

Durham for All

2018 Judicial Candidate Questionnaire

Pretrial Release

1. Do you believe that Durham County judges currently rely on secured bonds too heavily, not heavily enough, or approximately correctly in setting conditions of pretrial release?

The North Carolina Code of Judicial Conduct prohibits judges from answering any question which may be used to diminish the integrity of the judiciary; however, the law prescribes the presumptive bond is an unsecured bond unless there is a finding of facts by the Court that the accused poses a risk to the community, limited community ties, or a history of failures to appears.

2. Do you believe that the current use of secured bonds disproportionately impacts the poor and people of color? If so, do you believe that a judge should adopt practices to ameliorate this result? What practices would be helpful?

Poverty effects people of color. Secured bonds require those charged with an offense to pay a bondman to be released. The presumptive bond is an unsecured bond. The presumptive bond for all nonviolent misdemeanors and nonviolent felonies should be unsecured when there are facts presents showing the defendant is not a threat to the community, does not have a history of failures to appear, has a positive employment history, and strong ties to the community.

3. Do you believe the current jail population in Durham County is not large enough, larger than it needs to be, or about right?

Our current jail population is lower than is has been in years. If a person is not serving an active sentence or a CRV, the person should not be in jail. The bond should be unsecured unless the person poses a threat to the community, lack community ties, or has a history to failing to appear for court.

4. Do you believe that a bond schedule, in which specific charges correspond to a presumptive secured bond amount, is a tool judges should use in setting conditions of pretrial release? Why or why not? If you favor the use of a bond schedule, under what circumstances do you believe it should be followed or not followed?

I believe the court should operate with a presumptive bond schedule detailing a range for an appropriate bond; however, there should be a rebuttable presumption to allow the court to deviate from the guidelines if mitigating factors are presented to the court to impose less restrictive conditions. I will rely on my 13 years of experience as an assistant public defendant and 2 years as an

assistant district attorney to set an appropriate bond support by the law. I will balance protecting the community while acknowledging everyone is innocent until proven guilty. I will promote pretrial programs over jail.

5. What changes, if any, would you like to see in our local pretrial release policy? Do you believe that it is appropriate to presume release for all misdemeanors not involving domestic violence? What about low-level, non-violent felonies?

I am an advocate for expanding our pretrial release programs. Absent a history of failures to appear, the bond for nonviolent misdemeanors and low level nonviolent felonies will be unsecured. I would not presume release for domestic violence, any violent misdemeanors, or misdemeanors involving sexual battery.

6. Would you support a policy in which judges re-set cases involving misdemeanors and Class H/I felonies with notice to the defendant, rather than issuing a warrant, upon a first missed court date?

I would not support a policy to reset all misdemeanors and Class H felonies with notice to the defendant rather than issuing a warrant if there is a victim present, the misdemeanor or felony involves a violent crime, DUI, or any crime involving domestic violence. I would favor a policy to allow the defendant to provide a reasoning for the missed court date for the Court ruling on the reason to recall the warrant. I would expand our blue sheet policy. Currently, the defendant is only allowed to use the blue sheet to strike a failure to appear once. I would allow the multiple use to be addressed at the discretion of the presiding judge.

7. What is your position on the Automated Notification System that sends text messages or phone calls to remind people of upcoming court dates? Do you believe it is effective or ineffective? Would you support the expansion of this program?

I support the use and expansion of the Automated Notification System; however, we need to educate people of the purpose of the program is to inform of court dates to avoid the issues of arrest warrants. Currently the system is ineffective. Many people believed the system stored their telephone numbers for law enforcement. I would advocate modifying the system to allow people to call the system and receive notices by dialing the last four or five numbers of the case file.

8. Under what circumstances do you believe that it is appropriate to set a cash-only bond as an alternative to a secured bond? Do you believe that bondspeople should be utilized in all or most cases where a monetary condition is imposed to help assure an individual's presence in court? Why or why not?

If a person is charged with a drug trafficking or human trafficking and there are findings that the person has extensive financial resources and limited ties to the community, it may be appropriate to set a cash bond as an alternative to a

secured bond. Most cases before the court are nonviolent misdemeanors and nonviolent low felonies. The presumptive bond for a nonviolent misdemeanor and nonviolent low level felonies should be an unsecured bond. The service of a bondman should be needed.

9. Do you prefer the money bail systems in states such as Kentucky and Massachusetts, where money bail is posted directly with the clerk of court and returned when the case is resolved, or the manner in which secured bonds are generally handled in North Carolina, where individuals pay a non-refundable premium to a bondsperson?

The North Carolina Rules of Professional Responsibility provides a lawyer who is a candidate for judicial office shall comply with the applicable provisions of the Code of Judicial Conduct. The North Carolina Code of Judicial Conduct prohibits judges from commenting on cases and controversies addressing North Carolina Law and from cases commenting on cases that are pending. I will be bound to address bail under our current system. I believe the presumptive bond for all nonviolent misdemeanors and nonviolent low level felonies should be unsecured. Money should not be the sole reason someone remains in custody. In both the Kentucky and Massachusetts models, if it is determined that bail should be set, money is required.

10. Do you support abolishing money bail? Why or why not?

I think the time is ripe to address our bonding system. Money should not be the sole reason an individual is incarcerated. I know bondsmen in Durham who are willing to work with the accused and their family to structure a payment plan for the accused release; however, in other parts of the United States, individuals are being held solely because they do not have money. Critics of no cash bond argue it is a money shifting program that allows judges too much discretion based on their personal experiences or rely on algorithms. I cannot say I support abolishing money bail in North Carolina. I support a system for an unsecured bond for nonviolent misdemeanors and nonviolent low level felonies. We need to fix our current system to reduce/eliminate confinement solely based on a defendant's inability to pay a bond absent in finding of fact that the accused is a threat to the community, has history of failures to appear, no employment history, and has no ties to the community.

11. Is it important for a judge to impose the least restrictive conditions of pretrial release possible to secure public safety, or are you more inclined to err on the side of imposing greater restrictions? Why or why not? How would you determine what conditions are necessary and appropriate?

Judges have to listen all the facts that are presented at the time of the hearing and impose conditions to ensure the community is protected while understanding an individual is innocent until proven guilty. The law prescribes judges to impose the least restrictive conditions of pretrial release to secure the safety to the community. Using my 15 years of experience in the court system as an assistant public defender and as a district attorney, I would listen to the facts, not rhetoric, and apply an appropriate pretrial conditions balance the accused presumption of innocence with protecting the safety of the community.

Sentencing

1. Some commentators have argued that there is a problem of mass incarceration in the country generally and in North Carolina specifically. Do you agree or disagree? Why?

There is a problem with mass incarceration in the United States and in North Carolina. Statistics show the United States incarcerates more people than any other industrialized country and North Carolina ranks in the top 50 percent of all other States. Our county has shifted away from treatment to warehousing.

2. If you believe that the level of post-sentencing incarceration is too high, have the practices of Durham County judges contributed to this problem? If so, what would be different about your policies and practices? What role do you believe judges can or should play in rolling back incarceration levels?

The North Carolina Rules of Professional Responsibility provides a lawyer who is a candidate for judicial office shall comply with the applicable provisions of the Code of Judicial Conduct. The North Carolina Code of Judicial Conduct prohibits judges from answering any question which may be used to diminish the integrity of the judiciary. As I judge, I would treat everyone with dignity and respect to ensure there is equal justice for all. Punishment should be the least restriction to protect the citizens of our society while attempting to deter the behavior or provide treatment of the behavior.

3. Do you believe that individuals in Durham County are being punished too harshly as habitual offenders? Why or why not? If so, under what circumstances?

The North Carolina Code of Judicial Conduct prohibits judges from answering any question which may be used to diminish the integrity of the judiciary. As a judge, I will be a progressive judge focused on equality for all while treating every defendant with dignity and respect.

4. Do you believe that there are particular types of offenses or individuals in Durham County that are generally punished too severely or too leniently? Which offenses or which individuals and why?

The North Carolina Rules of Professional Responsibility provides a lawyer who is a candidate for judicial office shall comply with the applicable provisions of the Code of Judicial Conduct. The North Carolina Code of Judicial Conduct prohibits judges from commenting on cases and controversies addressing North Carolina Law and from cases commenting on cases that are pending. As a judge, I would focus on equality for all citizens and ensure everyone is treated with dignity and respect. Poverty is not a reason to punish. We cannot continue to criminalize anyone inability to pay without a finding that the person has the present ability to pay.

5. How important do you believe mitigating factors are in determining an appropriate sentence? Are there particular mitigating factors that you believe are important to consider? If so, which ones? How should these factors be weighed against the nature of the offense itself?

Mitigating factors are important in determining sentencing. All factors should be considered. If the mitigating factors outweighs any aggravating factors, a mitigated sentence shall be imposed. Justice should be tempered with mercy.

Fines & Fees

1. Do you believe that judges should assess a defendant's ability to pay before setting a fine or fee? What is your opinion of the policy [adopted](#) by District Court judges in Mecklenburg County, where the judge waives court costs if a defendant meets a standardized threshold of indigency?

Judges should assess a defendant's ability to pay before setting a fine or fee. I agree with the policy adopted in Mecklenburg County. Poverty should never be the reason to jail anyone.

2. Should a judge consider whether a person presently has the ability to pay a purge, or is able to take reasonable measures in the immediate future to do so, before incarcerating that individual for civil contempt? Do you believe that a court should require an individual to ask relatives or others who have no legal obligation to pay the individual's debts to meet a required payment schedule? Why or why not?

The court should consider a person present ability to pay a purge before incarcerating an individual for civil contempt.

In limited circumstances where an individual is circumventing his income and allowing others to provide for their financial wellbeing contrary to the providing to the needs to the child, the Court should require an individual to ask relatives or others who have no legal obligation to pay the individual's debts to meet a required payment schedule if the individual is relying on relatives or others to

satisfy their personal obligations. Without those finding, it is the individual's obligation alone based on their present ability to pay.

3. In what types of circumstances, if ever, is it appropriate to impose jail fees? Does it vary according to the type of crime, the financial circumstances of the defendant, or any other factors?

If the Court determines the individual has the financial ability to pay the jail fees, the fees should be awarded regardless of the type of crime. If the Court determines the individual does not have the financial ability to pay the jail fees, the fees should be remitted regardless of the type of crime.

4. Are you aware of whether or not the current judicial system collects more money through costs and fees than is necessary for its reasonable overhead? If it does, do you think that this method of general fundraising is a problem, or do you believe it is appropriate for the State government to cover other costs through this funding source? If you do believe it is inappropriate for the State to raise general funds in this manner, should a judge adopt practices and policies to ameliorate the problem? Finally, do you believe that it is appropriate for costs and fees to cover overhead for the judicial system, or are such legal financial obligations more properly classified as fines, in that they constitute punishment?

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Probation Responses

1. What do you believe are the appropriate sets of responses for a positive drug screen for marijuana while an individual is on supervised probation?

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may be used to diminish the integrity of the judiciary. I am a proponent of treatment over incarceration. Probation should provide the tools to rehabilitate a justice involved citizen to a pathway to become a productive citizen.

2. Do you believe Durham County probation officers are making appropriate use of 2-3 day punishments in the county jail (“dips” under the Justice Reinvestment Act)? Should they be used more or less and why?

Quick dips are used freely. Durham County probation officers are requesting extension and community service more often than quick dips. The Justice Reinvestment Act allows officers to take “dips” without having a hearing before the court and without the offender having assigned counsel. I am a proponent of hearing for anyone is jailed and would not delegate the authority to the department of probation and parole.

3. In your opinion, what is the best manner to handle technical violations of probation (those not involving formal charges for a new offense)? What should a judge try to accomplish in choosing from an array of possible responses?

Technical violations should be handled with the least restrictive sanction to avoid incarceration. The goal should be to get the offender on the path to becoming a productive citizen and a contributing member of our society.

Diversions

1. Do you believe that is it appropriate to impose monetary conditions in connection with participation in a diversion program? Why or why not?

Yes, if there is a determination an individual has the ability to pay

2. What is the appropriate response to an individual who is unable to pay for the drug treatment required by the terms of his or her supervision?

The Department of Probation and Parole allows an individual to complete the treatment if the person is unable to pay. If a violation report is filed, and the person as completed the assessment, the fee shall be remitted if a finding is made the person is unable to pay.

3. What is the appropriate response where a supervised individual is unable to pay the community service fee of \$250 but completes the requisite community service?

The fee should be remitted if the court makes a finding that the individual is unable to pay.

4. Do you believe that an individual should get the benefit of a deferral or conditional discharge where the individual has complied with all requirements of

the program other than those that require money, and the individual does not have the ability to pay the amount required? Why or why not?

Yes, unless the basis of the deferred is monetary and the money is owned to a private citizen. Money should not be the sole reason to lose the opportunity of successfully completing a deferral or conditional discharge.

5. Do you believe that the current age limitation on Durham's pre-charge diversion program (only individuals between the ages of 16 and 21 are eligible) should be expanded or abolished? Why or why not?

Pre-charge diversion programs are designed to provide an opportunity to maintain a clean criminal record and to avoid the collateral consequences of a criminal convictions. I am in favor of expanding the age to include all those who are eligible.

6. Do you believe Durham's pre-charge diversion program, which is limited to misdemeanors (not including traffic, gun, or sexual offenses), should be expanded to include other types of offenses? If so, which ones?

I am in favor of expanding the Durham pre-charge diversion program to include other types of offenses like nonviolent felony offenses like obtaining property by false pretenses and removing anti-theft device.

7. Should pre-charge diversion be available to individuals with some prior criminal history, or only those with no record of convictions or arrests? Why or why not?

I am a proponent of pre-charge diversion for those with no criminal convictions. The aim of the program is to avoid a criminal conviction. There are other diversionary programs to address those with criminal records.

Mental Health and Substance Abuse

1. As a general matter, are there any criminal charges that you believe should be treated as primarily public health concerns rather than criminal justice concerns? Why or why not? Which charges and/or individual circumstances do you believe should be considered or addressed differently than they currently are? What changes would you make to the way that drug possession and drug distribution charges are handled in our criminal courts?

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be treated fairly and with dignity and respect regardless of the crime being accused. Treatment should outweigh incarceration with the goal of having productive and contributing members of our society.

2. Do you believe our county's use of mental health and drug treatment courts should be expanded? Why or why not?

Our country missed the mark in the late 1980's and 1990's by incarcerating instead of providing treatment for those addicted to crack cocaine. Our country has never adequately funded mental health treatment. The use of mental health and drug treatment courts should be expanded.

Juvenile Justice

1. Should cases involving 16- and 17-year-olds be handled differently than adult cases prior to "Raise the Age" going into effect December 1, 2019? If so, how?

No. Judges are bound to follow the law as codified at the time of the offense.

2. Should a judge take any steps to give meaning to this law prior to the effective date? Why or why not? If so, how?

No. Judges are bound to follow the law as codified at the time of the offense.

3. In sentencing individuals under the age of 25, do you believe recent studies in neuroscience showing that individuals do not reach full maturity with regards to rational decision-making and emotional development until their mid-twenties are relevant to the choice of sentence? Why or why not? If you do, how would you use this science in selecting an appropriate sentence?

It is relevant as a mitigating factor for sentencing. North Carolina General Statute 15A-1340-16(a)(3) allows for a mitigating factor in sentencing is the defendant suffered from a mental or physical condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense and 15A-1340-16(a)(4) the defendant's age, immaturity, or limited mental capacity at the time of commission of the offense significantly reduced the defendant's culpability for the offense.

Immigration

1. A key issue in the recent primary race for Durham County Sheriff was whether to honor ICE detainers at the County jail. Candidate Clarence Birkhead stated that he would not honor ICE detainers in the absence of a judicial warrant, [stating](#) there was "nothing in the federal law that says I must participate." What is your position on the legality of holding individuals pursuant to an administrative warrant signed by an immigration officer rather than by a judicial official?

I agree 100% with Mr. Birkhead. Ice detainers should not be honored in the absence of a judicial warrant. I don't feel administrative warrants signed by an immigration officer should be honored.

Public Support for Criminal Justice Policy Change

1. Would you commit to being part of a multi-agency group of public officials tasked with designing coordinated policies for dismantling mass incarceration and racial inequities in Durham's criminal justice system?

Barring no issues the Judicial Standards and my schedule, I will commit.

2. Chief Justice Martin recently gave public voice to his support for Raise the Age legislation. Do you believe it is appropriate for District or Superior Court judges to similarly voice support for legislation affecting the criminal justice system? If so, what changes to our current criminal justice laws would you publicly support?

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3. Would you publicly support the bill recently introduced to decriminalize possession of less than four ounces of marijuana?

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Other

1. Is there anything else you would like to tell us about you that you believe makes your candidacy unique?

I was born in North Charleston, South Carolina. I was raised by a single mother with limited financial resources, but we could always rely on our grandparents and uncles to fulfill our needs. Growing up in a conservative state, my mother instilled in me that if I focused on my academics and developed a strong work ethic, my dreams would come true. I attended public schools and enrolled into the University of South Carolina. I majored in Criminal Justice and minored in Business Administration. I graduated magna cum laude in 2000. In August 2000, I moved to Durham North Carolina to attend North Carolina Central University School of Law.

Durham, North Carolina was a hidden land of opportunity for me. We had an African American chief of police, chief district court judge, senior resident of superior court, and chief public defender. I learned Durham, North Carolina has a rich history successful African Americans. In July 2003, I successfully passed the North Carolina Bar Exam and was hired as an Assistant Public Defender in September 2003. As an Assistant Public Defender, I represented indigent defendants accused of crimes by advocating to ensure their constitutional rights were protected. I started my career handling misdemeanors and low level felonies in district court along with representing respondents in show cause actions for failure to pay child support. I represented juveniles in youth drug treatment court to advocate treatment over training school. After learning how to manage a misdemeanor caseload with numerous bench and jury trials, my caseload progressed to include robberies, drugs, and homicide cases. I served the citizens of Durham as an Assistant Public Defender for 12 ½ years.

In April 2016, I was offered an opportunity to work with the Durham County District Attorneys' Office to prosecute violent crimes. Over the past two years I have managed a caseload of over 200 defendants charged with robberies and homicides. Along with prosecuting violent crimes, I have been serving as the Assistant District Court Supervisor managing a daily docket of 150 – 200 misdemeanors and low level felonies. I have had the privilege of serving the citizens of Durham, North Carolina for the past 15 years practicing criminal law.

Clayton Jones: NC District Court Judge, District 14 Seat 5

The North Carolina Rules of Professional Responsibility bounds me to adhere to the North Carolina Code of Judicial Conduct which prohibits answering questions involving any pending legislation, cases, or forecasting how I would rule on any particular issues. My background, experience, and temperament will enable me to be an effective judge for Durham County. Durham deserves a judge who will show compassion for victims and defendants, who will equally and fairly administer justice to those accused of any crimes and those seeking civil relief, and who will treat all citizens with dignity and respect. It will be my honor to serve as your next district court judge.

Clayton Jones
For District Court Judge
PO Box 11035
Durham, North Carolina 27703
984-221-8543
Claytonjonesforjudge.com

EXPERIENCE

September 2003 – April 2016: Assistant Public Defender

Durham County Public Defenders' Office, Durham, North Carolina

My duties included representing indigent defendants charged with felony and misdemeanor offenses in Durham County Superior and District Courts. I managed a caseload of more than 100 cases that included defendants charged with murder, robberies, and other violent offenses. I represented defendants at every critical stage from the accused first appearance to disposition at trial. This included regularly interviewing clients and witnesses, conducting legal research, negotiating pleas and filing written motions in preparation for criminal trials.

April 2016 – Present: Assistant District Attorney

Durham County District Attorneys' Office, Durham, North Carolina

I manage and prosecute a caseload of more than 150 violent crimes of defendants charged with murder, robberies, and drug related offenses. I also serve as the assistant district court supervisor managing a docket of 200 plus misdemeanors and low level felonies on a daily basis.

EDUCATION

University of South Carolina, Columbia, South Carolina

Bachelor of Science, Criminal Justice

Minor in Business Administration

Graduated: Magna Cum Laude May 2000

North Carolina Central University School of Law, Durham, North Carolina

Juris Doctorate in Law

Graduated: May 2003

VOLUNTEER WORK

- Truancy Court Judge at Sheppard Middle School and W.G. Pearson Middle School
- Urban Ministries 410 Liberty Street, Durham NC 27701
- Mobile Market – Beta Phi Chapter - Omega Psi Phi Fraternity, Inc.
- Transportation Ministry, White Rock Baptist Church

ADDITIONAL HONORS AND ACTIVITIES

Member of Phi Beta Kappa

Member of 14th Judicial District Bar

Member of the Grievance Committee for the 14th Judicial District Bar

Member of the Nomination Committee for the 14th Judicial Bar

Member of Omega Psi Phi Fraternity Incorporated

Completed the National Criminal Defense College, Mercer University, Macon Georgia

Completed Felony Trial School; UNC School of Government Chapel Hill, NC

Clayton Jones: NC District Court Judge, District 14 Seat 5

Completed Race Equity Training

Doric 28 Prince Hall Masonry

Zafa Temple 176 AEAONMS