



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

**Retired Judge**

Full Name: Timothy H. Pogue

Business Address: Physical: 2515 East Highway 76, Marion, SC 29571  
Mailing: PO Box 63, Marion, SC 29571

Business Telephone: 843-275-6113 or 843-423-5141

1. Have you met the mandatory minimum hours requirement for continuing legal education courses for the past reporting period? Yes
2. Do you have any plans to return to private practice? No
3. Are you engaged in any legal activities other than your service as a retired judge, such as acting as an arbitrator or mediator? Yes, I am doing Family Court mediations under the name of Pogue Mediation Services, LLC.
4. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality? No
5. Are you a member of any organization or association that, by policy or practice, prohibits or limits its membership on the basis of race, sex, religion, or national origin? If so, please identify the entity and explain if this organization practices invidious discrimination on any basis. No
6. Have you engaged in any partisan political activity since your retirement? Please describe. No

7. What do you feel is the appropriate demeanor for a judge? When do these rules apply? Canon 3(B) (3), (4), and (5) of the Code of Judicial Conduct, and also the Judge's Oath taken by me, provide the guidelines I feel are the appropriate for a judge to follow. Referring to those guidelines, I feel I need to be patient, courteous, dignified, non-biased or prejudicial, and prompt. A judge should require similar conduct of the lawyers and litigants who come before the judge and of the judge's staff, court officials, and others subject to the judge's direction and control. The judge should also require order and proper decorum in proceedings brought before him or her.
  
8. In your position as a retired judge, what methods do you employ to ensure that deadlines for the timely issuance of orders are met?  
I personally, am a stickler for orders being issued timely. Family Court Rule 26 (c) states "Except under exceptional circumstances, an order in a domestic relations case shall (emphasis added) be issued as soon as possible after the hearing, but no later than thirty days thereafter." I am a firm believer in that rule as most of the attorneys in South Carolina will tell you. I come to my office most Saturdays and if I have not received the order within three weeks I will email the attorney of the same and the vast majority of the time order will be signed within the thirty days set by the Rule.
  
9. 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? Anger is never appropriate with a member of the public, criminal defendants, attorneys, self-represented litigants, or anyone in the courtroom. My practice has always been to explain the proceedings at the beginning of a hearing and tell the litigants, lawyers, and the others in attendance that this is a real courtroom, with real people, with real problems and not TV court where people can interrupt each other, roll their eyes, shake their heads, react to testimony, have outbursts, etc. I explain that this applies to the litigants and the members in the audience. I find that when this is calmly but firmly explained to all in attendance at the beginning of the hearing things normally run fairly well. If a litigant, witness, or someone in the gallery continues to violate or abuse the expectations previously announced by the judge, then the judge has various other ways to deal with this conduct other than anger.

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

Canon 3.D(1) of the Code of Judicial Conduct differentiates between "having knowledge" and receiving "information indicating a substantial likelihood" that another judge has committed a violation of the Code of Judicial Conduct. If a judge receives information indicating a substantial likelihood that another judge has committed a violation of the Code, then the judge should take appropriate action. If the judge has knowledge that another judge has committed a violation of the Code that raises a substantial question as to the other judge's fitness for office, then the judge with such knowledge shall inform the appropriate authority.

Canon 3.D(2) sets out the same action for a judge to take if he or she receives information indicating a strong likelihood that a lawyer has violated the Rule of Professional Conduct as opposed to a judge having knowledge 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. If a judge has knowledge of such he or she shall inform the appropriate authority.

Canon 3.G. deals with the appearance of infirmity of a lawyer or fellow judge. It states: "A judge having a reasonable belief that the performance of a lawyer or another judge is impaired by drugs or alcohol, or by a mental, emotional, or physical condition, shall take appropriate action, which may include a confidential referral to an appropriate lawyer or judicial assistance program."

11. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated? I feel strongly that there should be no *ex parte* communications between a judge and a lawyer, litigant, or anyone concerning a pending or impending case, except those allowable by our South Carolina Rules of Civil Procedure or under the Canons of Judicial Ethics. If an attorney desires for me to entertain any type of *ex parte* order he or she shall do so only by a properly verified *ex parte* complaint, setting out the emergency nature of the action and why he or she feels an *ex parte* order is appropriate. If the emergency conditions warrant an *ex parte* order, I will make sure the matter is set for an emergency hearing allowing both parties to be present. Neither my administrative assistant nor I will talk with someone on the phone, or in person, nor offer legal advice of any kind about a pending or possibly future case. I make every effort to

fully comply with Canon 3(B)(7)(a)i)(ii) as it pertains to initiating, permitting, or considering ex parte communications.

12. 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 probably grant the motion for the reason that a judge should disqualify himself in a proceeding in which the judge's impartiality might reasonably be questioned. Also, I would probably grant the motion because a judge should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. I would avoid any hint of impropriety by granting the motion.
  
13. What standards have you set for yourself regarding the acceptance of gifts or social hospitality? I do not accept gifts or social hospitality from anyone other than family or closest friends with which currently have a social relationship, or those allowed under Canon 4(D)(5)(a)-(i) including but not limited to, ordinary social hospitality and gifts that are commensurate with the occasion and the relationship.
  
14. In order that we might advise court administration on steps that need to be taken, are there any limitations on your sight, hearing, or mobility that should be addressed by the court administrator? None

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

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Sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print name)

Notary Public for South Carolina

My Commission Expires: \_\_\_\_\_