

Tennessee Trial Court Vacancy Commission
Application for Nomination to Judicial Office

9/8/20

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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 Microsoft Word 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 Microsoft Word 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 ceesha.lofton@tncourts.gov, or via another digital storage device such as a flash drive. See section 1(g) of the application instructions for additional information related to hand-delivery of application packages.

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

PROFESSIONAL BACKGROUND AND WORK EXPERIENCE

1. State your present employment.

Self-employed attorney.

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

2005 BPR# 024097

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# 024097

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 completing my legal education, I was employed for six years by the State of Tennessee as an Assistant District Attorney General in the 31st Judicial District. After leaving the District Attorney's Office I went into private practice, as a criminal defense trial attorney, where I have remained.

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 focuses primarily (99%) on criminal defense. Though I will occasionally accept a family law client (divorce, post-divorce, etc.) most of my caseload is criminal defense. I accept cases in both General Sessions and Circuit Court and consider my practice to be a trial practice, as I regularly conduct jury trials.

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.

My initial experience was gained in the District Attorney General's Office for the 31st Judicial District. As a smaller district, we were structured with vertical prosecution, meaning that the cases I individually worked in General Sessions Court were generally my cases to work if they proceeded into Circuit Court. Additionally, I was assigned cases that were direct presentments to the Grand Jury. I gained trial experience quickly. Though I tried many cases alone, I also tried cases with more seasoned prosecutors, especially on more serious charges such as murder, sexual offenses, and offenses against children. Early in my career I would second chair such cases. As time progressed, I would handle those cases alone. As a prosecutor, I tried cases including, but not limited to, misdemeanor offenses such as DUI, simple assault, domestic assault, and misdemeanor drug crimes, as well as more serious crimes, such as felony animal abuse, murder, rape, kidnapping, aggravated assault, and felony drug cases. In working those cases, I handled all aspects of the cases. I prepared my own discovery for defense counsel, prepared witnesses for trial, prepared trial exhibits, and worked with law enforcement to ensure I was able to present the best and most complete case to the jury. I maintained an excellent working relationship with the local law enforcement agencies and prepared numerous search warrants at all hours of the day or night when needed. Often, when the circumstances giving rise to the need for a search warrant led to an indictment, I would be assigned to work the case in court because of my knowledge of the case. Naturally, most cases did not proceed to a jury trial. In those cases, I analyzed the evidence in the case, engaged in discussions with defense counsel, consulted with law enforcement, and made plea offers.

When I went into private practice I focused on criminal defense. I accepted court appointed cases in every county in which I practiced. My first jury trial as a private attorney was a court-appointed Felony Murder case in October 2012, which resulted in acquittal. As a private attorney I have tried cases including, but not limited to, felony murder, attempted murder, child abuse, child sexual crimes, drug offenses, rape, and various misdemeanor crimes including DUI. I handle all aspects of the criminal cases I accept. Though I have maintained a support staff for the majority of the time I've been in private practice, I personally work each of my cases. I review the discovery, develop case theory, develop and produce demonstrative aids or exhibits, draft all motions, and communicate directly with my clients. The only third party that handles any aspect of my criminal cases is an investigator or other expert if the case requires. I have tried all of my cases alone, with the exception of two cases where an intern or another attorney in my office sat in trial with me to gain experience. In cases where my clients have been convicted

after trial, I have conducted motions for new trial, motions for judgment of acquittal, sentencing hearings, and appeals to the Court of Criminal Appeals.

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

The only case I have ever been involved in that proceeded all the way to the Tennessee Supreme Court was the case of *Stanton v. State*, 395 S.W. 676, where the Court reviewed my denial of pre-trial diversion to a defendant whom I prosecuted for animal cruelty. The Court held, in a detailed opinion, that I had properly applied the law to the facts and had not abused my discretion in denying the defendant pre-trial diversion.

In Rutherford County in 2019 I jury tried the case of *State v. Crystal Adams* wherein Mrs. Adams was charged with Aggravated Assault, Felony Reckless Endangerment, and Domestic Assault. The jury convicted my client of Felony Reckless Endangerment and I filed a written Motion for Judgment of Acquittal under Rule 29. In a written opinion, Judge Royce Taylor assumed the role of 13th juror and set aside the jury verdict against my client. That is the only one of my cases where a judge acted as 13th juror to set aside a jury verdict.

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

N/A

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

N/A

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.

Middle Tennessee State University – 2000 – Bachelor of Science (Animal Science)

Widener University School of Law – 2004 – Juris Doctor (President of Moot Court Honor Society, Received the Outstanding Executive Board Member Award for the Moot Court Honor

Society and the Outstanding Service Award from the University)

University of Arkansas School of Law – 2005 – Master of Law (Agricultural Law) – Published my Thesis, *Resolution of an Apparent Conflict*, in the Drake Journal of Agricultural Law (Fall 2009)

PERSONAL INFORMATION

12. State your date of birth.

██████████ 1976

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

My family moved to Tennessee when I was about two years old. Other than my time in law school and obtaining my Master of Laws degree, I have always lived in Tennessee.

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

We moved to Cannon County in March of 2020. Prior to that my family lived in Rutherford County.

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

Cannon County

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.

N/A

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. You may wish to request a report from the appropriate supervisory authority (or authorities) for a complete history.

I have responded to one complaint that was subsequently dismissed.

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.

My family and I are involved with our Church and participate in community outreach and service projects with our Church. In addition, my wife and I just finished coaching a 5/6-year-old T-Ball team in Cannon County as part of the Cannon County Dixie Youth Association. My wife and I started the Passion Initiative a few months ago where we seek to spread positive messages, give back to our community, and encourage others. If I am fortunate enough to be appointed judge, I will continue to work in my community to help those in need, spread positive messages of hope, and try to be an example for others.

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 – I’ve been a member at various points through my career and most recently renewed my membership on October 5, 2020.

TACDL – I’ve been a member at various points through my private practice and most recently renewed my membership on October 5, 2020.

Rutherford/Cannon County Bar Association – Current member. Renewal in January 2021.

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.

Named one of “America’s Top 10 Animal Defenders” by Animal Legal Defense Fund – 2011

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.

In 2012 I submitted my name to the Warren County Commission for appointment as General Sessions Judge when Judge Larry Ross retired before the expiration of his term.

ESSAYS/PERSONAL STATEMENTS

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

I am seeking this judgeship because I believe that my experience as both a prosecutor and defense attorney uniquely qualifies me to hear criminal cases. I have spent the past 15 years engaged in criminal law and have conducted numerous jury trials before several different judges. I have handled simple matters and complex matters. I understand the issues faced by both prosecutors and defense attorneys in handling their cases and I have a strong desire for our judicial system to work efficiently and with the utmost integrity. I want to contribute to my profession in a way that can have a positive impact on the people that work in the profession, as well as those who encounter the profession. I believe that my character, work ethic, legal knowledge, and experience will be beneficial for our profession, the Rutherford and Cannon County Bar, and the people of the 16th Judicial District.

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 judgeship I seek is in the 16th Judicial District (Rutherford and Cannon County) and it is a criminal judgeship. There are three judges hearing criminal cases at the Circuit level. Because of my extensive experience handling criminal matters and conducting jury trials, my selection would be accompanied by a smooth transition, allowing the criminal dockets to continue moving in an efficient manner. I would be able to immediately begin working on existing dockets and conducting jury trials, while managing future dockets and future Grand Juries. My selection would instill confidence in the bar because I have worked hard to earn a reputation as a competent and knowledgeable criminal attorney with a strong work ethic. I am very familiar with court scheduling, court procedures, the staff of both Circuit Court Clerk offices, as well as the Rutherford County and Cannon County Sheriff's Department, who handle prisoner transport and courthouse security.

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)*

Yes. The place that this has been the most obviously present in my life is in my defense of people who have committed serious crimes. It has not been uncommon over the years for

people, especially people I go to Church with, to ask me how I can, in good conscience, represent people accused of child rape or murder or some other serious crime. As I have explained many times, my representation should not be seen as advocacy for the acts they are accused of, but rather as advocacy of a system that provides that no person can be held to account for crimes allegedly committed without representation. Additionally, there are laws that I believe are not well reasoned, but I accept that the law is what it is and that my duty is to uphold it as written.

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. Susan Melton, General Sessions/Juvenile Court Judge Cannon County, [REDACTED]
B. Jacob D. Flatt, Senior Judicial Commissioner (Rutherford County) [REDACTED]
C. Thomas Wakefield, State Farm Insurance, [REDACTED]
D. William Mitchell, Air Traffic Controller (BNA), [REDACTED]
E. Ken McKnight, Assistant Public Defender, [REDACTED]

AFFIRMATION CONCERNING APPLICATION

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

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

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

Dated: October 13, 2020.


Signature

When completed, return this questionnaire to Ceesha Lofton, 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.

Joshua T. Crain
Type or Print Name

Joshua T. Crain
Signature

10/13/2020
Date

024097
BPR #

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