

Tennessee Trial Court Vacancy Commission
Application for Nomination to Judicial Office

04/15/16

Name: Ben E. Bennett

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INTRODUCTION

Tennessee Code Annotated section 17-4-301 et seq. charges the Trial Court Vacancy Commission with assisting the Governor and the People of Tennessee in finding and appointing the best qualified candidates for judicial offices in this State. Please consider the Commission's responsibility in answering the questions in this application questionnaire. For example, when a question asks you to "describe" certain things, please provide a description that contains relevant information about the subject of the question and, especially, that contains detailed information that demonstrates that you are qualified for the judicial office you seek. In order to properly evaluate your application, the Commission needs information about the range of your experience, the depth and breadth of your legal knowledge, and your personal traits such as integrity, fairness, and work habits.

This document is available in word processing format from the Administrative Office of the Courts (telephone 800.448.7970 or 615.741.2687; website www.tncourts.gov). The Commission requests that applicants obtain the word processing form and respond directly on the form. Respond in the box provided below each question. (The box will expand as you type in the document.) **Review the separate instruction sheet prior to completing this document. Submit by the noon deadline date an original (unbound) completed application (with ink signature) to the Administrative Office of the Courts.** In addition, submit a digital copy with electronic or scanned signature via email to debra.hayes@tncourts.gov, or via another digital storage device such as flash drive or CD.

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

PROFESSIONAL BACKGROUND AND WORK EXPERIENCE

1. State your present employment.

Attorney, Bennett & Scarlett Law Office.

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

2008-27094

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 – 27094 – 2008 - 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).

October 2008 – Present: Attorney, Bennett & Scarlett Law Office

August 1988 – July 2008: Detective Lieutenant, Rutherford County Sheriff's Office

May 1986 – August 1988: Machinist, Greer Smyrna

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 in private practice with a concentration in business and estate law. The small fraction of my practice in other areas are normally related to my client relationships in business and estate law.

Although I no longer concentrate on criminal law matters, it is my duty to stay engaged on the appointment schedule to serve indigent clients at the appointing judge(s) discretion.

My current practice focuses are as follows:

Business, Civil Law and Litigation: 45%

Estate Law, Planning, and Litigation: 45%

Family Law: 5%

Criminal Law: 5%

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.

Early in my practice, I was focused more on criminal and family law. The growth of my practice allowed me to gradually shift from those areas to concentrate on business and estate law. Today, my primary focus is on business and estate related matters. Throughout this process, I have appeared in municipal, general sessions (criminal, civil, and probate), circuit and chancery courts from Bluff City to Huntingdon Tennessee.

I have appeared and argued appellate matters in both the Middle and Eastern districts of the Tennessee Court of Appeals and filed briefs on behalf of clients in the middle district of the Tennessee Criminal Court of Appeals.

My practice has led me to represent clients in administrative hearings including VA disciplinary hearings, professional boards and Department of Safety seizure hearings as well as representing police officials involved in use of deadly force situations.

I currently represent and have represented local, state, and national business clients in judicial, non-judicial and regulatory forums related to significant monetary transactional disputes, tax litigation, and employment matters.

During this period, I have learned varying local rules and observed courtroom demeanor both from the bench and the bar.

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

In the criminal trial court, I represented a young man charged with Attempted First Degree Murder in which the evidence overwhelmingly supported the charged offense. A significant review of the case and thorough interview of witnesses revealed a lifelong struggle with severe mental illness. A circuit court bench trial resulted in a verdict of not guilty by reason of insanity.

In the appellate court, I successfully argued for an interlocutory appeal before the McMinn County Circuit Court and subsequently, the Court of Appeals for the Eastern District of Tennessee. This was a complex financial services case involving my client versus two (2) national corporations and a Tennessee citizen. This case involved conflict of law questions as well as asking the courts to apply the law of a foreign jurisdiction regarding financial transactions in our state.

I represented a corporate client in achieving their certificate to operate from a very resistant regulatory authority after the board had denied their application and prohibited my client from reapplying. My client was granted the certificate after several hearings and discussions with counsel for the board.

Administratively, I have represented police officers in multiple jurisdictions following use of force/deadly force situations. In each case, the officers were found to have acted appropriately and to my knowledge, still serve today.

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

Prior to, and throughout law school, I was employed full-time as a Detective Lieutenant with the Rutherford County Sheriff's Office. During my twenty-year tenure, I served as a patrol officer, narcotics detective, robbery/homicide detective, Detective Sergeant, SWAT team Lieutenant, Narcotics Lieutenant and Detective Lieutenant. During my tenure, I was nominated and selected to attend elite training from coast to coast. This included the Drug Enforcement Administration/Oklahoma Bureau of Narcotics Marijuana Investigators course, the first ever Advanced SWAT School hosted by the Los Angeles County Sheriff's Office, and the 226th Session of the F.B.I National Academy.

I was privileged to obtain countless certifications and routinely taught police personnel proper law enforcement procedures. On a regular basis, I presented classes and demonstrations to the attendees of our Citizens Police Academy as well.

On multiple occasions, I have been appointed as a special judge in the Rutherford County General Sessions Court, (Criminal Divisions). It is an honor to be asked and a privilege to serve in this capacity. As such, I have presided over countless cases from speeding citations to preliminary hearings charging various criminal offenses.

Perhaps to a lesser "legal experience" degree, I have served as a judge during state mock trial competitions. It is rewarding to see the interest and enthusiasm the students express for the practice of law.

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

Not Applicable

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 - 1986-89, 2002-2004 – Bachelor of Science Degree in Criminal Justice Administration, Minors in Sociology and Psychology

University of Virginia – July 2006-September 2006 Graduate credit for successful completion of the 226th Session of the F.B.I National Academy. (No degree awarded, credit was limited to completion of the academic portions of the academy).

Nashville School of Law – August 2004-May 2008 – Doctor of Jurisprudence

PERSONAL INFORMATION

12. State your date of birth.

May 13, 1968

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

45 Years

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

18 Years

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

Rutherford

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.

Not Applicable

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.

Yes.

Divorce, Rutherford County Chancery Court No. 01-2709DR, June 14, 2001; (Uncontested, divorce granted.)

U.S. Federal District Court No. 97-5927, February 19, 1997; Dismissed on Summary Judgment and dismissal upheld on appeal, 157 F3d. 1054 (6th Cir. 1998). I was a named defendant in a 1983 suit. I was assigned as a narcotics detective and a young man that had served as an informant for my investigations was killed several months after his involvement with my investigations. The case was dismissed by District Court and that decision was upheld by the 6th Circuit.

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.

Board of Trustees, Middle Tennessee Christian School: Trustee 2017-Current

Board of Directors, Middle Tennessee State University Alumni: Member 2010-2012

Board of Directors, Blue Raider Athletic Association: Member 2011-2013

Murfree Circle-St. Thomas Rutherford Foundation: Member

National Rifle Association: Member

Amateur Trapshooters Association: Member

Ducks Unlimited: Member

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.
- 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.

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.

Murfreesboro Estate Planning Council- 2010-Current (Chairman, 2014-Present)

Tennessee Bar Association: 2008-Current (Intermittent)

Rutherford/Cannon Bar Association: 2008-Current(Intermittent)

Tennessee Association of Criminal Defense Lawyers- 2010-2013

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.

Not Applicable

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.

I was a candidate for Rutherford County General Sessions Judge, Part IV in 2016. This was an elective position.

ESSAYS/PERSONAL STATEMENTS

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

I am seeking this position because I want to continue to serve my community. A judge is, above all, a public servant held to the highest of standards in applying the law ethically and impartially. I have dedicated my entire professional life to the law and the legal profession using the identical standards as my foundation. The diversity of my professional life and commitment to these standards uniquely qualify me to serve as a Circuit Court Judge. Moreover, this is the greatest contribution I can provide to the community that I was raised in and am very much a part of today.

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 am seeking the judgeship for the Circuit Court in the 16th Judicial District. Our district is comprised of Rutherford and Cannon counties. Rutherford County is recognized as one of the fastest growing areas of our state in terms of population and commerce. Cannon County is a smaller community of rolling farm land and tradition of good folks.

The circuit combined presents civil cases varying from property disputes to major corporate issues. As with many jurisdictions, this circuit also hears a number of family and estate related matters. Similar also to many jurisdictions, this circuit hears criminal matters ranging from misdemeanor driving offenses to major felonies.

The circuit is comprised of four (4) circuit judges and a Chancellor. Having grown up, gone to school, and served the community for most of my life I understand the faith and confidence people have in our judiciary to be treated in a fair, impartial and courteous manner.

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 judiciary requires, (and our community expects), a judge that will uphold the law without consideration of his/her personal feelings regarding the legal matter before them.

During my law enforcement and legal career, I have demonstrated the fortitude to act in a manner consistent with what my oath and the law expects of me. As a judge, I will continue to apply the law without regard to any personal feelings I may have as to the substance of the law applicable to the matter before me.

Candidly, I cannot recall a specific example because my duty has been to be “one sided” for my client’s benefit. However, one of the more challenging, (and beneficial), responsibilities for me was reversing my role as a twenty-year prosecutor of criminal offenses to one defending those charged with criminal offenses. Although this does not equate to upholding or enforcing a law that I may not personally agree with, it is an example of my commitment to afford all persons fair and impartial access to justice.

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. Ransom Jones,

B. Teb Batey,

C. Mike Bowen,

D. Tas Gardner

E. Fred Howell

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] Circuit Court for the Sixteenth Judicial District 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: August 21, 2017.



Signature

When completed, return this questionnaire to Debbie Hayes, Administrative Office of the Courts, 511 Union Street, Suite 600, Nashville, TN 37219.



**TENNESSEE TRIAL COURT VACANCY COMMISSION
ADMINISTRATIVE OFFICE OF THE COURTS**

511 UNION STREET, SUITE 600
NASHVILLE CITY CENTER
NASHVILLE, TN 37219

**TENNESSEE BOARD OF PROFESSIONAL RESPONSIBILITY
TENNESSEE BOARD OF JUDICIAL CONDUCT
AND OTHER LICENSING BOARDS**

WAIVER OF CONFIDENTIALITY

I hereby waive the privilege of confidentiality with respect to any information that concerns me, including public discipline, private discipline, deferred discipline agreements, diversions, dismissed complaints and any complaints erased by law, and is known to, recorded with, on file with the Board of Professional Responsibility of the Supreme Court of Tennessee, the Tennessee Board of Judicial Conduct (previously known as the Court of the Judiciary) and any other licensing board, whether within or outside the State of Tennessee, from which I have been issued a license that is currently active, inactive or other status. I hereby authorize a representative of the Trial Court Vacancy Commission to request and receive any such information and distribute it to the membership of the Commission and to the Office of the Governor.

Ben E. Bennett

Type or Print Name

Signature

August 21, 2017

Date

27094

BPR #

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

Not Applicable