

**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](http://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](mailto: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.

Since August 2011, I have been employed as Senior Judicial Law Clerk to The Honorable D. Kelly Thomas, Jr., on the Court of Criminal Appeals.

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

November 2000; BPR #020880.

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.

None other than my active Tennessee license.

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).

Prior to my present employment, I have worked sequentially in the following capacities: (1) Senior Judicial Law Clerk to The Honorable David H. Welles in Nashville from January 2006 to July 2011; (2) Staff Attorney for the Tennessee Department of Commerce and Insurance in Nashville from November 2004 to December 2005; (3) Senior Judicial Law Clerk to The Honorable David G. Hayes in Jackson July 2001 to November 2004; (4) Case Law Editor for Lexis-Nexis in Memphis from April 2001 to July 2001; and (5) Associate for Cordts Law Firm in Memphis from November 2000 to January 2001.

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.

I am currently a State of Tennessee employee. Though the workload on the Court of Criminal Appeals deals exclusively with criminal jurisdiction, often quasi-civil matters are involved in the post-conviction forum. Cases reviewed by the Court of Criminal Appeals, and of which I have been personally involved, include: direct appeals in death penalty and all other cases, interlocutory appeals, post-conviction petitions, writs for habeas corpus, writs for error coram nobis, writs of certiorari, and Rule 36.1 motions.

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.

Over an almost nineteen-year period, I have worked extensively with three different judges on the Court of Criminal Appeals. During that time, I have been involved in the review of hundreds of jury trials, guilty pleas, and post-conviction matters, likely working on over one thousand cases. My duties in this capacity require me to complete the following: (1) effectively research legal issues in a variety of areas; (2) timely draft legal opinions, bench memorandums, and other court documents; (3) aptly and professionally assist in relations with other judges through a variety of communication methods; (4) with a strong grasp of the court's record-keeping system, competently communicate with the Appellate Court Clerk's Office; (5) thoroughly and thoughtfully analyze complex legal issues by examining the appellate record, briefs, and case law; (6) knowledgeably advise on a variety of issues; (7) providence guidance to new clerks; (8) efficiently supervise and educate interns; and (9) daily gain indispensable knowledge of rules of writing, legal citation, and proper Bluebook form.

Also, as part of my government service, I have worked as a Staff Attorney for the Department of Commerce and Insurance. While serving this administrative body, I was involved in the following activities: (1) researched legal issues in the areas of insurance, tax, securities, and administrative law; (2) drafted rules, manuals, pleadings, memorandums, orders, other legal documents, and legislative bill summaries; (3) provided legal advice to the financial affairs section regarding compliance with insurance laws, rules, and regulations; (4) examined insurance company financial statements for financial solvency; (5) evaluated insurance company information pertaining to admissions, premium taxes, examinations, third party administrators, and mergers and acquisitions; and (6) attended meetings with attorneys, department staff, and other interested parties.

Briefly, I was employed as a Case Law Editor for Lexis Nexis. In this capacity, I created case law summaries from opinions in the LEXIS database, preparing brief summaries of the important facts, rules, and holding of the case, following editorial guidelines. This job required analytical skills and the ability to rapidly produce thorough, accurate, and concise summaries. My experience with Lexis Nexis was an essential factor in Judge Hayes' decision to hire me to serve as his law clerk.

Finally, for a short time, I worked as an Associate for the Cordts Law Firm. This was a small law firm environment, which required self-motivation and quick learning. In this capacity, I interviewed potential clients regarding family law and bankruptcy issues, prepared legal documents, and attended courtroom proceedings. Given the extreme importance of these issues to the clients, I felt more oversight and practical solutions were needed.

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

I believe that my detailed legal experience in the section above reflects my personal involvement in all three of these arenas. In my humble opinion, this direct involvement in the trial courts, appellate courts, and an administrative body makes me uniquely prepared to take on the responsibilities of a trial court judge in Anderson County. Moreover, in my time with the appellate court, I have been able to see how good trial judges operate effectively and are able to make decisions accurately and quickly.

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

In my third year as a Law Student at the University of Memphis, I served as a law clerk for The Honorable D'Army Bailey in the Shelby County Circuit Court. In this capacity, I was intimately involved with preparation of the motion docket, which included compiling and organizing the relevant case materials for Judge Bailey, as well as researching any pertinent legal issues.

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.

I obtained my Juris Doctorate Degree in May 2000 from the University of Memphis School of Law. I graduated with 3.247/4.0 GPA and was ranked 23 out of 161 students, placing me in the top fourteen percent of my class. Honors bestowed upon me included being a recipient of the Law Alumni Scholarship; receiving the Dean's Award for Excellence and CALI Award in

Jurisprudence; and being placed among the Who's Who: American Law Students. My activities while a student at this institution included being an Articles Editor for the Tennessee Journal of Practice & Procedure; participating in the First-Year and Advanced Moot Court Competitions, as well as the Mock Trial Competition; being elected Third-Year Bar Governor for the Student Bar Association; and being a member of Phi Delta Phi and the Environmental Law Council.

In addition, while a law school student, I took a Criminal Law class through the University of Oklahoma during the summer of 1998. The course was taught at Queen's College, in Oxford, England. I received the requisite grade for this course for it to be recognized by the University of Memphis in furtherance of completing the necessary requirements for obtaining my JD.

I completed my undergraduate education over a four-year period at Christian Brothers University, which is also located in Memphis. In May 1997, I received a Bachelor of Arts degree in History with a 3.5/4.0 GPA, thereby earning a Magna Cum Laude designation. Honors bestowed upon me by this institution included being a recipient of the Plough Scholarship; receiving the National Dean's List Award; placement on the Dean's List from 1994 to 1997; serving as Treasurer for the Phi Alpha Theta organization; and being a member of the Honors Program. My activities as a collegiate included being a member of Zeta Tau Alpha Fraternity for all four years, as well as serving a one-year term of Historian/Reporter for the organization; and I was also a member of the Pre-Law Society.

While a student at CBU, I took two courses during the summer of 1996 at Shelby State Community College in Memphis. I received the requisite grade for these courses for them to be recognized by CBU in furtherance of completing the necessary requirements for obtaining my BA.

### PERSONAL INFORMATION

12. State your date of birth.

██████████ 1975.

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

Almost thirty-two years. Though I briefly lived in Florida during my childhood, I was born in Memphis and am a native Tennessean. I have lived in and worked for all three Grand Divisions.

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

It will be ten years as of the upcoming July 4th weekend.

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

Anderson.

16. Describe your military service, if applicable, including branch of service, dates of active duty, rank at separation, and decorations, honors, or achievements. Please also state whether you received an honorable discharge and, if not, describe why not.

Not applicable.

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

No.

18. To your knowledge, are you now under federal, state or local investigation for possible violation of a criminal statute or disciplinary rule? If so, give details.

No.

19. Please identify the number of formal complaints you have responded to that were filed against you with any supervisory authority, including but not limited to a court, a board of professional responsibility, or a board of judicial conduct, alleging any breach of ethics or unprofessional conduct by you. Please provide any relevant details on any such complaint if the complaint was not dismissed by the court or board receiving the complaint. You may wish to request a report from the appropriate supervisory authority (or authorities) for a complete history.

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.

I am a Tennessee Fund Donor for the University of Tennessee. In addition, from 2018 to 2020, I have served as Secretary for the Timberlake Estates Homeowners' Association—the Association governing my present Anderson County residence. Currently, I am serving as President of the Timberlake Estates Homeowners' Association, being elected in 2020.

Given my first husband's terminal illness (he suffered from amyotrophic lateral sclerosis), I have not been able to be involved in as many community activities as I would have liked. His illness not only required me to provide his care, but I also had to advocate for him and ultimately be his voice to deal with the insurance companies and assist in getting needed healthcare. I do, however, plan to be very involved in the community in future.

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.

Yes. While a collegiate at Christian Brothers University, I was a member of Zeta Tau Alpha Fraternity—its membership being open to individuals who consistently live and self-identify as women. My collegiate membership ended with graduation. I have never joined an Alumni Chapter and have no intention of doing so or participating in any of their activities.

### 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.

None.

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.

None.

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 have served as a dedicated government employee for twenty years and endeavor to continue with public service. I believe that through my experience, I am uniquely qualified to fulfill this role. Most of my career has been committed to the process of adjudicating and formulating decisions on disputed matters, the precise business of trial court judges. Research and logical reasoning have been crucial.

I also believe that our life experiences shape us into competent, considerate, and compassionate people. My husband was diagnosed with ALS at thirty-nine and died three years later. To say such an experience was trying would do it a disservice. However, going through that will allow me to understand what people are feeling when in court. Also, it required extreme perseverance,



caretaking, patience, kindness, love, and dedication, as well as support from others. I will strive to bring these qualities with me to the bench.

29. Describe the judgeship you seek (i.e. geographic area, types of cases, number of judges, etc. and explain how your selection would impact the court. *(150 words or less)*

I seek to serve the people of Anderson County as Circuit Court Judge, hearing both civil and criminal cases and appeals from lower tribunals. The County is considered part of the Norris Highlands. Judgeships in this District include one Circuit Court Judge (this specific vacancy), Chancery Court Judge, Juvenile Court Judge, and two General Sessions Judges, who serve the County's approximate 77,000 citizens. I have lived in Anderson County for almost ten years, residing in both Oak Ridge and Clinton. The kind and service-oriented citizens of Anderson County supported me throughout my husband's illness; they deserve an orderly and safe community in which to live. I believe my previous government service will allow me to quickly establish myself. Moreover, given the opioid epidemic facing this community, I would like to emulate what other State judges have done by expanding less punitive ways to reach non-violent offenders who are afflicted.

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, I will uphold the law as written, such being the supreme responsibility of the judiciary. Recently, I worked on a case with Judge Thomas that dealt with a conviction for unlawful photography. The case involved a Sullivan County man who had a predilection for filming clothed women in public without their consent. See State v. David Eric Lambert, No. E2018-02298-CCA-R3-CD, 2020 WL 2027761 (Tenn. Crim. App. Apr. 28, 2020). This man was a serial offender and had also been charged in two other cases. Though the constitutionality of the unlawful photography statute was upheld, the CCA found that the evidence was insufficient to support the Defendant's conviction under the statute in effect at that time. After a review of the legislative history and the statutory term "reasonable expectation of privacy," the CCA reasoned that the victim did not have "an actual, subjective expectation of privacy" and that society was not willing to view any subjective expectation of privacy as reasonable and justifiable under such circumstances. The statute has since been amended to define "reasonable expectation of privacy" and could arguably cover such behavior. Nonetheless, it was my job to draft an opinion for Judge Thomas reversing this conviction under the statute in effect at that time, though I was displeased with the result. The media covered this opinion as supporting a man's right to follow and film a woman in public; however, it is not the judiciary's job to craft the law as it sees fit.

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. Judge D. Kelly Thomas, Jr., Court of Criminal Appeals; [REDACTED] [REDACTED]
B. Judge Norma McGee Ogle, Court of Criminal Appeals; [REDACTED] [REDACTED]
C. Leslie Price, Senior Deputy of the Criminal Justice Division, Attorney General's Office; Cell [REDACTED]
D. Paula Pruitt Cottrell, family friend, lifetime resident of Anderson County, and daughter of deceased former Oak Ridge Mayor Roy Pruitt; [REDACTED]
E. Heather Ganziano, consultant to Ryan Burrell, founder of Knoxville-based Spry Strategies, a consulting firm specializing in polling, hybrid-method research data; [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 Anderson County 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: June 5, 2021.

Elizabeth Mitchell Capps  
Signature

When completed, return this questionnaire to Ceeshia 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.

Elizabeth Mitchell Capps  
Type or Print Name

Elizabeth Mitchell Capps  
Signature

June 5, 2021  
Date

020880  
BPR #

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

None.