) Judgment without trial or adjudication of any issues of fact or law therein and without the Final Judgment constituting evidence or an admission of any party with respect to any issue of the pending action or of any other proceeding.

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. None.
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. None.
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? No.

43. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No.
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.
  - (a) South Carolina Bar Association Board of Governors 2008 to present House of Delegates 1991 to 2008;
  - (b) Orangeburg County Bar Association - President 1982 and 1983;
  - (c) South Carolina Defense Trial Attorneys Association, past member of the executive committee.
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.
  - (a) The Supreme Court of South Carolina Commission on Continuing Legal Education & Specialization Member July 1, 2000 to June 30, 2006. Appointed Secretary of the Commission by Order of the Court effective July 1, 2004;
  - (b) Founder Member of the Sigma Alpha Epsilon Foundation;
  - (c) Downtown Orangeburg Revitalization Association.
48. Provide any other information which 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. This information may include how your life experiences have affected or influenced the kind or type of judge you have been or plan to be.

Throughout my career, I have been motivated to serve others. I believe that I can serve the litigants in the Court System by using my legal experience to be an impartial and objective Judge. The handling of a heavy caseload through hard work, diligence and perseverance shows my industrious nature.
49. References:
  - (a) Gail Fogle  
First Citizens Bank & Trust  
1099 Russell Street  
Orangeburg, SC 29115  
803-533-4400;

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.
- (a) **South Carolina Bar Association Board of Governors 2008 to present  
House of Delegates 1991 to 2008**
  - (b) **Orangeburg County Bar Association - President 1982 and 1983**
  - (c) **South Carolina Defense Trial Attorneys Association past member of the executive committee.**
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.
- (a) **The Supreme Court of South Carolina Commission on Continuing Legal Education & Specialization Member July 1, 2000 to June 30, 2006 . Appointed Secretary of the Commission by Order of the Court effective July1, 2004.**
  - (b) **Founder Member of the Sigma Alpha Epsilon Foundation**
  - (c) **Downtown Orangeburg Revitalization Association**
48. Provide any other information which 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. This information may include how your life experiences have affected or influenced the kind or type of judge you have been or plan to be.
- Throughout my career, I have been motivated to serve others. I believe that I can serve the litigants in the Court System by using my legal experience to be an impartial and objective Judge. The handling of a heavy caseload through hard work, diligence and perseverance shows my industrious nature.**
49. List the **names, addresses, and telephone numbers** of five persons, including your banker, from whom references could be obtained.
- (a) **Gail Fogle, First Citizens Bank & Trust,  
1099 Russell Street, Orangeburg, SC 29115, 803-533-4400**
  - (b) **Virgin Johnson, Jr., Esquire,  
Post Office Box 2107, Orangeburg, SC 29116, 803-707-5232**
  - (c) **Thomas B. Bryant, III, Esquire, Bryant, Fanning & Shuler,  
Post Office Box 1265, Orangeburg, SC 29116, 803-534-5910**
  - (d) **Lakesha Jeffries, Esquire, Jeffries Law Firm, LLC,  
1250 Amelia Street, Orangeburg, SC 29115, 803-531-6300**



- (b) Virgin Johnson, Jr., Esquire  
Post Office Box 2107  
Orangeburg, SC 29116  
803-707-5232;
- (c) Thomas B. Bryant, III, Esquire  
Bryant, Fanning & Shuler  
Post Office Box 1265  
Orangeburg, SC 29116  
803-534-5910;
- (d) Bradish J. Waring, Esquire  
Nexsen Pruet, LLC.  
Post Office Box 486  
Charleston, SC 29402  
843-577-9440;
- (e) Glenn Walters, Esquire  
Post Office Box 1346  
Orangeburg, SC 29116  
803-531-8844.

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.

S/Michael P. Horger

Date: 09/26/08

**ADDENDUM TO  
JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE**

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.

*Horger, Horger & Barnwell 1977 to 1982*

**Horger, Horger & Nance – 1982 to July 1985**

**Horger, Horger, Nance & Lanier – July 1985 to June 1, 1991**

**Horger, Horger & Nance – June 1, 1991 to June 30, 1992**

**Horger, Horger, Nance & Lanier – July 1, 1992 to November 6, 1992**

**Horger, Horger & Lanier – November 6, 1992 to September 1, 1996**

**Horger, Horger, Lanier & Culclasure – September 1, 1996 to October 16, 1996**

**Horger, Horger, Lanier, Culclasure & Knight, L.L.P.**

– October 16, 1996 to September 2, 1997

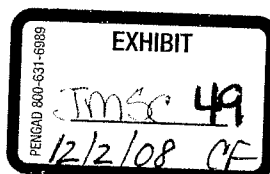
**Horger, Horger, Lanier & Knight, L.L.P. – September 2, 1997 to October 1, 2000**

**Horger & Horger – October 1, 2000 to January 2, 2003**

**Horger, Horger & Justice, L.L.C. – January 2, 2003 to December 31, 2005**

**Horger & Horger – December 31, 2005 to February 8, 2006**

**Michael P. Horger, P.A. – February 8, 2006 to Present**

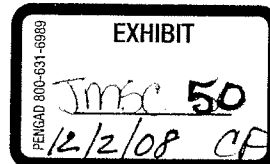


JUDICIAL MERIT SELECTION COMMISSION  
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court  
(New Candidate)

Full Name: Michael P. Horger  
Business Address: 160 Centre Street  
Orangeburg, S. C. 29116  
Business Telephone: 803-531-1700

1. Why do you want to serve as a Circuit Court judge? I have enjoyed the practice of law for 31 years serving and representing parties in our judicial system. I have enjoyed serving the members of my profession by being on the South Carolina Bar Association House of Delegates, currently being on the Board of Governors and previously being on numerous committees. With my experience, I believe I can further serve the citizens of South Carolina and the members of the South Carolina Bar Association by serving as a Circuit Court 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 can not be permitted which involve substantive matters or issues on the merits. To the extent communications are necessary for scheduling, administrative purposes or emergencies they may occur if the judge believes no party will gain a strategic or tactical advantage and makes provision promptly to notify all other parties to allow an opportunity to respond. Further, to the extent SCRPC, Rule 65 allows a temporary restraining order to be granted without notice an *ex parte* petition may be considered by the Court. Such a remedy is drastic measure and should be cautiously applied with strict compliance with Rule 65.
6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?  
A judge shall hear and decide matters assigned to the judge being faithful to the law and maintaining professional competence in it. Disqualification is required where the Judge has a personal bias or prejudice concerning a party or a lawyer, or personal knowledge of disputed evidentiary facts concerning the proceeding.
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 grant deference to the party's motion, as a Judge shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. Under the case law, the rule of necessity may override the rule of disqualification. In some cases the judge must disclose on the record the basis for possible disqualification and use reasonable efforts to transfer the matter to another judge as soon as practicable.

8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?  
A Judge must disqualify himself in a proceeding in which the Judge's impartiality might reasonably be questioned. A Judge should disqualify himself when the Judge's spouse or a close relative (within the third degree of relationship) has more than a de minimis interest which could be substantially affected by the proceeding.
9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?  
A Judge may accept honoraria or speaking fees provided that the compensation is reasonable and commensurate with the task. However the Judge should ensure that no conflicts are created by the arrangement and must not appear to trade on the position for personal advantage. Further, a Judge should not spend significant time away from Court duties to meet speaking or writing commitments for compensation and the source of payment must not raise any question of undue influence or the Judge's ability or willingness to be impartial. A Judge shall report the date, place and nature of any activity for which the Judge received compensation, and the name of the payor and the amount of the compensation so received.
10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?  
Part of a Judge's judicial duties is to inform the appropriate authority when the Judge has knowledge that another Judge has committed a violation of the Rules of Judicial Conduct that raises a substantial question as to the other Judge's fitness for office or that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects.
11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be re-evaluated?  
If elected I could not remain in my position on the South Carolina Bar Association Board of Governor's.
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?  
I would request proposed orders by email. I would allow reasonable time requested by the parties in which to submit orders; however I would prefer proposed orders at the time of the hearing to be able to have a short time frame in which orders are issued after the matter is heard. The time would vary based upon the complexity of the issue and the clarity of the law on the issue. I would utilize the drafted orders to prepare the order issued by the Court. In the absence of proposed orders I would write the appropriate order to be issued.
14. If elected, what methods would you use to ensure that you and your staff meet deadlines?  
I would use a diary system to track the matters which had been heard and the time frame for proposed orders to be received and the time frame for an order to be issued.
15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?  
A Judge has the right to participate in the political process as a voter. A Judge shall not act as a leader or hold an office in a political organization; publicly endorse or publicly oppose another candidate for public office; make speeches on behalf of a political organization; attend public gatherings; or, solicit funds for, pay assessment to or make a contribution to a political organization or candidate, or purchase tickets for political part dinners or other functions. A Judge is not prohibited from privately expressing his or her views on judicial candidates or other candidates for public office.
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 been active in the South Carolina Bar Association for years to improve the law, the legal system and administration of justice. If elected, I would like to remain active to improve the law, the legal system and administration of Justice in such position as may be designated by the South Carolina Supreme Court to be appropriate for participation as a judicial member.
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?  
I do not feel the pressure of serving as a judge would strain personal relationships. I have been actively engaged in the practice of law as a trial attorney for 31 years. I have been married for 25 years and have reared two children.
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:

Each case would be considered on its own facts and an appropriate sentence determined on the applicable offense set forth by law.

- b. Juveniles (that have been waived to the circuit court):  
Each case would be considered on its own facts and qualification for sentencing under the Youthful Offender Act would be reviewed.
  - c. White collar criminals:  
Each case would be considered on its own facts and the ability to pay restitution to the victims' would be evaluated.
  - d. Defendants with a socially and/or economically disadvantaged background:  
Each case would be considered on its own facts and programs available for socially and/or economically disadvantaged would be evaluated.
  - e. Elderly defendants or those with some infirmity:  
Each case would be considered on its own facts and alternatives to incarceration would be evaluated.
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? 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?  
A judge should be courteous to litigants, jurors, witnesses, lawyers and others with whom he deals and should require similar conduct of others. As a judge he should be patient and dignified to all with whom he deals.
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?  
A judge's conduct and his demeanor should be appropriate at all times, 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, a judge should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
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?  
At this time I have spent no money on the campaign.
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? Yes.

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

s/Michael P. Horger

Sworn to before me this 26th day of September, 2008. \_\_\_\_\_

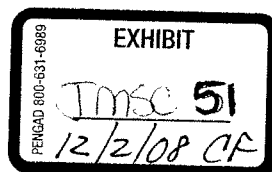
Notary Public for S.C.

My Commission Expires: 8/30/2014 \_\_\_\_\_

**JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying: 1<sup>st</sup> Circuit Court, Seat 1

1. NAME: Mr. Jeffrey P. Bloom  
BUSINESS ADDRESS: 1911 Pickens St.  
Columbia, S.C. 29201  
business NUMBER: (803) 256-7001
  
2. Date of Birth: 1956  
Place of Birth: Rochester, N.Y.
  
3. Are you a citizen of South Carolina? Yes ( since 1983).  
Have you been a resident of this state for at least the immediate past five years? Yes.
  
5. Family Status: Divorced May 25, 2007, Jeffrey Bloom (self, as moving party);  
Richland County Family Court; One-Year's Separation. Two Children.
  
6. Have you served in the military? No.
  
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) Columbus School of Law, Catholic Univ., Washington, D.C.; 8/80-5/83;  
Juris Doctor;
  - (b) State University College at Geneseo, N.Y.; 8/75-5/78; B.A. – Political Science.
  
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.
  - (a) S.C. – 1985;
  - (b) N.C. – 1983.
  
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) Columbus School of Law Activity  
Student intern, U.S. Senate Committee on American Indian Affairs  
1982-1983;
  - (b) Student intern, Catholic U. Center for Political Studies 1981-82;
  - (c) Student radio – disc jockey.State University College Activity
  - (a) Political Science Club, 1975-78;
  - (b) Literary Club, 1976-78;





(c) Student Intern, National Assn. of Native American Affairs, Wash., D.C. Fall 1977.

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) Federal Advocacy Training (registered; to be completed);	10/6/08
(b) Federal Criminal Practice (registered; to be completed);	10/16/08
(c) Federal Criminal Practice	11/1/07;
(d) Victim Outreach Training	3/24-25/07; 4/14-15/07;
(e) 21 <sup>st</sup> Annual Criminal Law Update	1/27/06;
(f) 4 <sup>th</sup> Annual Civil Law Update	1/27/06;
(g) Restorative Justice	5/8-5/12/06;
(h) 27 <sup>th</sup> Annual Capital Punishment	7/21-7/23/06;
(i) Habeas Institute	6/2/05;
(j) Capital PCR Training	10/14-15/04;
(k) Mental Health Concerns for Attys	12/10/04.

11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?

Adjunct Professor, USC College of Criminal Justice, 1998-1999. Taught: (1) Constitutional Law; and American Criminal Court System.

Also have taught or lectured as follows:

- (a) "Mitigation and Forensic Psychiatry" Psychiatry and the Law Seminar for Graduate Fellows, University of South Carolina School of Medicine, Wm. S. Hall Psychiatric Institute, Columbia, S.C., March 2006;
- (b) "A Case Study of *Rompilla* and the Role of Mitigation: *Wiggins* revisited," Psychiatry and the Law Seminar for Graduate Fellows, University of South Carolina School of Medicine, Wm. S. Hall Psychiatric Institute, Columbia, S.C., March 2006;
- (c) "The Habeas Institute: Teaching the Art of Advocacy," National Institute for Trial Advocacy, Georgia State University College of Law, Atlanta, Georgia, June 2- 5, 2005;
- (d) "A Case Study of *State v. Von Dohlen* and the Role of Mitigation," Psychiatry and the Law Seminar for Graduate Fellows, University of South Carolina School of Medicine, Wm. S. Hall Psychiatric Institute, Columbia, S.C., March 24, 2005;
- (e) "Changing the Theme of Your Capital Post-Conviction Case," N.C. Center for Death Penalty Litigation, Chapel Hill, N.C., October 2004;
- (f) "*Wiggins* and the Forensic Social Worker," Psychiatry and the Law Seminar for Graduate Fellows, University of South Carolina School of

- Medicine, Wm. S. Hall Psychiatric Institute, Columbia, S.C., March 25, 2004;
- (g) "The Application of *Ring* to S.C. Law," S.C. Public Defender Assn. Conference, Charleston, S.C., October 1, 2003;
  - (h) "Diagnosing Mental Retardation and its Impact," Psychiatry and the Law Seminar for Graduate Fellows, University of South Carolina School of Medicine, Wm. S. Hall Psychiatric Institute, Columbia, S.C., February 2003;
  - (i) "Voor Dire in Capital Jury Selection", and "Team-Building in Capital Cases," Virginia Death Penalty College, Richmond, VA., January 31, 2003;
  - (j) "Psychiatric Issues and Jury Selection in Capital Cases," Psychiatry and the Law Seminar for Graduate Fellows, University of South Carolina School of Medicine, Wm. S. Hall Psychiatric Institute, Columbia, S.C., March 28, 2002;
  - (k) "Psychiatric Issues & Mitigation in Capital Cases," Psychiatry and the Law Seminar for Graduate Fellows, University of South Carolina School of Medicine, Wm. S. Hall Psychiatric Institute, Columbia, S.C., January 31, 2001;
  - (l) "Understanding Juries in Capital Cases," S.C. Public Defender Assn., Myrtle Beach, S.C., October 2000;
  - (m) "Use of Mock Trials/Focus Groups in Preparing Capital Cases," N.C. Academy of Trial Lawyers, Raleigh, N.C., September 2000;
  - (n) "Jury Selection in Capital Cases," Georgia Indigent Defense Council Seminar, Atlanta, Georgia, July 2000;
  - (o) "Use of Mock Trials/Focus Groups in Preparing Capital Cases," NAACP Legal Defense Fund Capital Litigation Seminar, Virginia, August 1999;
  - (p) "Prosecutorial Conduct and Witnesses", Lecture delivered to the S.C. Judicial Conference, August 22, 1997;
  - (q) "Caseloads, Ethics, and Remedies" S.C. Public Defender Assn. Seminar, Sept. 30, 1996;
  - (r) "Obtaining Adequate and Effective Resources in Capital Cases," S.C. Assn. of Criminal Defense Attorneys, February 1996;
  - (s) "Court Appointments in Conflict Cases," S.C. Bar Continuing Legal Education Seminar, University of South Carolina, School of Law, December 15, 1995;
  - (t) "Psychiatry and The Law" University of South Carolina, School of Medicine Seminar, December 16, 1994;
  - (u) "The Ethics of Dealing With Difficult Clients & Difficult Issues: Confronting Race & Gender," S. C. Public Defender Association Conference, September 30, 1994;
  - (v) "Family Court Criminal Law Seminar: Search and Seizure and Schmerber," Dept. of Juvenile Justice, August 19, 1994;

- (w) "Constitutional Law," Magistrate Training Seminar, S.C. Criminal Justice Academy, July 28, 1994;
  - (x) "Mock Trial Demonstration: Insanity Issues," University of South Carolina, School of Medicine, May 25, 1994;
  - (y) "Criminal Practice in South Carolina: The Fifth & Sixth Amendments," S.C. Bar Continuing Legal Education Seminar, University of South Carolina, School of Law, November 12, 1993;
  - (z) "Panel Discussion on Indigent Defense: Practical and Ethical Problems and Solutions," S.C. Association of Criminal Defense Lawyers, October 8, 1993;
  - (aa) "Opening Statements, Final Arguments, and Jury Dynamics – Including Batson and Edmonson Issues (Panel Discussion of Jury Selection and Dynamics)," S.C. Bar Continuing Legal Education Seminar, University of South Carolina, School of Law, April 2, 1993;
  - (bb) "Death Penalty Litigation: Getting Funds and Experts," S.C. Public Defender Association Conference, October 1993;
  - (cc) "Ethics in Criminal Defense: What To Do, What Not To Do, And Changing Rules," S.C. Bar Continuing Legal Education Seminar, University of South Carolina, School of Law, September 3, 1992;
  - (dd) "Ethics: Conflicts of Interest in Criminal Law," S.C. Bar Continuing Legal Education Seminar, University of South Carolina, School of Law, 1991;
  - (ee) "Criminal Defense and Investigation," S.C. Association of Legal Investigators, May 11, 1990.
12. List all published books and articles you have written and give citations and the dates of publication for each. None.
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 state courts of S.C.: 1985;
  - (b) All state courts of N.C.: 1983;
  - (c) Federal U.S. District Court of S.C.: 1993;
  - (d) Federal U.S. District Court of N.C., Western Dist.: 2004;
  - (e) Federal Court of Appeals, Fourth Circuit: 2006;
  - (f) U.S. Supreme Court: 2007.
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) 1984 – Brunswick County, N.C.; Juvenile Court;
  - (b) 1985 – Neighborhood Legal Aid Assn., Conway, S.C.: Civil and Family Court;
  - (c) 1985-1992 – Horry County Public Defender Office, Conway, S.C. Began as an Assistant Public Defender. Served as Chief Public Defender 1988-1992;

- (d) 1992-1999 – Richland County Public Defender Office, Columbia, S.C. Served as Chief Public Defender;
- (e) 1999-Present. Private Practice. I have handled capital trial, appellate, and post-conviction cases. In February 2006, I began accepting appointments and assisting the Calhoun County Public Defender Office, St. Matthews, S.C. I have also handled pro bono cases in civil court, including bankruptcy, landlord-tenant, magistrate court, workers compensation, and similar cases. I continue to donate more than 100 hours pro bono services annually.

If you are a candidate for **Circuit Court**, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background has prepared you to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area.

I have handled complex criminal cases for more than 20 years (representing defendants) as a Public Defender in two counties, Horry and Richland. I have also, since 2006, begun handling criminal appointments and pro bono criminal cases in Calhoun County (please contact, for any references in this regard, Calhoun County Public Defender Martin Banks: P.O. Box 243, St. Matthews, S.C., 29135; # 803-874-2100). This includes the trial level, appellate, and post-conviction stages. Beginning about 2004, I began handling federal criminal cases, too. Cases handled in the last 5 years include numerous complex capital cases and numerous criminal cases, such as: *State v. (Rita) Bixby*, 373 S.C. 74, 644 S.E.2d 54 (2007). This case set the precedent in that a defendant charged as an accessory before the fact to murder cannot be subject to capital punishment as a principal. Other issues in such cases have involved constitutional questions such as due process, search and seizure, effective assistance of counsel, and related issues. Similar case examples can be listed if necessary.

In civil cases, I have handled numerous capital post-conviction cases, which operate under the rules of civil procedure and are treated as such by the court. Case examples include: *Charping v. Ozmint*, Mem. Op. 2006-MO-024 (S.C. July 3, 2006) and *Von Dohlen v. State*, 360 S.C. 598, 602 S.E.2d 738 (2004). I have also handled pro bono cases in civil court representing mainly defendants, including bankruptcy, landlord-tenant, magistrate court, workers compensation, and similar cases. While I have not handled numerous civil

litigation-type cases, my experience with the civil rules and procedures in the numerous aforementioned cases have exposed me to the arena of civil law.

15. What is your rating in Martindale-Hubbell? Not rated (to my knowledge).

**Retired judges/justices and judges/justices applying for reelection to their current position may omit Questions 16-21. If a candidate is seeking a judgeship different than his or her current position, Questions 16-21 should be answered based on experience prior to serving on the bench.**

16. What was the frequency of your court appearances during the last five years?

(a) federal: more than 30;

(b) state: more than 60.

17. What percentage of your practice involved civil, criminal, and domestic matters during the last five years?

(a) civil: 50% (including capital PCR cases which are treated as civil cases);

(b) criminal: 50%;

(c) domestic: none.

18. What percentage of your practice in trial court during the last five years involved matters that went to a jury?

(a) jury: 25%;

(b) non-jury: 75%.

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters? Most often served as lead counsel.

19. List five of the most significant litigated matters that you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.

(a) State v. (Rita) Bixby, 373 S.C. 74, 644 S.E.2d 54 (2007)

This case set the precedent in that a defendant charged as an accessory before the fact to murder cannot be subject to capital punishment as a principal;

(b) Kelly v. Ozmint, 7<sup>th</sup> Cir. Court of Common Pleas and S.C. Sup.Ct.; 5/24/06, cert. den.

Affirming Circuit Court's grant of relief (no reported decision). This case established a number of significant constitutional claims, including the constitutional mandate that race cannot play any part of the prosecutorial decision to seek the death penalty;

(c) Von Dohlen v. State, 360 S.C. 598, 602 S.E.2d 738 (2004)

First S.C. Supreme Court case which adopted, interpreted and applied the U.S. Supreme Court recent precedent of Wiggins v. Smith, 539 U.S. 510 (2003);

(d) U.S. v. Reid, 523 F.3d 310 (4<sup>th</sup> Cir. 2008). I represented defendant at trial. While the appeal was unsuccessful for the defendant, it established important sentencing principles in federal court;

(e) Blakeney v. Branker, appeal pending in 4<sup>th</sup> Circuit Court of Appeals. This was a complicated capital post-conviction case in U.S. District Court in

- N.C. involving race issues in jury selection, ineffective assistance of counsel at sentencing, and discovery issues.
20. List up to five civil appeals that you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported.
    - (a) Charping v. Ozmint, Mem. Op. 2006-MO-02 (S.C., July 3, 2006), affirming Circuit Court's grant of relief.;
    - (b) Kelly v. Ozmint, 7<sup>th</sup> Cir. Court of Common Pleas and S.C. Sup.Ct. 5/24/06, cert. den., affirming Circuit Court's grant of relief.;
    - (c) Von Dohlen v. State, 360 S.C. 598, 602 S.E.2d 738 (2004) See # 19 above.;
    - (d) Lawrence v. State, 1<sup>st</sup> Circuit Court of Common Pleas and S.C. Sup. Ct. 8/08, cert. den., affirming Circuit Court's grant of relief. (pro bono);
    - (e) Credell v. State, appeal pending from 1<sup>st</sup> Circuit Court of Common Pleas S.C. Supreme Court. (pro bono).
  21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported. Please attach one copy of briefs filed by you in each matter.
    - (a) State v. (Rita) Bixby, 373 S.C. 74, 644 S.E.2d 54 (2007) See # 19 above.;
    - (b) State v. Crisp, 362 S.C. 412, 608 S.E.2d 429 (2005) Established the parameters for Circuit Court in accepting a guilty plea in a capital case. (I was appointed by the S.C. Supreme Court and served pro bono in this appeal).;
    - (c) State v. Cockerham, 294 S.C. 380, 365 S.E.2d 22 (19988) Established 5<sup>th</sup> Amendment protections for the defendant as applied to the prosecutor's closing argument. (brief no longer available due to age of case; may be requested from S.C. Supreme Court library if necessary).
  22. Have you ever held judicial office? No.
  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. Not Applicable (N/A).
  24. Have you ever held public office other than judicial office? If so, list the periods of your service, the office or offices involved, and whether you were elected or appointed. Also, state whether or not you have timely filed your report with the State Ethics Commission during the period you held public office. If not, were you ever subject to a penalty?  
All offices below were appointed. Reports were timely filed with State Ethics Comm., and I was never subject to penalty.
    - (a) Commission Member, S.C. Comm. on Indigent Defense: 2006-07;
    - (b) Chair, Appellate Defense Comm.: 1990-98;
    - (c) Commission Member, S.C. Sentencing Guidelines Comm.: 1990-96;
    - (d) Zoning Board of Appeals, City of North Myrtle Beach, S.C.: 1989-92.

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. N/A.
26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office? No.
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? Explain the nature of the business, your duties, and the term of your service.  
No (other than my own self-employed law firm since 1999).
29. A complete, current financial net worth statement was provided to the Commission.
30. Describe any financial arrangements or business relationships that 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? No.
34. Have you ever been sued, either personally or professionally? No.
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. None.

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. None.
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? No.
43. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No.
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.
  - (a) S.C. Bar;
  - (b) N.C. Bar;
  - (c) S.C. Assn. of Criminal Defense Lawyers;
  - (d) Calhoun County Bar;
  - (e) Richland County Bar;
  - (f) American Society of Trial Consultants;
  - (g) Formerly a member of the S.C. Public Defender Assn., and served as President from 1990-96.
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.
  - (a) Scoutmaster, Boy Scouts of America, Troop 397, Asbury Methodist Church, 2005-Present.;
  - (b) Asst. Clinical Professor of Neuropsychiatry and Behavioral Science, USC School of Medicine, 1999-Present. (serve pro bono);



- (c) Former Board Member, Domestic Abuse Center.
48. Provide any other information which 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. This information may include how your life experiences have affected or influenced the kind or type of judge you have been or plan to be.
- (a) I am an Eagle Scout and registered member of the Boy Scouts of America (BSA) for over 20 years. I am a member of the honored society in BSA of the Order of the Arrow, as a Vigil Honor member. I have been through adult "Woodbadge" training which centers on group and leader dynamics. Boy Scouts is a very big part of my life, and the Boy Scout Oath and Law guide my life;
- (b) Awarded Pro Bono Attorney of the Year by the SC Bar (1/26/06) for 2005. I donate more than 100 pro bono hours annually;
- (c) Moot Court judge at the USC-School of Law for numerous years;
- (d) Victim Outreach training, along with Restorative Justice training, as noted above, has sensitized me to the needs of victims and victims' families.
49. References:
- (a) Hon. David Pascoe  
Solicitor, First Judicial Circuit  
P.O. Box 1525  
Orangeburg, S.C. 29116  
(803) 533-6252;
- (b) Hon. Mark Leiendecker  
Chief Public Defender  
First Judicial Circuit  
107 W. 6<sup>th</sup> North St.  
Summerville, S.C. 29483  
(843) 851-0072;
- (c) Joseph L. Savitz, III  
Chief Attorney  
Office of Appellate Defense  
1330 Lady St., Ste. 401  
Columbia, S.C. 29201  
(803) 734-1330;
- (d) Carl B. Grant, Attorney At Law  
P.O. Box 1203  
Orangeburg, S.C. 29116  
(803) 536-4011;
- (e) Ms. Amy Hernandez  
Asst. VP., First Citizens Bank  
2600 Rosewood Dr.  
Columbia, S.C. 29205

(803) 931-8689.

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.

S/Jeffrey P. Bloom

Date: 09/26/08

*Amended Copy*

49. List the **names, addresses, and telephone numbers** of five persons, including your banker, from whom references could be obtained.
- (a) Charlie Johnson, Asst. Solicitor, First Judicial Circuit, P.O. Box 1525, Orangeburg, S.C., 29116. # (803) 533-6252.
  - (b) Hon. Mark Leindecker, Chief Public Defender, First Judicial Circuit, 107 W. 6<sup>th</sup> North St., Summerville, S.C., 29483. # (843) 851-0072
  - (c) Joseph L. Savitz, III, Chief Attorney, Office of Appellate Defense, 1330 Lady St., Su. 401, Columbia, S.C., 29201. # (803) 734-1330.
  - (d) Carl B. Grant, Attorney At Law, P.O. Box 1203, Orangeburg, S.C., 29116. # (803) 536-4011.
  - (e) Ms. Rachel Smith, Asst. VP. First Citizens Bank, 2600 Rosewood Dr., Columbia, S.C. 29205. # (803) 931-8689.

Please note:

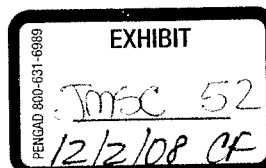
- (a) **Furnish to the Commission letters of recommendation from each person listed above.** While the Commission does not require receipt of these letters of recommendation at the application deadline (Noon on Friday, September 26, 2008), these letters of recommendation must be received within two weeks after the deadline or no later than **Noon on Friday, October 10, 2008.**
- (b) The letter from your banker should relate to whether you are a "customer in good standing" with the bank.
- (c) If you are currently a sitting judge, do not submit letters of recommendation from an attorney who will appear before you.

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

Signature:       /s Jeffrey P. Bloom      

Date:       September 26, 2008      

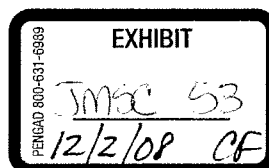


JUDICIAL MERIT SELECTION COMMISSION  
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court  
(New Candidate)

Full Name: Jeffrey P. Bloom  
Business Address: 1911 Pickens St.  
Columbia, SC, 29201  
Business Telephone: (803) 256-7001

1. Why do you want to serve as a Circuit Court judge?  
I have spent more than 20 years in the court system of South Carolina all over this wonderful state. I can think of no higher honor than to serve as a Circuit Court Judge in the daily administration of justice. My experience as a former Public Defender, and in private practice for almost 10 years, is a positive background for the effective and fair administration of justice.
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?  
It would depend on the length of my service as a Circuit Court Judge.
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 should occur except as authorized by statute or case law.
6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?  
Given my prior history and lack of any inherent conflicts, there would probably be few potential recusal situations. But where such situations did arise, I would have no problem in recusing myself if the circumstances warranted it.
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 notify the parties of any potential bias or conflict, and if one party moved to recuse me on that basis, I would not hesitate to grant such motion and let another Circuit Court Judge hear the matter.



8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?  
I have few close relatives involved in the judicial system, so that this hypothetical is unlikely. But in this event, I would not hesitate to recuse myself if any such appearance of impropriety had merit.
9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?  
I would not accept gifts.
10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?  
Under the binding ethical rules, I would report it if reporting were mandated. If reporting were not mandated, then I would assess the situation and either counsel the person and/or report it if the circumstances warranted, depending upon the nature of the misconduct.
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?  
I would prefer to draft my own orders. If that was not practical in a particular case, then I would require that one party draft the order and submit it to the opposing party for review and any objections.
14. If elected, what methods would you use to ensure that you and your staff meet deadlines?  
I maintain a strict calendar of deadlines. In this vein, federal court has been very instructive in teaching me the importance and necessity of calendaring and meeting deadlines.
15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?  
The legislature establishes policy. The trial court implements the laws. The S.C. Appellate and Supreme Court interpret such laws and provide guidance.
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 participate in mock trials with the law school. I would also be available to lecture at the law school and at Bar sponsored CLE's on appropriate topics. I have a long history of teaching and lecturing.
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?

None whatsoever. My children are grown, and I am (unfortunately) divorced so that such matters do not currently impact on my professional life.

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:  
The legislature has provided for specific sentencing of this class of offenders. I would not hesitate to sentence within such structures.
  - b. Juveniles (that have been waived to the circuit court):  
I would look to the Family Court Order of transfer and background investigation report for some guidance. I would of course also look to the nature of the offense, the extent of harm to the victim(s), and the presentation of the parties as to the particular circumstances of the individual case. I would not hesitate, though, to sentence a juvenile as an adult since our S.C. Supreme Court has established precedent in this area.
  - c. White collar criminals:  
I would look to the harm done to society and the particular victims. I would rely on the nature of the offense and the presentation of the parties as to the particular circumstances of the individual case.
  - d. Defendants with a socially and/or economically disadvantaged background:  
While this information can be a mitigating factor, as in the federal system it does not result in an automatic reduction of a sentence. As a former public defender, I have heard all the stories and excuses and would not hesitate to sentence an offender accordingly based on the offense, harm to the victim(s), and presentation of the parties as to the particular circumstances of the individual case.
  - e. Elderly defendants or those with some infirmity:  
While this information can be a mitigating factor, as in the federal system it does not result in an automatic reduction of a sentence. Again, as a former public defender, I have heard all the stories and excuses and would not hesitate to sentence an offender accordingly based on the offense, harm to the victim(s), and presentation of the parties as to the particular circumstances of the individual case.
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?

Probably not. However, I would need to review the information which applied, and apprise the parties of the matter and decide accordingly. For example, if Wachovia Bank was involved as a party – where I have my retirement accounts – I would apprise the parties and listen to any objections on the matter, and depending upon the nature of the action, the issues involves, decide accordingly.

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?  
A judge should be a listener to all the parties, and not be verbally abusive in any manner whatsoever. I have tried to live my life humbly, and according to the Scout Oath and Law, and would not verbally abuse or try to domineer any party. Of course, a judge must maintain order and decorum and control in all proceedings. I have been fortunate in my 20+ years' of legal practice in that I have had the opportunity to appear before judges all across our state. This has allowed me to observe and appreciate the appropriate demeanor of certain very respected judges and the positive effects such a demeanor has on the judicial proceedings at hand.
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?  
The BSA Oath and Law apply 24/7, and so a Judge's demeanor and behavior applies 24/7 as well.
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?  
Anger is not an appropriate emotion in any proceeding. A Judge, in warranted circumstances, may exhibit and communicate strong displeasure and disagreement in the strongest terms, and also has the power of contempt of court. But actual anger would seem to have no place in a judicial proceeding, and would also appear to infect the proceeding with potential prejudice – which would then subject the proceeding to unnecessary judicial review from an appellate court.
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. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office?  
N/A.

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.

s/Jeffrey P. Bloom \_\_\_\_\_  
Sworn to before me this 26<sup>th</sup> day of September, 2008.  
Notary Public for S.C.  
My Commission Expires:12-14-09 \_\_\_\_\_