

Tennessee Judicial Nominating Commission
Application for Nomination to Judicial Office

Rev. 26 November 2012

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INTRODUCTION

Tennessee Code Annotated section 17-4-101 charges the Judicial Nominating Commission with assisting the Governor and the People of Tennessee in finding and appointing the best qualified candidates for judicial offices in this State. Please consider the Commission's responsibility in answering the questions in this application questionnaire. For example, when a question asks you to "describe" certain things, please provide a description that contains relevant information about the subject of the question, and, especially, that contains detailed information that demonstrates that you are qualified for the judicial office you seek. In order to properly evaluate your application, the Commission needs information about the range of your experience, the depth and breadth of your legal knowledge, and your personal traits such as integrity, fairness, and work habits.

This document is available in word processing format from the Administrative Office of the Courts (telephone 800.448.7970 or 615.741.2687; website <http://www.tncourts.gov>). The Commission requests that applicants obtain the word processing form and respond directly on the form. Please respond in the box provided below each question. (The box will expand as you type in the word processing document.) Please read the separate instruction sheet prior to completing this document. Please submit the completed form to the Administrative Office of the Courts in paper format (with ink signature) *and* electronic format (either as an image or a word processing file and with electronic or scanned signature). Please submit fourteen (14) paper copies to the Administrative Office of the Courts. Please e-mail a digital copy to debra.hayes@tncourts.gov.

THIS APPLICATION IS OPEN TO PUBLIC INSPECTION AFTER YOU SUBMIT IT.

PROFESSIONAL BACKGROUND AND WORK EXPERIENCE

1. State your present employment.

Assistant District Attorney General, Shelby County, 30th Judicial District, Memphis

2. State the year you were licensed to practice law in Tennessee and give your Tennessee Board of Professional Responsibility number.

1995, BPR# 17347

3. List all states in which you have been licensed to practice law and include your bar number or identifying number for each state of admission. Indicate the date of licensure and whether the license is currently active. If not active, explain.

Tennessee, BPR# 17347, Oct. 1995, active license.

4. Have you ever been denied admission to, suspended or placed on inactive status by the Bar of any State? If so, explain. (This applies even if the denial was temporary).

No

5. List your professional or business employment/experience since the completion of your legal education. Also include here a description of any occupation, business, or profession other than the practice of law in which you have ever been engaged (excluding military service, which is covered by a separate question).

Assistant District Attorney General, Shelby County, January 2009 to Present

Criminal court trial assistant handling all matters – preliminary hearings, indictments, negotiations, trials - associated with cases assigned to the division of court. Trial assistant in divisions VI (Judge John Fowlkes) and X (Judge Jim Beasley, major violator court) until rotation into Grand Jury in 2011 to handle indictments and assist in advising police bureaus on legal issues. Have also provided assistance with capital post-conviction litigation. The Shelby County District Attorney has 100+ assistants covering ten divisions of criminal court, nine divisions of general sessions criminal court, juvenile court, and grand jury.

Assistant Shelby County Public Defender, June 1998 to December 2008

Appellate section with W. Mark Ward and Tony Brayton handling cases in the Tennessee appellate courts and U.S. Supreme Court (2000-2009). Handled 250+ appeals to the Court of Criminal Appeals and Tennessee Supreme Court. Each member of the appellate team was “partnered” with a trial lawyer on the capital defense team from initial intake with the client in all potential death penalty cases to assist with motion practice and make recommendations to preserve and/or develop potential appellate issues. Assisted 70+ lawyers with issue spotting, provided training and continuing legal education, worked on special projects for the Public Defender, and was a member of the speaker bureau created by then Public Defender A C Wharton Jr. to cover speaking engagements when Mr. Wharton was unavailable. Previously assigned as a trial attorney in the major violator/career criminal division (Judge Joseph Dailey) and to the general sessions felony team.

Private Practice, October 1995 to June 1998

Emphasis on criminal and family law, criminal cases which included appointments at trial, post-conviction, and appellate levels; co-counsel with W. Mark Ward on three appeals to Tennessee Supreme Court; contract research and brief writing for private attorneys.

Court Appointed Special Advocates (CASA), 1998

Part-time staff attorney at the Shelby County Juvenile Court, handled CASA’s contested terminations of parental rights cases at both trial and on appeal. Reported to then Executive Director Dan Michael.

Pro Bono Manager/Attorney, Memphis Area Legal Services (MALS), Aug. 1996-Mar. 1998

Reported to then Executive Director Karen Dennis. Managed pro bono program with 400+ volunteer attorneys, developed and managed model pro bono divorce clinics, provided legal representation and assistance to outreach clients (Friends for Life AIDS/HIV+ Support, YWCA Battered Women’s Program, Aloysius House [hospice], Homeless Shelters), developed pro se materials and obtained grant for SSI/SSDI Reconsideration Kits, developed and/or taught CLE for volunteer attorneys, outreach speaker for MALS (advance directives, family law, landlord-tenant law), developed collaborative grants for family law legal services 1998-99 with the Community Legal Center and University of Memphis Law School Legal Clinic, columnist for Memphis Bar Association’s monthly “Bar Essentials” magazine.

Pando Publications, Roswell, Georgia and Memphis, TN, 1990 to Present

Editor and co-owner with husband Andrew Bernstein of a company which publishes books and teaching materials on the card game of bridge. Wholesaler to book distributors/sellers and groups such as the American Contract Bridge League. I occasionally edit new material or ghost-write as necessary. Most recently worked on *Teach Me To Play, Volume 2*, a book aimed at teaching children ages 8 to 12 how to play bridge.

Devyn Press, Roswell, Georgia and Louisville, Kentucky, 1979-1990

Editor and part-owner with Andrew Bernstein and Randy Baron of a company which published 100+ titles (books, pamphlets, and teaching materials) on the card game of bridge.

Scientific-Atlanta, Inc., Atlanta, Georgia, 1982-1990

Senior Database Administrator at Fortune 500 engineering and communications company. Provided IBM mainframe system software implementation and database support, problem resolution, disaster recovery, Q&A, system security, and training for technical support, software development, and operations departments of the Management of Information Systems group.

6. If you have not been employed continuously since completion of your legal education, describe what you did during periods of unemployment in excess of six months.

N/A

7. Describe the nature of your present law practice, listing the major areas of law in which you practice and the percentage each constitutes of your total practice.

2009-2011: trial assistant in criminal courts, assigned to divisions VI and X. Division X is a major violator/vertical prosecution unit with cases handled by an individual prosecutor from preliminary hearing through indictment and trial. March 2011: Grand Jury assistant handling indictments and advising police bureaus. One hundred percent of my present practice deals with criminal law.

8. Describe generally your experience (over your entire time as a licensed attorney) in trial courts, appellate courts, administrative bodies, legislative or regulatory bodies, other forums, and/or transactional matters. In making your description, include information about the types of matters in which you have represented clients (e.g., information about whether you have handled criminal matters, civil matters, transactional matters, regulatory matters, etc.) and your own personal involvement and activities in the matters where you have been involved. In responding to this question, please be guided by the fact that in order to properly evaluate your application, the Commission needs information about your range of experience, your own personal work and work habits, and your work background, as your legal experience is a very important component of the evaluation required of the Commission. Please provide detailed information that will allow the Commission to evaluate your qualification for the judicial office for which you have applied. The failure to provide detailed information, especially in this question, will hamper the evaluation of your application. Also separately describe any matters of special note in trial courts, appellate courts, and administrative bodies.

My practice has been confined to criminal trial and appellate work (criminal court, general sessions criminal, juvenile court) and family law (legitimation, adoption, child support, divorce, protective orders, termination of parental rights, guardian ad litem practice in Probate, Circuit, Chancery and Juvenile Court). For the past fifteen years the vast majority of my work has been in the criminal courts as both a defense lawyer and prosecutor. I have extensive experience in

appellate work having handled 250 criminal appeals in the Court of Criminal Appeals and Tennessee Supreme Court.

I maintained an extensive pro bono practice from 1995 until I moved to the District Attorney in 2009 (prosecutors are not permitted to represent clients), handling cases for indigents or the working poor from Shelby County in civil cases (family law/restoration of civil rights/child support cases referred from the Probationer's Support Program started by Judge J.C. McLin, the Public Defender, Community Legal Center, and civil/criminal cases referred from the District Attorney's Mentor Program at Juvenile Court).

9. Also separately describe any matters of special note in trial courts, appellate courts, and administrative bodies.

Trial Courts:

The most significant trial court result for a client was *State v. Robert Hood*. On March 17, 2006, Judge Joseph Dailey (Division V, Shelby County Criminal Court), granted a Writ of Error *Corum Nobis* based upon newly discovered evidence, setting aside a death-penalty conviction already affirmed by the Court of Criminal Appeals and which was pending decision in the Tennessee Supreme Court. Mr. Hood was granted a new trial on that homicide and the State dismissed a second, unrelated capital case set to be tried in June 2006. The first case was then settled and Mr. Hood pled guilty to second degree murder before being returned to Colorado to serve two life sentences for murder.

Appellate Courts:

Rogers v. Tennessee, 532 U.S. 451 (2001)

Co-counsel (research, editing, preparation for oral argument) with lead counsel W. Mark Ward. This case involved a 1994 stabbing which led to the victim's death 15 months later. Tennessee then followed the common law year-and-a-day rule which required that a victim die within a year-and-a-day of the assault before the attacker could be convicted of homicide. The Tennessee Supreme Court abolished the rule and applied its decision retroactively, thereby upholding the homicide conviction. The case is significant because the United States Supreme Court fully analyzed the extent to which general *ex post facto* principles apply to judicial decisions through the Due Process Clause. *Rogers* held that the 14th Amendment prevents judicial decisions from retroactively changing the criminal law where the change is both unexpected and indefensible by reference to pertinent prior expressions of the law. In a 5-4 opinion, the Court held that the change was not unexpected and that its retroactive application did not violate the Due Process Clause.

Ahern v. Ahern, 15 S.W.3d 73 (Tenn. 2000)

Sole appellate counsel before Court of Appeals. At the Tennessee Supreme Court, I was co-counsel (wrote the brief) with W. Mark Ward. The Supreme Court made the case part of the Supreme Court's Advancing Legal Education for Students (SCALES) project.

The case involved questions of whether: (1) double jeopardy prevented the defendant's retrial for criminal contempt (non-payment of child support after testimony had been taken by one

judge and the case was then transferred to a second judge; and (2) whether the defendant was entitled to a jury trial when being tried for criminal contempt under T.C.A. sec. 29-9-102. The Court, citing double jeopardy protections, reversed the defendant's convictions and vacated his sentences, but held that he was not entitled to a jury trial under T.C.A. sec. 29-9-102.

State v. Stanley Boxley, 76 S.W.3d 381 (Tenn. Crim. App. 2002)

Sole appellate counsel. Defendant was convicted of felony murder and attempted aggravated robbery. The Court of Criminal Appeals reversed the convictions and dismissed the case finding (1) that there was insufficient evidence to corroborate the accomplice testimony, and (2) that defendant's due process rights were violated by the failure to fully disclose the terms of the plea agreements struck with the accomplice witnesses; the jury was misled by testimony concerning those agreements; and defendant had been deprived of the opportunity for full cross-examination of those witnesses.

State v. Larico Ficklin, 2001 WL 1011470 (Tenn. Crim. App. 2001)

Sole appellate counsel. The defendant's conviction for second degree murder was reversed and remanded for new trial based upon a finding that his initial arrest was without probable cause (an "on the hook arrest") and that his confession, obtained 53 hours later without a judicial determination of probable cause, should have been suppressed.

In the Matter of Renee Carmon Vallee, 31 S.W.3d 566 (Tenn. App. 2000)

Sole trial and appellate counsel for CASA. Clarified that the mandates of Rule 39(f) [right to an attorney] of the Tennessee Rules of Juvenile Procedure require strict compliance by the trial court. The court appointed an attorney *ad litem* to represent the mother because of her mental illness and a guardian *ad litem* for the children. The Court of Appeals reversed and remanded for further proceedings because of the trial court's failure to provide separate counsel for the husband/father. The termination of parental rights was ultimately upheld in a subsequent trial and appeal.

10. If you have served as a mediator, an arbitrator or a judicial officer, describe your experience (including dates and details of the position, the courts or agencies involved, whether elected or appointed, and a description of your duties). Include here detailed description(s) of any noteworthy cases over which you presided or which you heard as a judge, mediator or arbitrator. Please state, as to each case: (1) the date or period of the proceedings; (2) the name of the court or agency; (3) a summary of the substance of each case; and (4) a statement of the significance of the case.

I was part of a group trained by the Association for Women Attorneys to work as pro bono mediators and was certified as a family law mediator in 1996 by the Mediation Association of Tennessee (I have not maintained this certification). I mediated three marital dissolution agreements for Community Legal Center clients in 1996-97, ten cases (vandalism and/or quarrels between neighbors) for Shelby County's Citizen Dispute Center in 1997-98, and five restitution mediations between victims and non-violent juvenile offenders for MARRS in 1997.

11. Describe generally any experience you have of serving in a fiduciary capacity such as guardian ad litem, conservator, or trustee other than as a lawyer representing clients.

I was a board member and office holder (secretary, treasurer, vice-president, president) in my condominium association in Atlanta, Georgia during the early 1980's.

12. Describe any other legal experience, not stated above, that you would like to bring to the attention of the Commission.

I have spoken about legal issues to groups ranging from lawyers and jurists from the Middle East, France, and Bangladesh touring the courts with State Department projects to high school students who were part of the Tennessee Supreme Court's SCALES program. I have spoken frequently to student groups visiting the criminal courts and have appeared on Judge Larry Potter's television show to discuss criminal law issues. I have been on several "Meet the Lawyers" panels at the Orange Mound Community Center, spoken on divorce and child support issues at the YWCA Shelter for abused women, and discussed advance directives with residents of two nursing homes and a support group for people with AIDS.

13. List all prior occasions on which you have submitted an application for judgeship to the Judicial Nominating Commission or any predecessor commission or body. Include the specific position applied for, the date of the meeting at which the body considered your application, and whether or not the body submitted your name to the Governor as a nominee.

August 2004: Applied for the opening created in Division I, Shelby County Criminal Court, when Judge Bernie Weinman retired. My name was one of three submitted to the Governor as a nominee.

November 2004: Applied for the opening in Division 9, Shelby County Criminal Court, created when Judge J.C. McLin was appointed to the Court of Criminal Appeals, as the Governor had not yet made his selection on the Division I seat. I was not selected as a nominee.

July 2007: Applied for the opening created in Division 6, Shelby County Criminal Court, when Judge Fred Axley retired. My name was one of three submitted to the Governor as a nominee.

June 2008: Applied for the opening created on the Court of Criminal Appeals when Judge David Hayes took Senior Judge status. I was not selected as a nominee.

September 2011: Applied for the opening created on the Court of Criminal Appeals when Judge J.C. McLin died. I was not selected as a nominee.

EDUCATION

14. List each college, law school, and other graduate school which you have attended,

including dates of attendance, degree awarded, major, any form of recognition or other aspects of your education you believe are relevant, and your reason for leaving each school if no degree was awarded.

Memphis State University, Memphis, Tennessee 1969-1971

Political Science/History. Married, leaving school in my junior year.

Kennesaw State University, Kennesaw, Georgia 1990-1992

Bachelor of Arts, summa cum laude, Political Science, 1992

Cecil C. Humphrey's School of Law 1992-1995, The University of Memphis

Juris Doctorate, May 1995

Am Jur Award, Criminal Procedure I

Dean's Award, Academic Excellence, ADR Negotiations

Dean's Distinguished Service Award

Association for Women Attorneys selection for 46 hours Family Mediation Training

Honor Code Committee

PERSONAL INFORMATION

15. State your age and date of birth.

62, January 28, 1951

16. How long have you lived continuously in the State of Tennessee?

21 years

17. How long have you lived continuously in the county where you are now living?

21 years

18. State the county in which you are registered to vote.

Shelby

19. Describe your military Service, if applicable, including branch of service, dates of active duty, rank at separation, and decorations, honors, or achievements. Please also state whether you received an honorable discharge and, if not, describe why not.

N/A

20. Have you ever pled guilty or been convicted or are you now on diversion for violation of any law, regulation or ordinance? Give date, court, charge and disposition.

No (excluding a couple of parking tickets over the years – all of which were paid).

21. To your knowledge, are you now under federal, state or local investigation for possible violation of a criminal statute or disciplinary rule? If so, give details.

No

22. If you have been disciplined or cited for breach of ethics or unprofessional conduct by any court, administrative agency, bar association, disciplinary committee, or other professional group, give details.

N/A

23. Has a tax lien or other collection procedure been instituted against you by federal, state, or local authorities or creditors within the last five (5) years? If so, give details.

No

24. Have you ever filed bankruptcy (including personally or as part of any partnership, LLC, corporation, or other business organization)?

No

25. Have you ever been a party in any legal proceedings (including divorces, domestic proceedings, and other types of proceedings)? If so, give details including the date, court and docket number and disposition. Provide a brief description of the case. This question does not seek, and you may exclude from your response, any matter where you were involved only as a nominal party, such as if you were the trustee under a deed of

trust in a foreclosure proceeding.

Small Claims Court, Atlanta, Georgia in the early 1980's.

Dispute with a tenant over a broken lease and damage to the rental property. I was awarded damages. I do not remember the exact date or the name of the tenant.

Irreconcilable Differences Divorce from Turhan Erguden, 1976 Istanbul, Turkey

I do not have the docket number or exact date as the papers were lost when my basement flooded a number of years ago. If necessary, I can obtain an additional translated copy from the Turkish Embassy in Washington, D.C.

Federal District Court, Miami, Florida, late 1970's –*Alan Cokin and Steve Sion vs. American Contract Bridge League*

Professional players Cokin and Sion were expelled from the American Contract Bridge League after being caught cheating. As a witness to the cheating incident I was one of 44 defendants (all were either witnesses or employees/board members of the American Contract Bridge League) in their anti-trust lawsuit. It ended in a mistrial and eventual settlement.

26. List all organizations other than professional associations to which you have belonged within the last five (5) years, including civic, charitable, religious, educational, social and fraternal organizations. Give the titles and dates of any offices which you have held in such organizations.

Girl Scouts Council of Memphis, Board Member, 2007-2008

Shelby County Drug Court Foundation, Board Member 2005-2007 (Foundation raises money to support client programs for Drug Court)

Foster Care Review Board, Shelby County Juvenile Court, Board Member 2003-2008 (Board reviews plans/progress reports for children in the custody of the Dept. of Children's Services)

Community Legal Center, Board of Directors 1998-2002, Pro Bono attorney/speaker/mediator 1995-2009 (Center provides legal assistance for the working poor)

Court Appointed Special Advocates (CASA), Shelby County Juvenile Court, Volunteer 1999-2007 (occasionally handled CASA appeals)

Wolf River Society, Memphis (downtown luncheon club), 2004-2009

American Contract Bridge League, Member 1973-2009; Vice-Chair, National Appeals Committee, 1980-1985; Member, National Goodwill Committee; ranked in top 5% of tournament players, represented U.S. in World Bridge Federation Competition 1986; District 7 Secretary, 1980-1984; Unit 114 Charity Chair, 1982-1983.

27. Have you ever belonged to any organization, association, club or society which limits its membership to those of any particular race, religion, or gender? Do not include in your

answer those organizations specifically formed for a religious purpose, such as churches or synagogues.

- a. If so, list such organizations and describe the basis of the membership limitation.
- b. If it is not your intention to resign from such organization(s) and withdraw from any participation in their activities should you be nominated and selected for the position for which you are applying, state your reasons.

No

ACHIEVEMENTS

28. List all bar associations and professional societies of which you have been a member within the last ten years, including dates. Give the titles and dates of any offices which you have held in such groups. List memberships and responsibilities on any committee of professional associations which you consider significant.

Leo Bearman Sr. Chapter, American Inns of Court, Memphis, 2007 to 2010

Tennessee Bar Association, 1996-1998, 2007 to present

- Appellate Practice Section, Executive Council/West Tennessee Delegate 2008 to present.

Memphis Bar Association, 1996-1998, 2004 to present

- Shelby County Jail Master Plan, 2007, invited by then Sheriff Mark Luttrell to represent bar associations.
- Criminal Law Section Chair, 2005-2006, treasurer 2007-2008; restarted section, provided monthly lunch programs aimed at both prosecution and defense bar; provided CLE programs for section; organized 2006 candidate forums for criminal and juvenile court judicial races, Sheriff, and District Attorney.
- Mentor Program, 2006 to present: assist new lawyers with appellate questions and criminal cases; 2010-2011: mentor to Leadership Program for young lawyers.
- Steering Committee Member 2006 for SCALES Project (Nov. 14, 2006): this group run by Judge Jerry Stokes organized a Tennessee Supreme Court project to prepare city and county high school students for oral arguments in Memphis.
- Host Committee for June 2006 TBA Annual Meeting in conjunction with Judicial Conference and TLAW.
- Public Service Task Force 2003-2004: this group worked on a number of proposals to make the court system more accessible to the public, more “user friendly” for pro se litigants, and to improve the delivery of pro bono services.
- Government Lawyers Section, Board Member, 1997-1998.

Tennessee Association Criminal Defense Lawyers, 1998 to 2009

- Bench-Bar Liaison, Judicial Conference, 2005 to 2009, reappointed for second term in 2007.
- Amicus Committee, 1998-2002.

29. List honors, prizes, awards or other forms of recognition which you have received since your graduation from law school which are directly related to professional accomplishments.

2001 Elmore Holmes Award, Outstanding Service to the Community Legal Center.

2002 Tennessee Bar Association, Public Service Attorney of the Year.

2004 One of three names selected by Judicial Selection Commission for Governor's consideration for appointment to criminal court bench.

2006 Mid-South Super Lawyers/Memphis, The City Magazine, rated for appellate work.

2007 One of three names selected by Judicial Selection Commission for Governor's consideration for appointment to criminal court bench.

2008 BV rating Martindale Hubble.

30. List the citations of any legal articles or books you have published.

J. Ross Dyer and Garland Erguden, *Tennessee's Application of Crawford v. Washington's Confrontation Clause Analysis*, Memphis Lawyer, Memphis Bar Association Magazine, May/June 2006.

31. List law school courses, CLE seminars, or other law related courses for which credit is given that you have taught within the last five (5) years.

Nov. 2012 "Grand Jury and Indictments" guest lecturer at Judge Mark Ward's Advanced Criminal Procedure class, University of Memphis Law School

April 2012 "Violent Crimes Law" Shelby County Sheriff's Training Academy

April 11, 2011 "Violent Crimes Law" Shelby County Sheriff's Training Academy

July 30, 2010 "Arrest and Confession Law" Shelby County Sheriff's Training Academy

Oct. 27, 2009 "Arrest Law" Shelby County Sheriff's Training Academy

Oct. 14, 2009 "Drug and Gun Laws" Shelby County Sheriff's Training Academy

Nov. 17, 2008 “Post Judgment Motions” guest lecturer at Judge Mark Ward’s Advanced Criminal Procedure class, University of Memphis Law School

April 7, 2008 “How To Get Your Brother-in-law Out Of Jail: with Judge Mark Ward for Memphis Area Legal Services training of pro bono attorneys, Memphis

Dec. 12, 2006 “Criminal Case Law Update” Memphis Bar Association, Memphis

Nov. 10, 2006 “Post Judgment Motions” guest lecturer at Judge Mark Ward’s Advanced Criminal Procedure class, University of Memphis Law School

Dec. 19, 2005 “Criminal Appeals – Making the Record” Memphis Bar Association, Memphis

32. List any public office you have held or for which you have been candidate or applicant. Include the date, the position, and whether the position was elective or appointive.

N/A

33. Have you ever been a registered lobbyist? If yes, please describe your service fully.

N/A

34. Attach to this questionnaire at least two examples of legal articles, books, briefs, or other legal writings which reflect your personal work. Indicate the degree to which each example reflects your own personal effort.

Attached are two samples which are each 100% my work. The first is the State’s response to a petition for writ of error *corum nobis*, *George Campbell v. State of Tennessee*. The second, *State of Tennessee v. Judge Brooks*, is an application for permission to appeal to the Tennessee Supreme Court in a homicide case dealing with the forfeiture by wrongdoing exception.

ESSAYS/PERSONAL STATEMENTS

35. What are your reasons for seeking this position? (150 words or less)

The position is unique in that it is intellectually challenging with its mix of legal issues and application of law problems. It requires experience, skills, and traits which I possess: in depth knowledge of criminal law and procedure learned from both trial and appellate experience, an understanding of the roles of the prosecution, defense, and bench gleaned from having worked as

both a defense lawyer and prosecutor, a two year clerkship for the Shelby County criminal court judges, a patient temperament, and a strong work ethic.

36. State any achievements or activities in which you have been involved which demonstrate your commitment to equal justice under the law; include here a discussion of your pro bono service throughout your time as a licensed attorney. **(150 words or less)**

While a law student I worked with the HIV/AIDS Street Clinics and Public Interest Law clinics at the Orange Mound and Frayser Community Centers and answered calls from Community Legal Center (CLC) clients, screening 100+ clients each month for referral to other community resources.

I took pro bono cases for Memphis Area Legal Services (1995-98), CLC (1995-2009), worked as a volunteer mediator for the Citizen's Dispute Center, CLC, and MARRS (restitution by non-violent juvenile offenders) (1996-98), handled cases referred from the Probationer's Support Program and DA's Mentor Programs at Juvenile Court (2004-09), and served on the boards of Dismas House (transition housing for parolees) (1997-98), CLC (1998-2002), Foster Care Review Board (2003-08), and the Drug Court Foundation (2005-07). I was awarded the 2001 Elmore Holmes Award for outstanding service to CLC and the 2002 Tennessee Bar Association Public Service Attorney of the Year for pro bono work.

As a prosecutor I am not permitted to represent clients so now try to be more active in local bar programs to mentor and train young lawyers.

37. Describe the judgeship you seek (i.e. geographic area, types of cases, number of judges, etc. and explain how your selection would impact the court. **(150 words or less)**

The nineteen circuit courts in Shelby County, a large, predominantly urban county, are divided by local rule and statute into ten courts with criminal jurisdiction and nine courts with civil jurisdiction. Memphis has a number of exceptionally good trial judges. I would try to emulate the model provided by those judges in work ethic, knowledge of the law, and courtesy on the bench.

38. Describe your participation in community services or organizations, and what community involvement you intend to have if you are appointed judge? **(250 words or less)**

I would remain involved in community service and bar activity projects as outlined above which do not require legal representation or fund raising. I enjoy teaching continuing education seminars for attorneys and legal seminars at the Sheriff's Training Academy and would continue to do those if asked. I have spoken to a number of community groups about legal issues and have served as a judge of student appellate advocacy competitions at the University of Memphis Law School. I would continue to do both activities if invited.

39. Describe life experiences, personal involvements, or talents that you have that you feel will be of assistance to the Commission in evaluating and understanding your candidacy for this judicial position. *(250 words or less)*

I have worked steadily since my teenage years, paying for all of my college and law school expenses, with the result that I am self-disciplined and have good work habits. My experience as a trial lawyer for both the defense and prosecution, along with my extensive appellate experience, gives me a broad understanding of the role of a trial judge. I believe that my basic temperament is also a plus for working trial lawyers and staff since my tendency is to be patient, calm, and good natured.

40. Will you uphold the law even if you disagree with the substance of the law (e.g., statute or rule) at issue? Give an example from your experience as a licensed attorney that supports your response to this question. *(250 words or less)*

I fully agree with the requirements that all drivers be licensed and insured, and, as a prosecutor, handle traffic violations as the law is written. However, compliance with those requirements is made difficult here in Shelby County by a combination of inadequate public transportation and a large population which lives at or below the poverty level. It is not unusual to see adults who have no criminal record other than many convictions for driving with a suspended license. The lack of public transportation, plus the inability to pay the court costs, fines, and state fees in full on the front end for reinstatement of driving privileges means that most will continue to drive illegally, accumulating additional tickets and further costs.

This problem could be helped by expanding the "Drive While You Pay" program instituted by the City of Memphis to costs entailed by state and county tickets. This program reinstates licenses which have been suspended because of city tickets upon payment of an initial sum, plus regular monthly payments. It has the further advantage of making collection of such fees and fines an actuality rather than a write-off for government.

REFERENCES

41. List five (5) persons, and their current positions and contact information, who would recommend you for the judicial position for which you are applying. Please list at least two persons who are not lawyers. Please note that the Commission or someone on its behalf may contact these persons regarding your application.

- A. Pamela Skelton, VP Legal & Corporate Transactions, EnSafe Engineering, work: (901) 372-7962, cell: (██████████) ██████████
B. Bernard Yomtov, retired businessman, ██████████
██████████
C. Dan Michael, Juvenile Court Magistrate, work: (901) 405-8400, ██████████

D. Debby Michael, Director Human Resources, Baptist Homecare, work: (901) 767-6767,
[REDACTED]

E. W. Mark Ward, Criminal Court Judge, work: (901) 222-3772, [REDACTED]

AFFIRMATION CONCERNING APPLICATION

Read, and if you agree to the provisions, sign the following:

I have read the foregoing questions and have answered them in good faith and as completely as my records and recollections permit. I hereby agree to be considered for nomination to the Governor for the office of Judge of the Shelby County Criminal Court of Tennessee, and if appointed by the Governor, agree to serve that office. In the event any changes occur between the time this application is filed and the public hearing, I hereby agree to file an amended questionnaire with the Administrative Office of the Courts for distribution to the Commission members.

I understand that the information provided in this questionnaire shall be open to public inspection upon filing with the Administrative Office of the Courts and that the Commission may publicize the names of persons who apply for nomination and the names of those persons the Commission nominates to the Governor for the judicial vacancy in question.

Dated: March 5, 2013.

Signature

When completed, return this questionnaire to Debbie Hayes, Administrative Office of the Courts, 511 Union Street, Suite 600, Nashville, TN 37219.



TENNESSEE JUDICIAL NOMINATING COMMISSION

511 UNION STREET, SUITE 600
NASHVILLE CITY CENTER
NASHVILLE, TN 37219

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AND OTHER LICENSING BOARDS**

WAIVER OF CONFIDENTIALITY

I hereby waive the privilege of confidentiality with respect to any information which concerns me, including public discipline, private discipline, deferred discipline agreements, diversions, dismissed complaints and any complaints erased by law, and is known to, recorded with, on file with the Board of Professional Responsibility of the Supreme Court of Tennessee, the Tennessee Board of Judicial Conduct (previously known as the Court of the Judiciary) and any other licensing board, whether within or outside the state of Tennessee, from which I have been issued a license that is currently active, inactive or other status. I hereby authorize a representative of the Tennessee Judicial Nominating Commission to request and receive any such information and distribute it to the membership of the Judicial Nominating Commission and to the office of the Governor.

Garland Ingram Erguden

Signature

March 5, 2013
Date

#17347
BPR #

Please identify other licensing boards that have issued you a license, including the state issuing the license and the license number.
