

Tennessee Trial Court Vacancy Commission
Application for Nomination to Judicial Office

04/15/16

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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.

Assistant District Attorney for 22nd Judicial District

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

2010 BPR #029045

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, 2010, 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).

Nashville School of Law Library (2009-10); Westlaw Representative for Nashville School of Law (2009-10); Law Clerk for Judge Don R. Ash, 16th Judicial District Circuit Judge (2010-2011); 22nd Judicial District Attorney's Office (2011-Present)

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 an Assistant District Attorney in the 22nd Judicial District. I started in May, 2011 as the DUI prosecutor and maintained that position for over three years, prosecuting most DUI and DUI related cases in Lawrence and Maury Counties. Those cases included vehicular assaults,

vehicular homicides relating to intoxication, and any other offense an individual would get charged with in connection with the DUI. I practiced before three General Sessions Courts and two Circuit Courts during this timeframe and spent the vast majority of every workday in court. Since 2014, I have practiced in Maury County Circuit Court prosecuting a wide variety of criminal matters ranging from public intoxication to first degree murder. I routinely visit other courts in the 22nd Judicial District, depending on the needs of the office. I have also practiced in numerous other jurisdictions on a *pro tem* basis, including Hardin, McNairy and Moore Counties. The vast majority of my time is spent working on criminal matters, although they do occasionally have civil aspects (e.g. HMVO, implied consent, orders of protection, and other similar cross-over type issues). In addition, I routinely meet with officers and/or potential victims on cases to review facts and determine whether they meet criminal statutes or if they are primarily civil in nature.

As a member of the District Attorney's Office, I have tried over 35 jury trials, ranging from DUI to second degree murder. I have been responsible for numerous probation revocations as a prosecutor in Circuit Court, having hearings on dozens of them. Furthermore, I have argued an abundance of motions in Circuit Court (e.g. motions to suppress, Tenn. R. Evid. 403, Tenn. R. Evid. 404, Tenn. R. Evid. 801 *et. seq.*, etc.). Throughout my time practicing law, I have become intimately familiar with the Tennessee Rules of Evidence and this would greatly assist me in the role I am seeking. In addition, my experience with researching the law would be very beneficial.

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.

While finishing my last year of law school, I applied for a law clerk position with Judge Don Ash, who then served as Circuit Court Judge for the 16th Judicial District. I started the position shortly after completion of the bar exam. My duties were reviewing all pending hearings and pleadings before the Judge. At this point in time in the 16th Judicial District, Judge Ash and Judge Bragg split the criminal docket in half, and then split 25% of the civil docket. After reviewing pleadings pending before the Court, I would submit to the Judge my memorandum of law to assist in his preparation for the hearing and analysis of the issues. After the hearings, I was responsible for assisting the Judge in preparing Orders for those cases. Judge Ash had previously been instrumental in Parenting Plan legislation in Tennessee, and, as his law clerk, his involvement provided a great background for me in this area of law. Routinely, I also opened Court for the Judge and had many bailiff responsibilities. During this time, Judge Ash also presided over the 16th Judicial District Drug and DUI Courts in which I also assisted. This experience, in particular, became beneficial because the 22nd Judicial District started a Drug Court in 2018. In addition to the typical judicial responsibilities as a law clerk, I was also fortunate enough to assist Judge Ash with his duties as Presiding Judge over the Board of Judiciary. I assisted him, as requested, in those responsibilities, including but not limited to reviewing proposed legislation, as Judge Ash routinely testified before the Tennessee Legislature

during this timeframe. Judge Ash was also a professor of Civil Procedure at Nashville School of Law during my time clerking, and I assisted with the course material and research.

After clerking in the 16th Judicial District, I became a member of the 22nd Judicial District Attorney's Office when hired by General Mike Bottoms to be the DUI prosecutor. This job was unique in that I was the only regular criminal assistant district attorney to travel between counties on a weekly basis. This allowed me the opportunity to gain valuable insight and practice across our Judicial District. The DUI grant, through which I was hired, covered Lawrence and Maury Counties and included all General Sessions Courts and Circuit Courts in those counties. While in this position, I was in court almost daily and tried cases in Circuit Court on a regular basis. General Bottoms retired in 2014, and I was retained by General Brent Cooper when he was elected. General Cooper moved me to a more general position in the office. Under General Cooper, I was primarily given the responsibilities of prosecuting cases before the Maury County Circuit Court, which covers the most populated county in the 22nd Judicial District. I am responsible for 20-30% of the criminal cases prosecuted in Maury County Circuit Court. Part of my responsibilities as an Assistant District Attorney involves interacting and meeting with the grand jury. Recently, a new Grand Jury Foreman was chosen and I have assisted him in implementing and understanding proper procedures related to the grand jury. I spend a great deal of time working with law enforcement. Meeting and receiving calls from law enforcement is an everyday activity as a member of our office. In my capacity as an A.D.A, I direct officers to statutes applicable to the situation they are encountering and assist in making determinations as to whether the issues presented are civil, criminal, or both. Our district has multiple plea days and revocation days at which I am regularly present and involved. Furthermore, I spend a great deal of time advising, meeting, and speaking to victims of crime about their cases. Together, we go over aspects of the case and how the law applies to their particular set of facts and attempt to determine, based on the law, the best ways to proceed going forward. I have actively participated, in one manner or another, in Circuit Courts every month that I have been licensed as an attorney.

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

State v. Glover Palmer Smith, 436 S.W.3d 751 (Tenn. 2014). As previously mentioned, I clerked for Judge Don Ash in the 16th Judicial District. Just prior to my arrival for the job, the State of Tennessee brought Mr. Smith to trial on two counts of fabricating evidence and six counts of making a false report. This was a highly publicized case due to speculation that additional charges should have been brought against this defendant (Mr. Smith was under indictment relating to the disappearance of his wife). The jury convicted the defendant of each and every charge. Ultimately Judge Ash sentenced this defendant and a Motion for New Trial was filed. I was responsible for initially presenting Judge Ash with a Memorandum of Law analyzing the issues before the Court. The defense claimed, without any case law, that the jury verdict convicting the defendant of fabrication/tampering with evidence was not proper because the acts alleged occurred prior to any police investigation. Tenn. Code Ann. § 39-16-503 states,

“it is unlawful for any person, knowing that an investigation or official proceeding is pending or in progress, to.....” I researched extensively in an attempt to find case law regarding the issue, but ultimately only found a non-reported Court of Criminal Appeals opinion. My Memorandum indicated the jury verdict should be overturned and the Tennessee Supreme Court later accepted certiorari. The Tennessee Supreme Court stated “as a matter of first impression, ‘pending,’ as used in the statute criminalizing fabrication of evidence, means impending,” and overturned the trial court decision. However, I feel each decision was appropriate and this has benefited me a great deal in practice.

As a prosecutor, I handled the post conviction relief petition for James Ellison Rouse (Maury County Circuit Court 9575), a school shooter in the 1990’s. The defendant was convicted of two counts of first degree murder, for which he received consecutive life sentences without the possibility of parole, and two counts of attempted first degree murder, for which he ultimately received 21 years on each, consecutive to one another and the life sentences. Although it had been more than 15 years since his appellate review ended, the defendant filed a petition alleging new constitutional rights had been violated. Working with the Attorney General’s Office, I responded and successfully argued for the Court to keep those judgments in place against the defendant. This case is still pending in the Appellate Courts of Tennessee and will, ultimately, have an impact on sentencing juveniles going forward in Tennessee.

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

Throughout my time as an Assistant District Attorney, I have routinely participated in in-service and/or training for officers in the 22nd Judicial District. This has included multiple counties, municipalities and state agencies. These trainings usually cover criminal law updates as well as other changes in the law, which officers regularly encountered.

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.

Roane State Community College 2001-2003, transferred to Tennessee Tech University prior to

graduation.

Tennessee Tech University 2003-2006 Bachelors of Science.

Nashville School of Law 2006-2010 J.D.

PERSONAL INFORMATION

12. State your date of birth.

██████████ 1983

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

Since Birth

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

Since 2011, seven (7) years

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

Maury 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.

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.

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.

In 2013 and 2014 a lawsuit against Judge McGuire (Lawrence County General Session Judge), General Mike Bottoms (then, DA of 22nd Judicial District), myself, Brent Cooper, Christi Thompson, Jim White (at the time all Assistant District Attorneys), Jeff Reed (Tennessee Highway Patrol), and Wayne Sellers (now Captain with Tennessee Highway Patrol) were sued by Arthur Jay Hirsh in The United States District Court for the Middle District of Tennessee Case No. 1:14-00106. This case was ultimately dismissed, with the United States District Court stating they “deny the existence of a cause of action.” I did not personally prosecute Mr. Hirsh. I

was in Court the day his case was on the docket, and was, hence, named a party to the suit.

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.

Maury County Bar Association Young Lawyers Division (YLD), member and Vice President
2013-14

Elk's Lodge 2015-present

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.

When I was a child I was in the Boy Scouts of America, which I believe limited its enrollment to only male participants at that time. Otherwise, none.

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 2010-11

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.

Not Applicable

ESSAYS/PERSONAL STATEMENTS

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

From working court dockets, interacting with clerks' offices, working with the Bar, and interacting with people who find themselves in a legal predicament, the role of Circuit Judge is compilation of duties I love. I feel that a Judge should, not only be knowledgeable of the law, but also consistent and fair in its application. The experiences I have had in life will facilitate my ability to do these things properly. I believe a Circuit Court Judge is the pinnacle job for trial lawyers, and I feel that we owe it to our entire community to only place our preeminent people in these positions to ensure fairness for all. In addition, I was benefited tremendously in my practice of law by my time clerking for a Circuit Judge. I hope to have the opportunity to give new and upcoming attorneys the same experiences which I was so fortunate to receive.

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 22nd Judicial District is comprised of Giles, Lawrence, Maury, and Wayne Counties. During my time practicing in this District, we have had four Circuit Judge positions. I have been fortunate enough to practice in front of Hon. David Allen, Hon. Jim T. Hamilton, Hon. Stella L. Hargrove, Hon. Robert Holloway, Hon. Robert L. Jones, and Hon. J. Russell Parkes. Because our District lacks a designated Chancellor, these positions hear both Chancery and Circuit cases. However, the majority of cases our Circuit Courts hear are criminal cases and that is where I would bring the most experience. Being a member of the District Attorney's Office is of great benefit for any applicant for Judge, considering your "clients" are the State of Tennessee and its citizens and all decisions should be based on those factors. My biggest impact will be consistency and knowledge of the law.

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, and I believe this is the most fundamental aspect of a Judge's responsibility. This is where I feel that I have had a great deal of experience. As an Assistant District Attorney this is already one of the most important responsibilities of my job. These issues regularly present themselves, and I routinely tell people that my job has nothing to do with my personal opinions and the law dictates what I do. For example, I was prosecuting a case involving charges of felony murder and first degree murder, which I ultimately had to dismiss. Although I personally felt confident this individual was guilty of the offenses charged, the State did not have sufficient proof to go forward. Regardless of my strong feelings of guilt, I had to respect what the law would allow into evidence at trial, which warranted a dismissal of the charges. Decisions like that come up daily as an Assistant District Attorney, and I have not ever jeopardized my obligations for any personal belief.

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. Honorable Robert L. Holloway, Jr., Court of Criminal Appeals Judge, 418 West 7th Street, Columbia, TN 38401 [REDACTED]

B. Honorable Justin C. Angel, 12th Judicial District Circuit Judge, P.O. Box 774, [REDACTED] Pikeville, TN 37367 [REDACTED]

C. Honorable Douglas K. Chapman, General Session Judge Maury County, 41 Public Sq., Columbia, TN 38401 [REDACTED]

D. Chief Shane Petty, Chief Park Ranger/ Emergency Services Coordinator for Tennessee State Parks, [REDACTED], Chapel Hill, TN 37034 [REDACTED]

E. Sandy McClain, Circuit Court Clerk Maury County, 41 Public Sq., Columbia, TN, 3840 [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 [Court] 22nd Judicial District 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: August 23, 20 18.

MC Bayl
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.

Micha Caleb Bayless
Type or Print Name

MC Bayless
Signature

8/23/18
Date

029045
BPR #

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