

Tennessee Trial Court Vacancy Commission
Application for Nomination to Judicial Office

04/15/16

Name: Robert D. Massey

Office Address: 211 West Madison Street, Pulaski, Giles County, TN 38478
(including county)

Office Phone: 931-424-8655 Facsimile: 931-424-8991

Email Address: [REDACTED]

Home Address: [REDACTED] Pulaski, Giles County, TN 38478
(including county)

Home Phone: [REDACTED] Cellular Phone: [REDACTED]

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.

I am self-employed. My office is located in Pulaski, Giles County, Tennessee.

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

1983

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, Bar #10265. I have been admitted Pro Hac Vice in the state of Alabama on one occasion.

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).

After graduating from Cecil C. Humphreys School Of Law in Memphis, TN in 1982, I began working as an associate in the Law Office Of D. Jack Smith, Jr. for whom I had also clerked during my third year of law school. I remained employed with the late D. Jack Smith, Jr. until 1985. At that point, I made the decision to move back to Giles County where I had grown up and attended high school.

Upon my return home, I formed a partnership with the late Jack B. Henry and practiced in Pulaski, Tennessee until the Tennessee General Assembly decided to implement a pilot Public Defender program in 1987. I was selected as one of the seven pilot Public Defenders and became the Public Defender for the 22nd Judicial District in 1987.

As the new Public Defender for the 22nd Judicial District, I was faced with the task of determining how my office, consisting of myself, an assistant Public Defender, an investigator (an attorney was hired in this position), and a secretary would be able to handle the caseload of potential indigent defendants in four Circuit Courts, five General Sessions Courts and four Juvenile Courts each of which held court on their own individual schedules. After meeting with the judges of each of these courts and my staff, I was able to set the Public Defender's office up in a manner which was thereafter used as a model by subsequent Public Defenders. Our office also handled its own appeals in the Court Of Criminal Appeals and the Supreme Court. I became interested in this position because it was new and I have always met challenges with enthusiasm. Additionally, I had seen firsthand that the previous court appointed system wasn't working and was unfair to both attorneys in private practice and the indigent clients they were appointed to represent. This was true particularly in rural counties with a small number of attorneys. I additionally wanted trial and appellate experience as well as the exposure and experience I felt I would get in the three counties of the district in which I did not reside. I got both the experience and the exposure about as fast as one could imagine.

As one of the initial pilot Public Defenders (four took office in 1987 and three more in 1988), I was elected President of the Public Defender's Conference my second year and thereafter assisted the Tennessee Bar Association in convincing our state legislature that the pilot Public Defender system was a success and that a statewide system should be implemented. This lobbying process included addressing the budgetary concerns which would be attendant with a new statewide organization. A statewide system was passed and my office was again used as a model for other offices.

After serving as the Public Defender for a few months short of five years, I turned in my letter of resignation to Governor Ned McWherter as I did not feel it would be appropriate to run for election in 1992 knowing I probably did not intend on serving out the full term, if elected. I went into solo private practice during the summer of 1992 sharing office space with the late Howell Forrester and Rogers N. Hays in Pulaski, Tennessee. I, at this juncture, began to handle both civil and criminal cases in southern middle Tennessee both in and outside of the 22nd Judicial District. Mr. Hays and I then rented an office building located at 209 West Madison Street in Pulaski where we shared office space. In 2005 I built an office building at 211 West Madison Street and established the firm of The Law Offices Of Robert D. Massey and Associates. I still practice at this address.

After moving into the office where I currently practice in 2005, I have employed a number of associates, at one time having three (3) attorneys working in the office. I now employ two (2) other attorneys to assist me on a case by case basis. During the timeframe since I went into private practice, I have appeared in trial level courts in multiple counties, the Court of Appeals, the Court Of Criminal Appeals, and the Tennessee Supreme Court each on multiple occasions. I have represented citizens accused with crimes ranging from misdemeanors to first degree murder

death penalty cases. I have represented clients in civil court in a variety of types of litigation, ranging from all types of contested domestic relations cases to personal injury cases representing injured plaintiffs. I had a substantial plaintiff's worker's compensation practice but no longer represent injured workers in Tennessee. I have appeared in Juvenile Courts, Probate Courts, and General Sessions Courts on a regular basis in multiple counties, including counties outside of the 22nd Judicial District. I also represent clients who are disabled before Administrative Law Judges in the Office Of Disability Adjudication and Review. I have jury trial experience in both civil and criminal cases in state court. I also have both civil and criminal jury trial experience in federal court representing citizens charged with crimes and clients injured by defective products. I have obtained not guilty verdicts in death penalty cases and have obtained multiple judgments and/or settlements in civil court (both state and federal) in excess of one million dollars. I have also appeared before the 6th Circuit Court Of Appeals while employed with D. Jack Smith, Jr. in Memphis, Tennessee. I have tried well over seventy-five jury trials (both criminal and civil). Of those trials over ten (10) were first degree murder trials with two (2) of those being death penalty cases with neither client being convicted of first degree murder and one (1) being totally acquitted in the Circuit Court for Limestone County, Alabama where I was admitted pro hac vice. I am additionally admitted to practice in the United States Supreme Court, having been admitted in 1998 as well as being admitted in the Western (1983), Middle (1989), and Eastern (2009) Districts of Tennessee's Federal Courts. I continue to maintain my general practice of law from the office where I have been located since 2005. I am certified in the area of criminal defense and have been so certified one (1) year after certification was offered in Tennessee. I have attended multiple CLE courses in both criminal and civil and have always carried over enough hours from the current year to satisfy the following year's requirements.

I have testified as an expert witness in the area of criminal defense in Maury, Giles Jackson and Humphreys counties. I have authored positions as an expert in federal Criminal Court via pleadings which were used to help settle a federal criminal case, but I did not testify. I have lectured at seminars in various areas concerning criminal defense topics for the Tennessee Association Of Criminal Defense Lawyers and the Tennessee Public Defender's Conference. I have been certified as an attorney qualified to represent citizens accused of first degree murder in which the state sought the death penalty but have let that certification lapse primarily because of the financial burden being appointed in these cases placed on my family.

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 currently practice both civil and criminal law, and would state my practice is divided as follows: 40% criminal defense, 20% automobile accident/personal injury/business litigation, 25% family law, 10% social security disability and 5% probate.

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.

In addition to my answer to question 5, I would add that the majority of my experiences as a licensed attorney involve appearances in trial level courts handling litigation. I have always enjoyed the challenges associated with trial level litigation. I feel my experiences in that regard qualify me to sit as a trial judge at the Circuit Court level. Although I enjoy appearing in Appellate Courts, I both appreciate and enjoy both preparing for trial and trying cases more than I enjoy handling appeals.

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

Other than that which is set forth in responses to questions 5 and 7, representing an indigent defendant named James Brown in 1985-1988 from trial through my appeal before the Tennessee Supreme Court stands out as being worthy of "special note" status. Not only was it my first appearance before the Tennessee Supreme Court (State v. Brown, 762 S.W.2d 135 (Tenn.1988)), I was successful in convincing The Supreme Court that the trial court had committed reversible error with regard to its evidentiary rulings and that the Court Of Criminal Appeals had likewise failed to recognize that the errors made by the trial court warranted a reversal of the conviction and the granting of a new trial. The case also confirmed a line of cases which reiterated that if the prosecution is allowed to put on proof of the Defendant committing more than one criminal violation, the state should be required to elect which violation they want the jury to consider so that the jury's verdict is not a matter of choice between offenses with some jurors convicting on one offense and others on another. After the Supreme Court's reversal and remand to the trial courts, Mr. Brown was not retried and was released from custody after being incarcerated for nearly four (4) years.

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

Not applicable.

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.

- a. 1. Martin Methodist College, Pulaski, TN
2. Attended fall of 1974-spring of 1976
3. No degree obtained
4. Major: business
5. Left to attend 4 year college to obtain degree.
- b. 1. University Of Tennessee, Knoxville, TN
2. Attended summer of 1976-spring of 1979
3. Degree obtained: Bachelor of Science in Business Administration
4. Major: Public Administration
5. Left due to graduation and hopeful admission to law school.
- c. 1. Cecil C. Humphreys School Of Law, Memphis State University, Memphis TN
2. Attended fall of 1979-spring of 1982
3. Degree obtained: Doctor of Jurisprudence
4. Major: not applicable
5. Left due to graduation and to seek employment.

Member of Phi Alpha Delta legal fraternity, Elected Student Bar Governor by graduating class, named Who's Who in American College Students.

PERSONAL INFORMATION

12. State your date of birth.

██████████ 1956

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

All of my life.

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

From age eight (8), except for 1976-1979 while in Knoxville for college and 1979-1982 for law school in Memphis and employment in Memphis 1982-1985.

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

Giles

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, assuming reckless driving is a minor traffic offense. I have pled guilty to reckless driving.

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.

- a. I was a party to a divorce suit with my first wife, Debbie Martin Massey. We were married for approximately seven (7) years. It was an uncontested divorce, no children, with an amicable property division. The style of the case was Robert D. Massey vs. Deborah Martin Massey; Giles Chancery Court No. #8116, filed on October 20, 1992 with an irreconcilable differences divorce granted on January 4, 1993 by Judge James Weatherford.
- b. I have sued former clients for unpaid legal fees perhaps a dozen times in thirty-five (35) years but haven't done so in approximately twenty (20) years. That is not to say I have been paid all fees owed, but I have found that malpractice insurance premiums are perhaps lower and the malpractice insurance application is viewed with less scrutiny if you are not in the habit of litigating against former clients for unpaid fees. I do not recall the dates of those suits nor the names of the defendants. All suits would have been small claims filed in General Sessions Court.

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.

a. Pulaski Exchange Club Member:

- Member since 1987
- Officer in last five (5) years: Vice President June 2016-Present

b. First United Methodist Church Member-Pulaski:

- Member each of the last five (5) years (member since childhood)

c. Middle Tennessee Council Boy Scouts Of America:

- Executive Board Member; member each of last five (5) years (member since approximately 1990)

d. Davy Crockett District Boy Scouts Of America:

- Area Friends of Scouting Fundraising Chair 2016 (Also in 1988 and 1993)
- Participated in District Fundraising each of last five (5) years

e. National Eagle Scout Association Boy Scouts of America:

- Member each of last five (5) years

f. Ducks Unlimited:

- Member each of last five (5) years

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.

a. Tennessee Trial Lawyers Association:

- Life member since 2002
- Member each of last ten (10) years
- Board member 2000-2005

b. Tennessee Association of Criminal Defense Lawyers

- Life member since 1998
- Member each of last ten (10) years
- Former President (1993-1994)
- Former Board Member-nine (9) years.

c. National Association of Criminal Defense Lawyers

- Member each of last ten (10) years

d. Louisiana Association of Criminal Defense Lawyers

- Life member since 2016

e. American Board of Trial Advocates

- Member 2004-2015

f. Tennessee Academy of Certified Trial Lawyers

- Founding Member

- Member each of last ten (10) years
- g. Giles County Bar Association
 - Member each of last ten (10) years
- h. Tennessee Justice Project
 - Board Member 2007-2009
- i. National Board Of Trial Advocacy
 - Certified in Criminal Trial Advocacy
 - Member each of last ten (10) years

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.

- a. Tennessee Association Of Criminal Defense Lawyers (T.A.C.D.L) Robert W. Ritchie Award Recipient
 - Individually in 1992 and 1993 as member of the Criminal Justice Funding Crisis Group
- b. Rated AV by Martindale Hubblel
 - 2003-present
- c. Client Distinction Award Recipient by Martindale Hubbell
 - 2015
- d. Top 100 Lawyers in Tennessee, American Trial Lawyers Association
 - 2009-2015
- e. Super Lawyer-general practice or criminal defense areas of practice

- 2006-present
- f. T.A.C.D.L. Workhorse Award
 - 1991
- g. T.A.C.D.L. President
 - 1993-1994
- h. Tennessee Public Defenders Conference President
 - 1989-1990
- i. Tennessee Criminal Justice Funding Crisis Group Member
 - Founding Member and Co-Chair with former state Attorney General William (Bill) Leech
- j. Capital Case Resource Center
 - Board Member 1992-1995
- k. Giles County Bar Association
 - President 1985-1991
- l. Tennessee Bench-Bar Relations Committee
 - Member 1992-1993
- m. South Central Tennessee Correctional Advisory Board
 - Board Member 1983-1993
- n. Top Ten Attorney Award National Academy of Criminal Defense Attorneys
 - 2014-2016
- o. Top Ten Attorneys in Tennessee
 - Memphis Magazine 2013-2016

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 feel the citizens of the 22nd Judicial District deserve four (4) well rounded, experienced judges to decide their legal disputes. After considerable thought and discussion with and taking into consideration my former public service as Public Defender, as well as my experiences at the Circuit Court level, I feel I am the right candidate for the position and the position is right for me. The way I have represented my clients, the manner in which I have treated lawyers with honesty and respect, and the demeanor and respect I have shown both judges and those who work in courthouses are all qualities which our newly selected judge should have. I am seeking the Circuit Court Judge's position because I want to put these qualities to work on the bench for the benefit of those citizens seeking justice in our four (4) counties.

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)*

If selected, I would be one (1) of four (4) Circuit Judges working our multi-county district trying Chancery, Circuit and Probate cases. I am confident that my replacing of retiring Robert L. Jones as Circuit Judge will be a seamless, easy transition creating no problems for the remaining judges or the clerks of the court. With the exception, of the time needed to resolve my existing cases, I am confident that I could take over Judge Jones' current schedule with no adverse impact to the court, assuming taking over his schedule would be the appropriate way to approach the issue, taking into consideration the wisdom and input from the remaining judges.

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)*

I understand that as difficult as it may be, I will have taken an oath to decide cases based on the application of the law to. The facts presented to me in court. My friendships with those practicing before me, nor my personal preferences on difficult issues will play a role in my decision making process. I will review that oath every day before I start work. Our system of justice depends on that impartiality. Our system of justice from a criminal prosecution standpoint requires that every citizen accused of a crime be zealously represented. That system also requires that criminal cases be prosecuted in a manner which removes politics and favoritism from the prosecutorial decision making process. I have participated in this system from the criminal defense side and have zealously represented those who I knew were guilty of committing a crime. Many of those clients were difficult to like or agree with. I have not allowed clients to

commit perjury, nor have I done anything unethical in representing a guilty defendant. The representation of a guilty client as a criminal defendant is difficult. I feel as if I have helped balance the playing field during my thirty-five (35) years of experience. Additionally, I can apply the appropriate law to the facts in cases in which I might disagree with the substance of the law in the same manner in which I have represented the guilty citizen accused of committing a crime.

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. Circuit Judge J. Russell Parkes, 14 Public Square, Suite B, Columbia, TN 38401, [REDACTED]
[REDACTED]

B. Circuit Judge David L. Allen, 200 Mahr Avenue, P. O. Box 369, Lawrenceburg, TN 38464,
[REDACTED]

C. Circuit Judge Stella L. Hargrove, 14 Public Square, Suite B, Columbia, TN 38401, [REDACTED]
[REDACTED]

D. James T. (Jimmy) Cox; Retired President, Chairman, and CEO of First National Bank
[REDACTED] Fayetteville, TN [REDACTED]

E. Dewitt Booth; Vice President of Bank Of Frankewing, Pulaski, TN 38478 [REDACTED]
[REDACTED]

AFFIRMATION CONCERNING APPLICATION

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

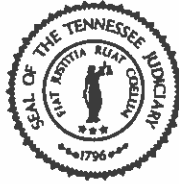
I have read the foregoing questions and have answered them in good faith and as completely as my records and recollections permit. I hereby agree to be considered for nomination to the Governor for the office of Judge of the [Court] Circuit Court Judge 22nd Judicial District of Tennessee, and if appointed 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 30, 2018.


ROBERT D. MASSEY

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.

Robert D. Massey
Type or Print Name


Signature

August 30, 2018
Date

10265
BPR #

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