



# Tennessee Appellate Judges Evaluation Report

*Prepared by the Judicial Performance Evaluation Commission*



# 2012

# INTRODUCTION

In 1994, the Tennessee General Assembly changed the method of electing state appellate judges by adopting the Tennessee Plan. Under the Plan, every appellate judge who seeks election to fill either an unexpired or full eight (8) year term of office must be evaluated by the prior to a scheduled August election. The Judicial Performance Evaluation Commission is charged with the duty to evaluate these judges and to make a recommendation to retain or replace these judges. The purpose of the evaluation process is two-fold: (1) to assist the public in evaluating the performance of incumbent appellate court judges; and (2) to promote self-improvement among all judges.

The Judicial Performance Evaluation Commission is made up of nine (9) members and includes lawyers, non-lawyers and state trial court judges. The commission, by law, must represent gender and racial balance. The law also includes provisions that ensure that all three grand divisions are represented on the commission. Members participating in the 2012 evaluation process include E. Riley Anderson; John A. Day, Chair; John T. Fowlkes, Jr.; Henrietta Grant, Vice Chair; J. Gregory Grisham; Amy Reedy; Renata Soto; and, Michael E. Tant. There is one vacancy on the Commission created by the appointment of former trial court judge member Jeffrey S. Bivins to the Court of Criminal Appeals. No appointment has been made to fill the vacancy as of the date of this report.

The commission's report contains the evaluation results and retention recommendations for the two Court of Criminal Appeals judges who are standing for retention election in August 2012. Under the guidelines outlined in Supreme Court Rule 27, as required by the Plan, evaluations are based upon the following criteria:

- Integrity
- Knowledge and Understanding of the Law
- Ability to Communicate
- Preparation and Attentiveness
- Service to the Profession
- Effectiveness in Working with Other Judges and Court Personnel

In developing individual evaluations, the commission considered the following: personal information self-reported by each judge; caseload and workload statistics for each judge; and any public input that may have been received. Applications previously submitted by the judges to the Judicial Nominating Commission were also made available for review by the commission. No evaluation surveys were conducted, as permitted by statute, because of the limited amount of time each judge had been serving prior to evaluation. The commission reviewed opinions drafted by Judge Bivins for the evaluation, but Judge Page had not had an opinion published as of the date of the evaluation. The commission conducted a formal interview with each judge to discuss judicial performance issues as part of the evaluation process.

The evaluations contained herein express the commission's impressions of each judge's experience and performance and include the commission's vote and recommendation whether each judge should be retained or replaced.

# COURT OF CRIMINAL APPEALS

## Judge Jeffrey S. Bivins

**Recommendation:** RETAIN

**Commission Vote:** 8 FOR RETENTION – 0 FOR REPLACEMENT

**Legal Education and Experience:** Judge Jeffrey S. Bivins received his law degree from Vanderbilt University School of Law in 1986. He engaged in the private practice of law from 1986 until 1994 and again from 2002 until 2005. Judge Bivins served as Assistant Commissioner and General Counsel for the State of Tennessee, Department of Personnel from 1995 until 1999 and again from 2000 until 2002, serving as Circuit Judge for the 21st Judicial District during 1999 and 2000. Judge Bivins returned to serve as Circuit Judge for the 21st Judicial District in 2005, where he served until appointed as a Judge of the Court of Criminal Appeals in August 2011.

**Service to the Profession:** Judge Bivins is a member of the Williamson County Bar Association and a Fellow in both the Tennessee Bar Foundation and the Nashville Bar Foundation. He is a past president and member of the John Marshall American Inns of Court. Judge Bivins served on the Judicial Performance Evaluation Commission from 2009 until he was appointed to the Court of Criminal Appeals. He is a current member of the Court of Judiciary. Judge Bivins is an active member of the Tennessee Judicial Conference, serving on the Executive Committee, Co-Chair of the Compensation and Retirement Committee, Chair of an Ad Hoc Committee on the Court of Judiciary and member of the Criminal Pattern Jury Instructions Committee.

**Performance Evaluation:** At the time of Judge Bivins' evaluation, he had been serving on the Court of Criminal Appeals for three and one-half months. Because of the short duration of Judge Bivins' service, no survey results were available for consideration by the Commission. The Commission reviewed the Judicial Application submitted to the Judicial Nominating Commission, reports on current caseload and disposition of cases, responses to a self reporting questionnaire and opinions written by Judge Bivins that have been released. The Commission found Judge Bivins to possess a broad range of knowledge of the law and experience as both an attorney and a judge. Judge Bivins has been involved and active in service to the community. His opinions are well written with clear and understandable holdings supported by law.

**Interview:** As authorized by Supreme Court Rule 27, Section 5.03 a panel of Judicial Performance Evaluation Commission members conducted a public interview with Judge Bivins. As a result of its interview with Judge Bivins, the Commission panel found that Judge Bivins' has had a smooth transition from trial judge to appellate judge. He has carefully chosen qualified staff to assist him. While most new judges experience a backlog of opinions while transitioning into and adapting to the appellate bench, Judge Bivins has completed his work in a timely manner, a fact that demonstrates his impressive work ethic.

**Recommendation:** The Commission unanimously recommends Judge Jeffrey S. Bivins be retained on the Tennessee Court of Criminal Appeals.

### **JUDGE BIVINS' RESPONSE TO THE EVALUATION:**

I am very grateful that the Judicial Performance Evaluation Commission has unanimously recommended me for retention on the Tennessee Court of Criminal Appeals. I am blessed to have the honor and privilege to serve on the Court of Criminal Appeals. If the voters of the State of Tennessee see fit to retain me in this position, I promise to continue serving in this office with the highest degree of ethical conduct and to treat all cases in a fair and unbiased manner.

# COURT OF CRIMINAL APPEALS

## Judge Roger A. Page

**Recommendation:** RETAIN

**Commission Vote:** 8 FOR RETENTION – 0 FOR REPLACEMENT

**Legal Education and Experience:** Judge Roger A. Page received his law degree from University of Memphis School of Law in 1984, after working as a licensed pharmacist for several years. Upon graduation, Judge Page served as law clerk to Judge Julia Gibbons in the Federal District Court in Memphis, Tennessee. After serving as an associate for a law firm in Atlanta for two years, Judge Page came to Jackson, Tennessee where he joined the law firm of Holmes, Rich, Sigler and Page as an associate and later was made a partner. He served the Tennessee Attorney General's Office as an Assistant Attorney General from 1991 until 1998 when he was elected Circuit Court Judge for the 26th Judicial District. He was reelected in 2006 and has served as Circuit Court Judge until his appointment to the Court of Criminal Appeals. The Governor appointed Judge Page to the Court of Criminal Appeals in December 2011.

**Service to the Profession:** Judge Page is a member of the Jackson-Madison County Bar Association, Tennessee Bar Association and the Edmund Howell Jackson American Inns of Court. Judge Page served on the Judicial Evaluation Commission from 2004 until 2008. Judge Page is an active member of the Tennessee Judicial Conference, serving on the Criminal Pattern Jury Instructions Committee and the Bench-Bar Committee. Judge Page also is a member of the Tennessee Trial Judges Association. He is a member, Past President and current Board of Directors member of the Jackson Downtown Lions' Club. He is also a member of the First Baptist Church of Jackson.

**Performance Evaluation:** Because of the short duration of Judge Page's service, no survey results were available for consideration by the Commission.

**Interview:** At the time of the interview, Judge Page had been appointed only ten days prior. The Commission used the information available in Judge Page's application to the Judicial Nominating Commission to conduct the interview. As a result of the interview, the Commission found Judge Page to have a broad range of experience as a litigator and a trial judge. He appears to possess the knowledge and writing ability to serve on the appellate court. He has written opinions for Worker's Compensation Panels and extensive written orders in post-conviction matters. Having served previously on the Judicial Evaluation Commission, Judge Page understands the importance of drafting quality opinions in a timely manner.

**Recommendation:** The Commission unanimously recommends Judge Roger A. Page be retained on the Tennessee Court of Criminal Appeals.

### **JUDGE PAGE'S RESPONSE TO THE EVALUATION:**

I am grateful that the Judicial Performance Evaluation Commission has unanimously recommended that I be retained on the Tennessee Court of Criminal Appeals. It is a great honor to serve the people of Tennessee on the Court. If I am retained, I will strive for excellence in each opinion. I will conduct my personal and professional life with honor and integrity and will make every citizen of this state proud that I am serving.