

Tennessee Trial Court Vacancy Commission
Application for Nomination to Judicial Office

04/15/16

Name: Mark D. Harris

Office Address: 230 E. Market Street, Sullivan County, Kingsport, Tennessee 37660
(including county)

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INTRODUCTION

Tennessee Code Annotated section 17-4-301 et seq. charges the Trial Court Vacancy 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 www.tncourts.gov). The Commission requests that applicants obtain the word processing form and respond directly on the form. Respond in the box provided below each question. (The box will expand as you type in the document.) Review the separate instruction sheet prior to completing this document. Submit original (unbound) completed application (with ink signature) to the Administrative Office of the Courts. In addition, submit a digital copy with electronic or scanned signature via email to debra.hayes@tncourts.gov, or via another digital storage device such as flash drive or CD.

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

PROFESSIONAL BACKGROUND AND WORK EXPERIENCE

1. State your present employment.

I am a solo practitioner practicing criminal, domestic and general civil law in the 1st, 2nd and 3rd judicial districts. My office is located at 230 E. Market Street, Kingsport, Tennessee 37660.

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

I was licensed to practice law on October 19, 1994. My BPR number is 016725.

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.

State of Tennessee, 1994 BPR #016725, Active

United States District Court Eastern District of Tennessee

Supreme Court of the United States, October 9, 2001

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).

Upon graduating from the Cumberland School of Law at Samford University in May 1994, I became employed as an associate for the Law Office of Richard A. Spivey. In 2000, I became a partner and the name of the office changed to Spivey & Harris. I opened my own solo practice in June of 2012 and continue in that practice.

At the age of (16) I began working for the City of Kingsport Parks & Recreation Department as a lifeguard. I continued to work for the city throughout my undergraduate degree becoming an Assistant Manager and then Manager of the City pools. During the winter months, I managed a gym for youth basketball.

6. 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.

My law practice is a true general practice. The best way to describe it is to list the areas that I do not cover. I do not do real estate or title searches, but on occasion I do simple deeds usually arising out of domestic cases. I do not give tax advice or in any way represent someone involving tax liability. Generally, I do not get involved in employment law cases. My current practice consists mainly of criminal defense, domestic relations and civil (tort) law.

- Domestic Relations work which includes divorce, child custody cases, paternity, termination of parental rights, and juvenile court matters which include dependency and neglect occupies 45%.
- Criminal Defense in both Criminal Court, General Sessions Court and Juvenile Court occupies 40%.
- Civil cases which include automobile wrecks, workers compensation, social security disability, debt collection and detainer warrants occupy about 15%.

7. 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.

For the past 22 ½ years I have practiced law in the courts of East Tennessee. I consider myself a trial attorney representing clients in any matter that could one day lead to a courtroom. As a result, I have tried cases involving criminal law violations, divorce (child custody & support), personal injury matters, workers compensation, juvenile issues (either dependency & neglect or delinquent/unruly), estates and property disputes. These matters have been heard in the Criminal Courts, Circuit and Chancery Courts, General Sessions Courts and Juvenile Courts in Sullivan, Hawkins, Washington, Carter, Unicoi, Johnson and Greene Counties of East Tennessee. Most of

these trials would have been non-jury or bench trials, but I have participated in jury trials in both criminal and civil matters.

Because my practice is a solo general practice office, I am involved with the client from start to finish. This begins with the free initial consultation and culminates in trial, plea or the reaching of a settlement in civil cases. Initially the client needs to understand the law as it applies to their independent circumstance. This includes the difference in procedure in each of the Courts and particularly that each judicial district may have different local rules. For instance, in a divorce proceeding involving minor children, the Courts in Sullivan County will sign an Ex Parte temporary parenting plan so long as the proposed plan is reasonable in the judge's opinion. The First and Third Judicial Districts do not enter Ex Parte temporary plans. The next step in the process is to develop a plan or course of action with the client to reach their ultimate goal in the litigation. We then put the plan to action and hopefully reach a satisfactory conclusion to the case.

I generally work between 45 and 55 hours a week. Often times I take files home for review and preparation. I am in Court on a daily basis.

I would estimate that during my career I have handled over 500 divorce cases and more than 1000 criminal matters to conclusion.

I have also had cases before Administrative Law Judges including Social Security, Workers Compensation, Tennessee Claims Commission and Seizure hearings with the Tennessee Department of Safety.

Additionally, I have appeared for argument before the Tennessee Court of Criminal Appeals, Tennessee Court of Civil Appeals, and the Supreme Court of Tennessee.

8. Describe any matters of special note involving your practice in trial courts, appellate courts, and administrative bodies.

One of the most challenging and rewarding cases I have been involved with arose out of a divorce involving a minor child. It ultimately ended in a Petition to establish paternity of a child. I represented a young father in a divorce action. He had a two year old daughter who was his main focus in the divorce proceeding. The mother was intending to move from the Tri-Cities area to Nashville. We were able to reach an amicable resolution to the divorce and entered an agreed parenting plan. My client received significant time with the child even though travel was involved. A short time after the divorce decree was entered, the mother took her own life. I

counseled the father on a transition from the grandparents in Nashville to full-time parenting of the child. The child suffered from bi-polarism and as she grew older, she began to self-mutilate. She had to be institutionalized for this condition on at least one occasion. At the age of five, she began kindergarten and did not make it through the first day because of behavior.

A man in Nashville filed a Petition to Establish Parentage of a child claiming he was the child's father and seeking to have DNA testing done. He claimed to have had a one-time sexual encounter with the child's mother. I was able to get that filing dismissed because the venue was not proper. He subsequently filed the same action in the Circuit Court for Sullivan County. After numerous depositions, court delays, and motion hearings, the court granted his DNA request. The result was that he was the biological father of the child. At that time, my client had been raising this child on his own for several years and had obviously developed a significant bond with the child. His stated desire was to continue to be the child's father even though he knew he was not the biological father.

A guardian ad litem was appointed for the child, and the maternal grandparents intervened in the action requesting the court leave physical custody of the child with my client. The case was ultimately tried and took over four days. To say that the testimony had many different twists and turns would be an understatement. A total of four experts dealing with child psychology and psychiatry testified. The ultimate result was that the biological father was declared to be the father but to remove the child from my client's physical custody at that time would cause irreparable harm to the child. The court ordered the biological father have structured visitation and integration into the child's life. He refused to follow the court's mandates and after numerous post-trial hearings, my client was allowed to move with the child from the state.

The child began to thrive in my client's custody. She is now an adult and a productive member of society.

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

I have participated in hundreds of mediations but none as a mediator.

I have been asked by the General Sessions Court Judges in Kingsport, Sullivan County, Tennessee to serve as a fill-in judge when they are unavailable. I have done this on more than 30 occasions through the years. I unfortunately do not remember the exact dates of the cases but I have ruled on preliminary hearings in criminal cases and debt collection and general civil cases.

The bulk of my time as a fill-in General Sessions Judge consisted of conducting arraignments and setting bonds, taking guilty pleas, and ruling on probation violations.

During this time, I developed a deep respect for the job all judges perform. Each Litigant or Defendant deserves to be treated fairly, equally and with respect. Many times this is the only contact they will have with the legal system.

10. List and describe all prior occasions on which you have submitted an application for any state or federal judicial position.

None

EDUCATION

11. 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.

- 1987-1988 Roan State Junior College, Harriman Tennessee (I played baseball one year, but decided I could not make a living playing baseball, so I transferred to ETSU.)
- 1988-1991 East Tennessee State University, Bachelor of Science degree with a major in Criminal Justice and a minor in Political Science, Deans List. Served as Associate Justice on the Student Court through the Student Government Association.
- 1991-1994 Cumberland School of Law at Samford University in Birmingham, Alabama, Juris Doctorate degree

PERSONAL INFORMATION

12. State your date of birth.

I was born on July 26, 1969, and I am 47 years old.

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

Other than the (3) years I attended Law School in Alabama, I have lived continuously in the State of Tennessee since birth.

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

The first 6 years of my life I lived with the parents in Washington County, Tennessee. We moved to Sullivan County, Tennessee at that time and I have lived continuously in Sullivan County Tennessee since then except for the 3 years of Law school in Alabama.

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

Sullivan

16. 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.

Not Applicable

17. Have you ever pled guilty or been convicted or are now on diversion for violation of any law, regulation or ordinance other than minor traffic offenses? If so, state the approximate date, charge and disposition of the case.

No

18. 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

19. Please identify the number of formal complaints you have responded to that were filed against you with any supervisory authority, including but not limited to a court, a board of professional responsibility, or a board of judicial conduct, alleging any breach of ethics or unprofessional conduct by you. Please provide any relevant details on any such complaint if the complaint was not dismissed by the court or board receiving the complaint.

I have never been disciplined either formally or informally by the Board of Professional Liability or any other governing agency.

During my 22 ½ years of practicing law, I believe I have received three inquiries from the Board of Professional Liability. Two involved a client and the other a party opponent. All were dismissed by the Board of Professional Liability.

20. 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

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

No

22. 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.

No

23. 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.

First Baptist Church of Kingsport, Tennessee-Chairman of the Legal Committee, member of the Administrative committee.

Sullivan South Area Community Chest-Board member, Chairman of the policy committee

24. 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

25. 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.

Tennessee Bar Association-membership in the Family Law and the Criminal Law Sections (unsure of dates but at least since 2012)

Kingsport Bar Association-1995 to present

26. 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.

Not Applicable

27. 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.

Not Applicable

ESSAYS/PERSONAL STATEMENTS

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

I am seeking this position because I see it as an opportunity to continue to grow my legal knowledge and experience while also using my past experiences to serve the citizens of Sullivan County. Judge R. Jerry Beck, who is retiring from this position has done a masterful job. I would take this as an honor and a challenge to continue to uphold the high standards set by him in this position. I certainly understand the complexity of this job having both criminal and civil jurisdiction. I consider the Courts of Sullivan County my Courts and the integrity and standards they uphold are of utmost importance to me. During a normal work week, I appear in this very Court almost on a daily basis. At this point in my career, I feel I have the time, experience and legal knowledge to fulfill the requirements of this position.

29. 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)*

I am seeking the position of Second District Circuit Court Judge Part II. This position covers all of Sullivan County and hears Criminal and Civil matters. It conducts jury trials in criminal cases from Class C Misdemeanors to Capital cases. It does not hear civil jury trials but does hear domestic relations cases and other civil matters. I have handled thousands of cases in this particular Court. I have the utmost respect for the other Circuit judges in Sullivan County, John S. McLellan III, E.G. Moody and James F. Goodwin. I appear in front of these judges on a weekly basis. Having a working relationship with the other judges of the jurisdiction is important. I have learned how to be a lawyer in this very Court. Based on my experience and age, I can at this point in my career transition from being an advocate for my client to the role as judge.

30. 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)*

If selected for this position, it would be my job and oath of office to uphold the law even if I disagreed with the substance of the law. I would uphold the law. This Court's job is to apply the law as it is written or as it has been interpreted by the Appellate Courts to the facts of each case.

During my career, I have encountered many laws that I do not agree with in substance. Many of these deal with mandatory sentencing in certain criminal cases. Every case is different and each individual involved in the case has differing characteristics. However, the legislature has enacted mandatory minimum jail sentences in certain cases, and the Court must uphold those laws. My clients complain that certain laws are not fair. I explain to them that the judge and the lawyers do not make the law, they only apply it. They need to speak to their legislators about the substance of the law.

I am not interested in making law and do not seek this position for that purpose. As an advocate for my client, I am constantly trying to convince the sitting judge how the law should apply favorably to the facts of my client's case. I can transition from that role to the role of the judge applying the law.

REFERENCES

31. 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. Honorable R. Jerry Beck, Sullivan County Circuit Court Judge, Pt. II,
B. Honorable John S. McLellan III, Sullivan County Circuit Court Judge, Pt. 1
C. R. Wayne Culbertson, ESQ
D. Marvin Cameron, Pastor First Baptist Church Kingsport,
E. Thomas W. Olterman, Retired from TVA/in charge of economic development for the Eastern district,

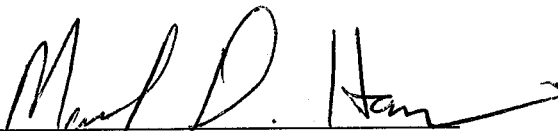
AFFIRMATION CONCERNING APPLICATION

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 [Court] Second Judicial District Circuit Court, of Sullivan County 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: April 17, 2017.


Signature

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



**TENNESSEE TRIAL COURT VACANCY COMMISSION
ADMINISTRATIVE OFFICE OF THE COURTS**

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

**TENNESSEE BOARD OF PROFESSIONAL RESPONSIBILITY
TENNESSEE BOARD OF JUDICIAL CONDUCT
AND OTHER LICENSING BOARDS**

WAIVER OF CONFIDENTIALITY

I hereby waive the privilege of confidentiality with respect to any information that 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 Trial Court Vacancy Commission to request and receive any such information and distribute it to the membership of the Commission and to the Office of the Governor.

MARK D. HARRIS

Type or Print Name

Signature

April 17, 2017

Date

016725

BPR #

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