

Tennessee Trial Court Vacancy Commission
Application for Nomination to Judicial Office

04/15/16

Name: Marshall Wyatt Burk

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County, TN 37162
(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 by the noon deadline date an 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.

Attorney with Bobo, Hunt, White & Burk

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

Licensed on October 17, 2008; BPR #027125

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.

Licensed in Tennessee – Tennessee BPR #027125. I was licensed on October 17, 2008, and my license is active.

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).

Attorney - Bobo, Hunt, White & Burk – January 2009 to Present

Senior Accountant, Calsonic Kansei North America, Inc. (“CKNA”) (tier-1 supplier for Nissan North America) - May 2004 until January 2009. I performed many functions for CKNA, both legal and general. I negotiated and reviewed numerous contracts for CKNA with suppliers, implemented policies and procedures for compliance with the Financial Instruments

and Exchange Act (J-SOX), the set of Japanese standards for evaluating and auditing of internal controls over financial reporting; managed fixed assets in excess of \$500M across four (4) states and the financial reporting therefor; served as an audit liaison for internal and external auditors; assisted in preparation of consolidated financial statements for inclusion with related entities.

Fall Term 2008 – Intern. Served as a Tennessee Supreme Court Rule 7 Intern for John T. Bobo in his capacity as Bedford County Attorney.

Account Representative, Scottrade – September 2003 – May 2004. While completing my undergraduate studies at the University of Tennessee, Knoxville, I worked as an Account Representative for Scottrade. While at Scottrade, I assisted customers with opening new investments accounts, accepted investment deposits, educated customers on the various types of investment accounts available and provided information on which account best accomplished their investment goals, assisted securities brokers in fulfilling trade orders, and performed other general administrative tasks.

May 2001 – August 2001; May 2002 – August 2002; May 2003 – August 2003 – Farris Bobango, PLC. I served as runner and law clerk for Farris Bobango, PLC, f/k/a Farris Mathews, Brannon, Bobango & Helen (Memphis, TN) (worked directly with John A. Bobango, Mark E. Beutelschies, and Anita I. Lotz) during the summers of my undergraduate studies. Assisted the firm with numerous tasks including real estate transactions, closings, review and issuance of title policies, and runner tasks.

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.

Approximately fifty percent (50%) of my practice is dedicated to the representation of financial institutions in loan transactions involving all forms of collateral and in all aspects of the litigation process, including collections, workouts, foreclosures, defense, as well as bankruptcy proceedings. I have represented financial institutions in approximately 35 counties throughout Middle and Eastern Tennessee, in General Sessions Court, Circuit Court, Chancery Court, foreclosures, and U. S. Bankruptcy Courts in the Middle and Eastern Districts of Tennessee.

Approximately twenty-five percent (25%) of my practice consists of wide-ranging areas under the general litigation umbrella, including governmental and municipal representation (Bedford and Moore Counties, City of Shelbyville), utility providers, contract and commercial disputes, insurance defense, landlord/tenant disputes, personal injury, estate planning and probate practice, real estate transactions, entity formations and transactions, as well as some criminal representation.

The remaining twenty-five percent (25%) of my practice is dedicated to representation of clients in various domestic relations matters and elder law matters, including divorce, child custody, adoptions, and child support (collection, enforcement, and defense), terminations, as well as conservatorships, guardianships and serving as guardian ad litem.

My diverse caseload has afforded me the opportunity to appear in various courts across Tennessee (General Sessions, Chancery, Circuit, Tennessee Court of Appeals, as well as U. S. Bankruptcy Courts in the Middle and Eastern Districts of Tennessee). Therefore, I have experience in drafting complaints, answers, orders, discovery requests, settlement agreements, dispositive motions, and other related pleadings and motions. I have tried bench trials and have assisted in jury trials.

My practice has afforded me the opportunity of representing counties, municipalities, utility providers, all forms of entities, individual plaintiffs, and defendants.

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.

As previously mentioned, my diverse caseload has afforded me the opportunity to represent clients in approximately 35 counties throughout Middle and Eastern Tennessee, whether in General Sessions Court, Circuit Court, Chancery Court, and Tennessee Court of Appeals, as well as U. S. Bankruptcy Courts in the Middle and Eastern Districts of Tennessee.

It has been my honor to represent clients in an array of matters over the course of my career. I have represented clients in subject matters including, but not limited to, breach of contract, fraud, divorce, child custody, contempt (criminal and civil), child support adjustment, adoptions, terminations, conservatorships, guardianships, property tax collections, zoning and planning,

personal injury, probate litigation, various tort/damages actions, adverse possession claims and defense, collections, insurance defense, various creditor bankruptcy representation (Chap. 7, 11, 12, 13), and provided general legal advice to individuals, local government, and business entities of all types.

In addition to my litigation practice, I have assisted numerous clients in estate planning, probate litigation, entity selection and creation, reviewing, drafting, and negotiating complex entity transactions and contracts, business transitions for professionals in the liquidation of their respective practice, as well as conducted hundreds of real estate and personal property foreclosures and closings.

I have represented a client before the Tennessee Department of Environment and Conservation regarding certain violations, and successfully mitigated the civil penalties and damages assessed against my client.

I have never been intimidated in exploring an unfamiliar area of the law, but have thoroughly, consistently, and conscientiously prepared for all client matters that I sought to undertake, and have been humbled by the confidence and trust that my clients have afforded me. Further, given my diverse caseload which often requires extensive research and after hour meetings with governmental clients, the demands of my practice do not allow me to keep "typical" business hours; however, my proven work ethic exemplifies my ability to properly serve the citizens of the 17th Judicial District as a member of the Judiciary.

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

Christopher Jones v. Bedford County, Tennessee, 2009 Tenn. App. LEXIS 844 (Tenn. Ct. App., Dec. 15, 2009). I served as co-defense counsel for Bedford County, Tennessee. This involved a Governmental Tort Liability claim brought against Bedford County, Tennessee, by a former inmate in the Bedford County Jail. Plaintiff alleged that the County was liable to him for its negligent supervision of a corrections officer who allegedly sexually assaulted Plaintiff while incarcerated in the jail. We were successful in obtaining a dismissal of the Plaintiff's claims following a bench trial upon the implicit finding that there was no evidence that any person with supervisory authority was on notice of information that would lead them to suspect a future sexual assault. Plaintiff appealed. The Tennessee Court of Appeals upheld the trial court's dismissal of Plaintiff's claims finding that the evidence in the record did not preponderate against the Trial Court's findings.

State of Tennessee vs. Trevakias Vondez Rankins, Bedford County Circuit Court Case No. 18,189. I was recently appointed to represent the Defendant who was indicted on charges of Aggravated Burglary – Class C Felony (Count 1), and Possession of a Firearm During the Commission of a Dangerous Felony – Class C Felony (Count 2), a charge which requires a Defendant to serve 85% of the mandatory minimum sentence day-for-day. Given the facts and circumstances surrounding this matter, my client did not wish to take the matter to trial; however, I was able to successfully negotiate a plea agreement with the State to amend Count 2

to a violation of T.C.A § 39-17-307, a Class E Felony, thereby negating the requirement to serve 85% of the mandatory minimum sentence day-for-day and significantly reducing his time to serve until his Release Eligibility Date.

I represent a regional financial institution in the collection, protection, and preservation of various types of collateral securing its loans. On behalf of such institution, I have brought and defended actions in various Courts (General Sessions, Circuit, and Chancery) throughout Middle and East Tennessee, including the U. S. District Court, Eastern District of Tennessee, U. S. Bankruptcy Court for the Eastern and Middle Districts of Tennessee, and have worked closely with this institution on other non-litigation matters.

One of the greatest privileges of my practice is to assist with adoptions. I have assisted with several adoptions, whether brought through a private action, or through the Department of Children's Services (DCS). I have personally observed families, whose greatest desire is to parent a child, welcome children into their homes and love them as their own. I have watched these children grow into responsible young men and women, and truly believe that without the process of adoption, their chances of leading a meaningful and fulfilling life would have been greatly diminished.

Also, I served as primary counsel for Bedford County, Tennessee, in the lease and sale of the Bedford County Nursing Home, which involved a multi-million-dollar transaction consisting of the sale and transfer of various asset types.

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

I have served as Substitute Judge for the City of Shelbyville and have presided over hundreds of municipal citations. Serving in this capacity has afforded me the opportunity to experience the practice of law from the other side of the bench, and I have been humbled to receive compliments from not only law enforcement, but also the Defendants who have appeared before me.

In addition, I have spoken at a CLE Seminar on the topic of Collection Strategies and Bankruptcy, and have also spoken at two community-wide seminars on estate planning.

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.

University of Tennessee, Knoxville, August, 2000 – May, 2004. B.S. with major in Banking and Finance. While at UT, I served as Vice-President and Social Chair of the Lambda Chi Alpha Fraternity. While serving as Vice-President, I directed an annual fundraising event in cooperation with the other university Greek organizations to raise money in support of St. Jude Children’s Research Hospital in Memphis, Tennessee. In addition, I served on the Inter-Fraternity Counsel which served to support a premier sorority and fraternity experience by providing educational opportunities, fostering collaborative relationships, and empowering students to uphold a mentality of ethical leadership and citizenship.

Nashville School of Law, August 2004 – May 2008. Juris Doctorate. – I successfully completed my legal education while working 45+ hours a week for Calsonic Kansei North America, Inc., as a Senior Accountant. I passed the Tennessee Bar exam in July of 2008, while maintaining my full-time employment with CKNA. This remark is made simply to convey that I have always believed in hard work and diligent preparation to complete professional goals while continuing to maintain my commitments as a husband and father.

PERSONAL INFORMATION

12. State your date of birth.

August 27, 1982

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

I have lived in the State of Tennessee continuously since birth.

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

I have lived in Bedford County since birth, with the exception of my undergraduate years in Knoxville and the summers of my undergraduate studies, when I resided in Germantown, Tennessee.

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

Bedford County, Tennessee

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.

I have not had the privilege of serving in the military.

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.

None.

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.

Calvary Baptist Church, Shelbyville, Bedford County, Tennessee – I currently serve as a Deacon, College and Career Sunday School Teacher, and Adult Discipleship Training Teacher. I have served as Chairperson, Budget and Finance Committee, Building and Grounds, Chairperson, Personnel Committee, and Youth Sunday School teacher. I have spent numerous hours counseling teens on various social and family issues, as well as counseling married couples experiencing difficult times, encouraging restoration of their marital union.

Board of Directors Member, Heritage South Community Credit Union (“HSCCU”) – 2011 to present. I have served as Board Member for HSCCU, a community state-chartered credit union, with multiple branches across Bedford, Marshall, and Rutherford Counties. During my tenure as Board Member, the total assets of HSCCU have grown fifty-six percent (56%), and are currently in excess of \$188M.

Board Member, Shelbyville and Bedford County Chamber of Commerce – 2014 to present

Board Member, Child Development Center – 2010 to 2014

Board Member, Shelbyville/Bedford County Community Clinic – 2009 to 2012

Board Member and Chairman, First Choice Pregnancy Counseling Center – 2009 to 2014

Member, River Bend Country Club, Shelbyville, Bedford County, Tennessee – 2016 to present

Hilliard Gardner Youth Softball League coach – 2012 to present

Bedford County Youth Soccer coach – 2012 to 2016

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.

In college, I was a member of Lambda Chi Alpha fraternity, which limited membership to men. To my knowledge, I am not a member of the fraternity's alumni association. I am not otherwise affiliated with the fraternity at this time, nor do I intend to be.

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.

I am a member of the Bedford County Bar Association, the Tennessee Bar Association, and I have belonged to these organizations for approximately the entire duration of my legal career.

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.

Super Lawyers Mid-South, Rising Star – 2016

Super Lawyers Mid-South, Rising Star – 2017

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.

None.

ESSAYS/PERSONAL STATEMENTS

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

I firmly subscribe to the Scripture which reads “[f]or unto whomsoever much is given, of him shall much be required; and to whom men have committed much, of him they will ask the more.” My talents and resources, both given and developed, must be used for the greater good. As such, my wife and I believe in public service both professionally and personally, and emphasize

such duty in the rearing of our two girls. My wife, a 14-year veteran Mathematics teacher in Bedford County, believes that teaching the youth of our community is her professional calling. My law practice, and serving as Substitute Judge, has provided me the opportunity to make positive contributions to the administration of justice in our community. My desire is to deepen my professional calling by transitioning to the bench and serving my judicial district with the trust, confidence, and impartiality that the position requires.

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)*)

The 17th Judicial District (Bedford, Moore, Marshall, and Lincoln) consists of one Chancellor, presiding over Chancery filings, and two Circuit Judges, presiding over Circuit filings. Presently, Part 1 presides over criminal matters, with Part 2 (the open seat) presiding over all civil matters, as well as criminal matters. A large percentage of civil cases before this seat involve domestic relations and damages/tort related claims. My practice has afforded me the opportunity to represent clients in these types of matters, as well as representation of criminal defendants before the General Sessions and Circuit Courts. As in private practice, I am certain that I will be presented with matters with which I have little or no experience; however, I have always welcomed the opportunity to explore unfamiliar areas of the law and have proven my ability to quickly grasp the key legal concepts and apply them to the facts before me.

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)*

Absolutely. I have always adopted and held true to the ideals and supported the structure of government that the architects of our great republic so mindfully crafted - a republic with three distinct branches of government, each with specific functions to perform. As a member of the judicial branch, I will apply the law as it exists and as crafted by the Legislature, whether I personally agree with it or not, and will render whatever decision the law requires.

I have encountered this issue many times while serving as Substitute Judge for the City of Shelbyville. The City has approved a "first offender rule" which offers a dismissal of the speeding citation upon payment of the court costs for those who have not received a speeding citation within the last three (3) years; however, among others, two disqualifying exceptions to the "first offender rule" that I commonly encounter are (1) the cited speed is in excess of 20 mph of the posted limit; and (2) the speeding occurs in a school zone. Oftentimes, juveniles will appear before me with such citations. At such a young age, my desire is to keep their driving record as clean as possible for future purposes, as well as economic reasons. Despite my personal preferences, I have adhered to the rules and disqualifying exceptions as set forth by the City Council, denying the "first offender rule" to those juvenile offenders who do not qualify for such treatment, despite the inevitable future repercussions, financial and otherwise, that may

stem from the citation against the minor.

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. Sen. Jim Tracy

Tennessee Senate, District 14

B. Lee Russell

C. John T. Bobo

D. Jeffrey Howard
E. Michael M. Boyd

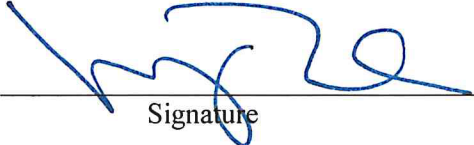
AFFIRMATION CONCERNING APPLICATION

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 Circuit Court of Tennessee for the 17th Judicial District, 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: September 5, 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.

Marshall Wyatt Burk

Type or Print Name



Signature

9/5/2017

Date

027125

BPR #

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

Not applicable.