

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.haves@tncourts.gov.

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

PROFESSIONAL BACKGROUND AND WORK EXPERIENCE

1. State your present employment.

Circuit Judge, 22nd Judicial District, Part II; State of Tennessee

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

1979 BPR # 6535

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 # 6535, licensed May 5, 1979, license currently 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).

May 1998 – present Circuit Judge, 22nd Judicial District, Part II

May 1982 – May 1998 Courtney, Fleming and Holloway (at the time I left, the name was Fleming, Holloway, Flynn and Sands), Columbia, Tennessee

Sept. 1979 – May 1982 Lovell, Holloway and Sands (at the time I left, the name was Lovell and Holloway), Columbia, Tennessee

Sept. 1978 – Sept. 1979 Law Clerk; Honorable James W. Parrott, Eastern Division Court of Appeals; Knoxville

Jan. 1977 – Sept. 1978 Law Clerk; Kramer, Johnson, Rayson, McVeigh and Leake; Knoxville

March 1975 – February 1976, Atlantis Aquarium, Nashville

1968 – 1973 Giant Foods, Columbia, Tennessee (part-time during high school and full-time in summers during high school and college)

1964 – 1967 mowed yards for individuals and an apartment complex

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.

Continuously employed

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.

Circuit Judges in the 22nd Judicial District hear all civil and criminal cases filed in the Circuit and Chancery Courts for Maury, Giles, Lawrence and Wayne Counties. We allocate our court day to approximately 45% criminal, 25% chancery, including domestic relations; and 30% civil.

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.

I took and passed the Bar Exam while working as a clerk for Judge James W. Parrott. As part of my responsibilities, I prepared a summary of the cases prior to oral arguments. Following oral

arguments, the three judges would meet to discuss and divide up the cases. After the meeting, Judge Parrott would assign certain cases to me to work on. I reviewed the record, read transcripts and briefs, and did research. I would discuss the case with Judge Parrott and under his direction, I would write the opinion and submit it for his review.

My one year clerkship with Judge Parrott ended August 31, 1979. I decided to return home to Columbia and practice law. Before leaving Knoxville, Bobby Sands told me he wanted to practice in Columbia and we decided to practice together. At about the same time, Bob Jones was appointed Circuit Judge, leaving his former partner, George Lovell, with office space. The three of us formed the firm Lovell, Holloway and Sands. At first, I took whatever came in the door. At that time, the 22nd Judicial District did not have a Public Defender. Bobby Sands and I were appointed to numerous criminal cases in General Sessions and Circuit Court. I represented dozens of defendants over the first few years of practice. I tried numerous jury trials and filed the appeal in a few cases. Other than appointed criminal cases, my practice was primarily civil, including domestic relations. I also began to represent debtors in bankruptcy. Bankruptcy cases filed for debtors living in southern Middle Tennessee were held in Columbia. Shortly after I began representing debtors, the FDIC closed three nearby banks creating a boom in the number of people seeking legal assistance in dealing with the FDIC and often bankruptcy protection. I filed cases in Chapters 7, 13 and 11. Soon debtor bankruptcy became an important part of my practice. I continued to represent court appointed criminal defendants, and whatever civil cases came my way.

In 1982, I was offered a job by the firm Courtney and Fleming. This firm represented several large businesses, including the largest bank in the area. The firm also represented the City of Columbia and the City of Spring Hill. Although I was not primary counsel for either city or the bank, I often assisted in the representation. I became a partner one year later and the firm was renamed Courtney, Fleming and Holloway. By this time, the 22nd Judicial District had a Public Defender's office and I planned to stop doing criminal work. My plan did not work out. In September of 1982, Judge Joe M. Ingram appointed me to represent one of two nineteen year old cousins charged with three counts of first degree murder and one count of attempted first degree murder. Jerry Colley was appointed to represent the co-defendant. The case became known as the Duck River Sniper Case. When the State filed notice to seek the death penalty, co-counsel was appointed for each defendant. Because of the extensive pretrial publicity, we successfully moved to change the venue from Maury County to Giles County. Bobby Sands was one of the Assistant District Attorneys prosecuting the case. The trial began with extensive individual *voir dire*, primarily involving questions concerning the death penalty. My primary responsibility during *voir dire* was to attempt to rehabilitate prospective jurors who stated during the state's questioning that they could not impose the death penalty as a punishment for first degree murder. The state would then challenge that prospective juror for cause. If I could get the juror to answer they could consider both life and death as possible punishments in certain hypothetical situations, the challenge for cause would be denied and the state would usually be required to use one of its peremptory challenges to strike the juror. The strategy was to run the state out of peremptory challenges before the jury was selected thereby increasing the chances for a jury that would not impose the death penalty. The proof against the defendants was overwhelming, and after a two week trial, the defendants were found guilty on all counts. After a bifurcated sentencing trial, the jury sentenced the defendants to life on each of the three first degree murder counts. The trial judge ran the three life sentences consecutively and sentenced both defendants to a consecutive

twenty-five years on the attempted murder count. I handled the unsuccessful appeal to the Court of Criminal Appeals. Certiorari was denied by the Supreme Court.

After the Duck River Sniper Case, I again tried to stop doing criminal work. I would still get occasional appointments. My practice became what I would call a general small town civil practice. I appeared regularly in a variety of cases in the Circuit and Chancery Courts. I represented several businesses. I began representing creditors, including several banks in surrounding counties, in bankruptcy court.

In 1984, I was hired as (outside) General Counsel for the Columbia Power and Water Systems. I continued to represent CPWS until I went on the bench in 1998. Over the 14 years, I represented CPWS in all litigation that was not defended by our insurance companies. I defended Columbia Water System in a multi-million dollar class action lawsuit involving impact fees. Prior to construction of the automobile assembly plant in Spring Hill, I reviewed and made recommendations concerning the contract under which CWS would supply water to the Saturn plant. I filed approximately thirty condemnation cases for CWS in the name of the City of Columbia for the installation of a six mile water line and construction of a six million gallon reservoir to serve the Saturn plant and northern Maury County. I represented CWS in a lawsuit concerning rates filed by Maury County and the Maury County Water System. I handled negotiations and helped with the application when CWS acquired a license to operate a hydroelectric facility at the old Columbia Dam from the Federal Energy Regulatory Commission. The license protected the water rights for CWS. As it became apparent that the Tennessee Valley Authority was going to discontinue its efforts to close the Columbia Dam, I was asked by CWS to become involved with the process. TVA had condemned over 14,000 acres in Maury County and held several million dollars in trust accounts related to construction of the Normandy Dam and the Columbia Dam. I studied the original contracts between TVA and the waters systems and counties entered into before construction was begun. I represented CWS concerning Tennessee Valley Authority's plan to transfer title of the land to the Duck River Development Agency (DRDA). The plan called for TVA to keep the trust funds. Maury County, Columbia and CWS were against the land being turned over DRDA and wanted the trust funds, over fifty percent of which had been paid by CWS water customers, to be turned over with the land. On behalf of CWS, I worked with the city attorney and we drew up documents for the creation of a Public Trust. Although we were unsuccessful in getting the land and trust funds transferred to the Public Trust, we were successful in blocking the transfer to DRDA. Our efforts, in part, led to the land and several million dollars in trust funds being turned over to the state to be managed by the Tennessee Wildlife Resources Agency. Cable television was becoming a major industry and Charter Cable began installing lines in Maury County. At the request of CPS, I began attending the American Public Power Association Conference where cable television issues were a hot topic. CPS had an existing pole sharing agreement with Bellsouth that had been in place for several years. The agreement called for the two utilities to install and maintain an approximately equal number of poles so that the rental charges for use of the other's poles basically offset. Instead of installing poles, Charter Cable wanted to use existing CPS and Bellsouth poles and to pay only for the amount of pole space used. Disputes concerning rates for pole usage had led to major lawsuits across the country, and CPS wanted to avoid litigation if a reasonable agreement could be reached. Working with the attorneys for Bellsouth and Charter, a new pole sharing agreement was reached that satisfied all parties. Also around 1984, I was hired as (outside) General Counsel and Secretary for a large convenience store chain.

I handled the contracts for acquisition of real property, general corporate matters, and occasional litigation. Legal representation of these two clients became an increasing part of my practice over the next several years. I negotiated and helped draft the contract when the existing convenience store business and real property was sold to a wholly-owned subsidiary of Marathon Oil Company.

The boom related to the construction of the Saturn plant created numerous legal problems and opportunities. I represented an Alabama blasting subcontractor against a New York corporation that served as general contractor in litigation arising out of the construction of a six mile sewer line to the Saturn plant. The case was heard by a three member arbitration panel consisting of a general contractor, a blasting contractor and a civil engineer. My client had been hired to blast "high rock" at various places along the line. I was concerned because he had very few written records. He assured me that the records of the general contractor contained numerous errors. He was proven correct. The general contractor produced through discovery two four inch thick notebooks of records. During cross-examination, I asked the corporate president about numerous mistakes in the records my client had pointed out to me before the hearing. I asked the corporate president to close the first volume of the records and reopen it. He asked to what page, and I said any page. He opened the book and found two mathematical mistakes on the page. I asked him to do the same thing with the second binder, and the results were similar. He closed the second binder of records and announced that the corporation would pay the amount claimed by my client and all cost. The president contacted me about a month later and hired me to represent the corporation in its unresolved matters in Tennessee.

I successfully represented a land owner in a condemnation case filed by TVA. This was my first and only experience before a TVA three member hearing panel. I was able to discredit the appraiser hired by TVA. The panel accepted our expert's opinion as to damages and granted a substantial increase over the amount tendered.

Although I had not handled a criminal case in several years, in 1991, I was appointed to assist Bobby Sands, who was now back in private practice, in the representation of a co-defendant in another high profile, first degree murder case in which the state was seeking the death penalty. Bob Massey and Russ Parkes represented our client's twin brother. This Giles County case had extensive media coverage in Tennessee and northern Alabama. My primary responsibility was to cross-examine the state's key witness, the ex-wife of my client. After a two week trial, the jury found both defendants guilty of second degree murder. Bobby Sands handled the appeal.

Shortly before going on the bench, I handled two unrelated civil cases for a family business owned by personal friends, one of which was an attorney. The first was a blasting case filed against a major road contractor seeking compensation for damages to a large tobacco warehouse. The jury awarded approximately 57 times the settlement offer made by the insurance company of the contractor. The second suit filed against Maury County arose from certain actions by the head of the planning department. In a 54 page memorandum opinion, Judge Bill Cain awarded over \$500,000.00 in damages. I argued the case before the Court of Appeals after I was sworn in as Circuit Judge and after Judge Cain was sworn in as an Appellate Judge. Over three years after oral arguments, the judgment against Maury County was reversed. The Supreme Court denied certiorari. It was a reminder to me that no matter how good your facts and witnesses are, and how bad the witnesses for the other side are, the law can still control the outcome. Because I knew a suit against a county official making discretionary decisions would be difficult, I

accepted the case on an hourly basis. After receiving my first bill, my clients ask me to convert the arrangement to a contingency fee, which I did. The only positive to come out of the case for my clients was the Maury County Executive terminated the planning official's employment the day after the trial concluded, in large part because Judge Cain made a specific finding that she testified falsely.

For the last 15 years, I have served as a Circuit Judge in Maury, Giles, Lawrence and Wayne Counties. I have presided over thousands of criminal and civil cases, including hundreds of jury trials. I sat with the Court of Appeals on one occasion. I have handled several cases by interchange from the 21st Judicial District. I currently have pending four unrelated cases filed against attorneys practicing in the 21st Judicial District. I have handled several cases from the 17th judicial district, including a retrial of a Lincoln County first degree murder case. I was assigned the case after the conviction was reversed by the Court of Criminal Appeals based on conflicts of interest of the judge and district attorney. The second trial was prosecuted by the Coffee County District Attorney, defended by appointed counsel from Giles County, tried by a jury selected in Bedford County and heard in Lincoln County. The jury found the defendant, who had already served five years, not guilty. I had made up my mind during deliberation that if the jury found the defendant guilty, I would grant a motion for judgment of acquittal pursuant Tenn. R. Crim. P. 29.

In the last few years, I have conducted judicial settlement conferences for other judges, primarily judges in my own district. I began conducting these conferences after completing the 40 hour course "Rule 31 Civil Mediation Training for Tennessee Judges" provided by the Institute of Conflict Management of Lipscomb University. I have held settlement conferences in several eminent domain cases arising from the construction of State Route 64 across Wayne, Lawrence, and Giles Counties. All but one of these cases settled at the conference or shortly thereafter. The case that did not settle was tried by a jury which returned a verdict for less than the tender and more than \$30,000 less than the last offer the state made at the conference. (This verdict was set aside by the trial judge, and the case was later settled for the amount that had been offered at the settlement conference.)

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

Anyone who has defended someone facing the death penalty will know what I mean when I say the two capital cases, State v. Kelley and State v. Bondurant, were the most intense and important cases I handled. Both cases generated significant media attention and large crowds followed the trials. Both cases had co-defendants represented by outstanding attorneys from whom I learned a great deal. Jerry Colley, one of the preeminent criminal defense attorneys in southern Middle Tennessee at the time, was lead counsel for co-defendant William Carroll Kelley. My former and future partner, Bobby Sands, was one of the District Attorneys who prosecuted the Kelley case and was my co-counsel in the Bondurant case. Bob Massey and Russ Parkes represented the co-defendant in the Bondurant case.

As a Circuit Judge I have presided over numerous First Degree Murder and "A" felony jury trials. I have presided over several Medical Negligence jury trials. I have tried numerous civil jury trials and dozens of non-jury workers' compensation cases. Historically, Maury County was one of the leading phosphate mining areas in the United States. We had several large phosphate refining factories. As a side industry, we had one of the world's largest carbon electrode manufacturing facilities to serve the phosphate furnaces. These factories shut down to a large extent in the mid 1980s. Because the statute of limitations commences at the time of diagnosis, workers' compensation cases are still being filed by people who have not worked at the plant for 20 to 30 years. I have tried three leukemia cases and numerous lung disease cases in the last ten years. I tried a significant reconsideration workers' compensation case affecting numerous Saturn employees. The issue related to the 2005 change of employment when General Motors Corporation took over the Saturn Corporation. I found for various reasons, that this was not a change of employment. My decision was reversed in part by the workers' compensation panel.

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.

As stated above, I have conducted judicial settlement conferences in numerous condemnation cases related to the construction of State Route 64. I have conducted several divorce settlement conferences. I successfully conducted a multi-party boundary line dispute settlement conference for a Chancellor in Gibson County that was scheduled for a week-long trial. I recently settled a suit between two neighbors arising out of the operation of a private airport. Several lawsuits grew out of the dispute and litigation had been ongoing for years. The last pending case was scheduled for a two week trial. Mediation had failed and the attorneys asked me to do a judicial settlement conference. After getting nowhere for most of the morning, I found both parties were acting in bad faith and threw them out of my office. Before the lawyers left, I asked them to come back after lunch. My stunt got the attention of the litigants and the case was settled within two hours after the parties returned. I like doing judicial settlement conferences, but I try to limit the number I do so as not to compete with Rule 31 Mediators any more than necessary.

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.

None

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

attention of the Commission.

None

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.

I applied for the open Circuit Judge position created when Bill Cain was appointed to the Court of Appeals. I went through the judicial nominating process and was one of the three applicants whose name was submitted to Governor Sundquist. I was appointed on May 20, 1998.

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.

Bachelor of Arts in History with honors from the University of Tennessee, Knoxville in 1974.
Doctor of Jurisprudence from the University of Tennessee College of Law in 1978.

PERSONAL INFORMATION

15. State your age and date of birth.

61, March 4, 1952

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

60 years. I was born in Florence, Alabama but moved to Tennessee before my first birthday.

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

Except for my years in undergraduate school and law school and the year I clerked for Judge Parrott, I have lived in Maury County since 1955. I moved back and began practicing in September of 1979 and have lived in Maury County continuously since then.

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

Maury

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.

None

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, other than I have paid some speeding tickets. My last speeding ticket was around 1987.

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.

No

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.

I was a plaintiff in a collection action on a note filed twenty-five to thirty years ago. I received a judgment. No money was ever collected.

A company that manages rental property I own sued in my name for past due rent ten to fifteen years ago. A judgment was obtained and has been paid.

Courtney, Fleming and Holloway was sued once over a UCC1 misfiled by one of our associates. I do not believe any attorney was named individually. I was the firm representative in Court and testified. The jury returned a verdict in the exact amount our insurance company offered before trial to settle the case. The verdict, less the deductible which the firm paid, was satisfied by our insurance carrier.

My wife and I were defendants in a suit in the early 1980s filed by a lumber company. A general contractor remodeling our home filed a chapter 7 bankruptcy over debts that had nothing to do with the work he was doing for us. After the contractor was discharged, the suit was settled amicably. I paid for the materials the contractor had charged at the lumber company and the complaint was dismissed.

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.

First Presbyterian Church of Columbia, Deacon 1984 – 1987, Elder 1988 - 1991

Kiwanis of Columbia, Director 1986 – 1987, President 1994 -1995

Boy Scouts of America, Scoutmaster 1980 to present, Middle Tennessee Counsel Executive Board 1986 – 1998 (estimate), Duck River District President 1986 (estimate)

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.
- If so, list such organizations and describe the basis of the membership limitation.
 - 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.

A person cannot be a professed atheist and belong to the Boy Scouts of America. Duty to God has been part of the Scout Oath since scouting was founded in England in 1909 and in the United States in 1910. In my 33 years as a Scoutmaster, the issue came up one time. About 25 years ago, I had a scout who was having trouble reconciling his beliefs with the Scout Oath. He approached me after a meeting about his concerns. After discussing his beliefs, I told him I thought he was an agnostic and that there was no prohibition for an agnostic to be in scouts. He was relieved and went on to become an Eagle Scout. I plan to remain Scoutmaster of Troop 111. I believe a requirement that a person believe in something spiritually higher than himself or herself is a valid requirement for membership in a private organization such as the Boy Scouts of America.

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.

Maury County Bar Association, Member since 1979. President 1996

Tennessee Bar Association, Member since 1979 (I believe). Board of Governors June 2012 – June 2013

American Bar Association, Member since 2008. Delegate to the National Conference of State Trial Judges 2008, 2009 and 2010.

Tennessee Bar Foundation, Fellow since 1998 (I believe).

Tennessee Trial Judges Association, member since 1998.

Tennessee Judicial Conference, member since 1998; President June 2012 – June 2013; President-elect June 2011 - June 2012; Treasurer June 2009 – June 2010; Chairman, Legislative Committee June 2010 – June 2012; Vice Chairman, Judicial Academy June 2009 – present.

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.

University of Tennessee College of Law, Dean's Advisory Council 2005 – 2010 (I believe)

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

none

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.

none

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.

1986 State Senate (Williamson, Maury, and Giles Counties) won Republican primary, lost in general election.

Tennessee Advisory Commission on Inter-governmental Relations, Commissioner 1986 to 1988, appointed by Governor Alexander.

Maury County Election Commission, (Republican) Commissioner 1991 – 1998 (I believe), appointed.

Circuit Judge, 22nd Judicial District, Part II, appointed by Governor Sundquist in May 1998, elected August 1998 and August 2006.

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

No. I have worked on certain political issues at the legislature. As attorney for the Columbia Water System, I worked with a registered lobbyist and met with several legislators concerning the 14,000 acres and millions of dollars TVA was abandoning after tearing down the Columbia Dam. In 2012, as chairman of the Legislative Committee of the Judicial Conference and as a member of the specially appointed five-person Committee on the Court of the Judiciary, chaired by Judge Jeff Bivins, I met with legislators seeking support for the bill that our committee drafted that created what is now the Board of Judicial Conduct. In 2013, as President of the Judicial Conference, I spent several days in the legislature working with Chancellor Daryl Fansler, President of the Trial Judges Association, and Chief Justice Gary Wade on the bill to redistrict the 31 Judicial Circuits in Tennessee. I have never been a registered lobbyist, but I have occasional done what I consider is essentially “lobbying”.

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.

Carter v. Leach, Maury Circuit No. 14047, 100%

Scott v. City of Mt. Pleasant, et al, Maury Circuit No. 14012, 100%

State v. Whitworth, Giles Circuit Nos. 15645 and 15935, 95%

ESSAYS/PERSONAL STATEMENTS

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

I really enjoyed clerking for Judge Parrott. That experience was one of the reasons I wanted to be a trial judge in 1998 and an appellate judge at this time.

I have really enjoyed being a Circuit Judge, but I believe a new challenge would be exciting. As a Circuit Judge, I take a lot of matters under advisement. After reading the file and any memoranda filed by the attorneys, I do my own research. In the last few years, I have started typing many of my orders or judgments.

I enjoy research and writing. I know the judges on the appellate court and do not believe I would have any problem working with them and handling my share of the caseload. With my experience in the practice of law and as a judge, I believe I could do the job well.

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)*

As a Circuit Judge for 15 years, I have not provided pro bono services. I often assist *pro se* litigants as much as I can without providing legal advice. For the first few years of my practice, I was appointed to help people who could not afford an attorney. In those days, Judge Ingram would often "appoint" young lawyers to represent people who needed help, often in a divorce or child support matter. After joined Courtney, Fleming and Holloway, I volunteered to accept clients referred to me by Legal Services. I provided free legal assistance to several local not-for-profit corporations. I served on the Maury County Election Commission for several years. As the only attorney on the Commission, I provided free legal research and advice when needed. When my church sought to acquire adjacent real property, I drafted the contract and handled the closing without charge.

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 four appellate judges on the Middle Section Court of Appeals handle a diverse mixture of civil appeals. I believe my 15 years on the trial bench during which I presided over all types of cases has prepared me to be a civil appellate judge. I research and write regularly as part of my responsibilities as a Circuit Judge. Practicing in a somewhat rural county for 19 years required me to provide legal advice and representation to a variety of clients with different legal problems and needs. I believe my legal and judicial experience has prepared me to hear oral arguments and write opinions in almost any type civil case from day one. I have learned to make the best decision I can in tough cases and then to move on to the next case.

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 have been a Scoutmaster for 33 years. Over 70 scouts have earned the rank of Eagle Scouts in my Troop during this time. Five of our Eagles are attorneys practicing in Middle Tennessee. I plan to stay active with Troop 111. In the past I have served on the Executive Board of the Middle Tennessee Council and as Chairman of the Duck River District. I have no plans to serve on the Council or the District at the present time.

I am a member of the Kiwanis Club of Columbia. I have served on the Board of Directors and was President in 1994. I plan to stay involved if my schedule permits. I am on senior status, so attendance requirements are relaxed.

I have no plans to become actively involved again in the following organizations:

United Way of Maury County. I served as Drive Chairman in 1982 and as President in 1986.

Maury County Chamber of Commerce. I was Vice President of Local Affairs in 1988.

Maury County Library Board. I was on the board from 1982 to 1986.

Maury County YMCA. I was on the original Capital Development Committee to raise funds to construct the building in 1997.

Maury County Public Education Foundation. I was a founding director.

Maury County Republican Party. I was Chairman in the early 1980s.

Mock Trial. I coached the Columbia Central High School team in the late 1980s.

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 believe the diversity of my legal career has prepared me to be an appellate judge. I have been active in the Tennessee Judicial Conference and the Trial Judges Association. I know most of the appellate judges and trial judges in the state. Many are good friends; others are more of acquaintances. I was in law school with the Mike Catalano, Clerk of the Tennessee Appellate

Courts. I try to treat all attorneys and litigants that appear before me courteously and professionally. I have ruled against attorneys who are friends or former partners of mine, if the facts and the law do not support their position.

My wife and I have raised five children. My oldest son is married with two boys. He is a regional manager for a commercial roofing company headquartered in Atlanta. My daughter is a Pediatric Hospitalist at Vanderbilt Children's Hospital. Her first child is due June 9, my next son practices law in Franklin with Shell and Davies. He has one daughter. My next son does biomedical research at the University of Virginia. He plans to go to either medical school or work on his PhD in neuroscience at UVA. My youngest son starts law school at the University of Memphis this fall. My proudest life experience is raising five children with my wife and watching them find success and happiness as adults, including having grandchildren for my wife and me to spoil. As a Scoutmaster, I am proud my four sons are Eagle Scouts.

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)*

As a trial judge, I have never failed to uphold a law because I disagree with it. One example where I applied the law, but did not like the outcome occurred about a year ago in a jury trial of a defendant charged with three counts of selling over .5 grams of cocaine within a thousand feet of a school. The Defendant testified he was a small-time drug dealer selling enough to support his habit. He said he had never sold to children and had no idea the house of a confidential informant was within a thousand feet of a school. To get to the school you had to cross the informant's yard, cross a street, cross another yard, climb a fence, climb down an embankment, cross a railroad track, go up an embankment, cross another fence, cross another yard, cross another street to arrive an eight foot iron fence surrounding a 14 acre campus of a private school. The distance was approximately 870 feet as the crow flies. The jury found the defendant guilty. When I spoke to the jury after trial, they asked if we could get him into a rehab program. The pre-sentence report showed he had no prior felony convictions. With no discretion, I had sentenced him to the minimum: 15 years at 100%. In comparison to other criminal sentences I impose, I thought the sentence was much too harsh. Nevertheless that was the law and I followed the law.

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. John Fleming, Maury County Register of Deeds, 1 Public Square, Columbia TN 38402, [REDACTED], 931-375-2101(o)

B. Waymon Hickman, First Farmers and Merchants Bank, 816 S. Garden St., Columbia TN

B. Waymon Hickman, First Farmers and Merchants Bank, 816 S. Garden St., Columbia TN 38401, 931-388-3145(o)

C. Enoch George, Maury County Sheriff, 1300 Lawson White Drive, Columbia TN 38401, 931-375-8601(o)

D. Jim Parks, Principle, RealtyCorp, 219 West 7th St., Columbia TN 38401, 931-388-9100(o)

E. Bobby Sands, Maury County General Sessions Judge, Maury County Courthouse, Columbia TN 38401, 931-375-1202(o)

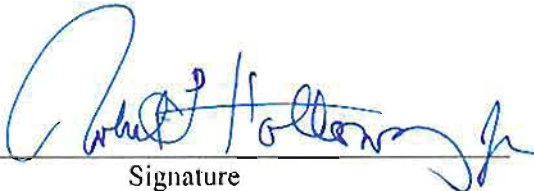
AFFIRMATION CONCERNING APPLICATION

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 of Appeals of Tennessee, Middle Division, 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: MAY 31 , 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

**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 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.

Robert Lee Holloway, Jr.



Signature

MAY 31, 2013

Date

BPR # 6535

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

I was issued a Real Estate Affiliate Brokers license in 1973 or 1974 by the Tennessee Real Estate Commission. That license has been retired and not active since the late 1970s.

