

Tennessee Trial Court Vacancy Commission
Application for Nomination to Judicial Office

04/15/16

Name: Robert Bishop Rolwing

Office Address: 160 N. Main Street, Suite 950, Memphis, Shelby County, Tennessee
38103

(including county)

Office Phone: (901) 222-2100 Facsimile: (901) 222-2105

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 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 Shelby County Attorney.

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

1989, B.P.R. No. 013625.

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.

Missouri, Missouri Bar No. 37672, April 1988, currently active (out-of-state);

Tennessee, B.P.R. No. 013625, April 1989, currently 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).

Not applicable.

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).

Associate: Blanton, Rice, Sidwell & Ottinger, Sikeston, Missouri, 1987-1988;

Assistant City Attorney: Memphis City Attorney's Office, Memphis, Tennessee, 1989-1995;

Assistant Shelby County Attorney: Shelby County Attorney's Office, Memphis, Tennessee, 1995-present;

Before, during, and after law school: Assisted on six-generation family farm, Mississippi

County, Missouri (half-way between Memphis and St. Louis).

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.

Municipal law practice, defending Shelby County in the civil courts and prosecuting cases on its behalf, primarily in the areas of tort defense (15%), land use (20%), First Amendment regulation (signs, billboards, and adult businesses, 25%), property tax issues (25%), and advising various county officers and employees generally on matters of law, particularly school and school finance issues (15%)

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.

Local administrative and regulatory agencies. I have represented and appeared before a number of local administrative and regulatory bodies including the Memphis Alcohol Commission, Shelby County Board of Equalization, Shelby County School Board (interim), Shelby County Adult Oriented Establishment Board, Shelby County Beer Board, Memphis and Shelby County Board of Adjustment (zoning appeals), Memphis and Shelby County Land Use Control Board, Memphis and Shelby County Community Redevelopment Agency Board.

State administrative and regulatory agencies. I have conducted numerous hearings and appeals before local and state administrative bodies including state administrative judges, the Assessment Appeals Commission, the State Board of Equalization, and the Water Quality Control Board (now the Tennessee Board of Water Quality, Oil & Gas).

Trial and appellate courts. I have conducted numerous trials and motions in all local civil trial courts: General Sessions, Probate, Circuit, Chancery, and U.S. District Court in Memphis and Nashville; have conducted several motions in Criminal Court and Juvenile Court, which are separate courts in Shelby County; have briefed and argued numerous appeals before the Tennessee Court of Appeals and the Sixth U.S. Circuit Court of Appeals; have briefed appeals before the Tennessee Supreme Court; and have submitted several petitions for writs of certiorari and responses before the United States Supreme Court.

Legislative. I have appeared before Tennessee Senate and Tennessee House of Representatives committees in support of legislation urged by Shelby County; and before the Memphis City Council and Shelby County Board of Commissioners on numerous occasions.

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

An appeal before the Water Quality Control Board resulted in a post-victory settlement by which local government engineers largely moved from stabilizing ditches through “channel-lining” (concrete sides and bottom) to using rip-rap (large rocks) instead. The latter allows aquatic wildlife to remain intact; it slows water flow; and it thereby allows pooling which is essential for aquatic life to grow and flourish. Channel-lining inhibited all of those.

Lengthy litigation before the State Board of Equalization, Tennessee Court of Appeals, and Tennessee Supreme Court, done in conjunction with Davidson and Williamson Counties, clarified the state constitutional requirement that all property assessments be “equal and uniform,” Tennessee Constitution art. II § 28, in regard to “public utility property” – the tangible personal property of utilities, airlines, and interstate carriers. *In Re All Assessments*, 58 S.W.3d (Tenn. 2000); 67 S.W.3d 805 (Tenn.Ct.App. 2001), *perm. app. den.* (2002); 62 S.W.3d 165 (Tenn.Ct.App. 2001), *perm. app. den.* (2001); *Williamson Co., et al. v. Tenn. St. Bd. of Equalization*, 86 S.W.3d 216 (Tenn.Ct.App. 2001), *perm. app. den.* (2002).

A federal trial and appeal, in co-counsel with the state Attorney General, resolved virtually all outstanding constitutionality issues of the Tennessee Adult Oriented Establishment Registration Act, Tenn. Code Ann. §§ 7-51-1101, et seq., in favor of the statute. *Entertainment Productions, Inc. v. Shelby County*, 721 F.3d 728 (6th Cir. 2013), *cert. den.* (2014); 588 F.3d 372 (6th Cir. 2009), *cert. den.* (2010), *aff’g* 545 F.Supp.2d 734 (W.D.Tenn. 2008)(Donald, J.).

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

I am one of an apparent handful of lawyers in Tennessee to have filed a motion before the federal Judicial Panel on Multi-District Litigation (successfully). See *In Re Tennessee Indecency Statute*, 172 F.3d 873 (Table) (1999), *per curiam*.

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.

Southeast Missouri State University, 1978-1979, credits in high school classes; went on to graduate and a full-time college career;

Vanderbilt University, Nashville, Tennessee, 1979-1981, history major, transferred;

University of Missouri, Columbia, Missouri, 1981-1983, A.B. degree, history major;

Drake University Law School, Des Moines, Iowa, 1983-1987, J.D. degree;

University of Missouri Law School, Columbia, Missouri, summer 1984; returned to graduate at Drake University Law School.

PERSONAL INFORMATION

12. State your date of birth.

August 7, 1961.

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

Twenty-seven and a half years.

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

Twenty-seven and a half years.

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

Shelby.

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.

Zero.

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.

c. 2003, Shelby County General Sessions, docket number not immediately available, collection case filed by Comcast (or predecessor company) for return of cable equipment, non-suited by Comcast; this was one of a number of Comcast collection cases on the docket that day and the attorney for Comcast acknowledged that it was mistakenly filed, and that the equipment had already been timely returned.

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.

St. Peter Catholic Church, Memphis, Tennessee, 1999-present;

Cooper-Young Community [Neighborhood] Association, Memphis, Tennessee, 2003-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.

Not applicable.

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.

No. 22, Supplemental Answer:

Robert Rolwing v. Deliworx Holdings, LLC, Thirtieth Judicial District at Memphis, Circuit Court Division I, Case No. CT-003745-10; personal injury from an automobile accident; case was filed in July 2010 and settled in July 2011.

Application of Robert B. Rolwing

Tennessee Bar Association, 1989-present;

Memphis Bar Association, 1989-present;

Memphis Bar Association, Government Lawyers Section, 2010-2013;

Memphis Bar Foundation, 2011-present;

St. Thomas More Catholic Lawyers Guild of West Tennessee, Inc., Memphis. President, 2011; Vice-President, 2007; Secretary, 2006, 2008-2010, 2013-present;

Missouri Bar Association, 1988-present.

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.

Induction into the Memphis Bar Foundation.

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)*

Shelby County has always been remarkably fortunate in the quality of its local judiciary. I took notice of this when I first began working in the Shelby County bar, and study of local history shows that it has been a consistent feature of the local judiciary. When this vacancy occurred, I was encouraged, unbidden and unexpectedly, to apply for it. I was honored by the suggestion and the idea that I might join in so distinguished a history and assist in its continuance. For this reason, and in continuation of service to the public, I seek this position.

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 nine judges of the Circuit Court of Tennessee for the Thirtieth Judicial District serve the one-county "circuit" of Shelby County. The Court hears general civil matters including personal

injury suits, other tort cases with unliquidated damages, certain administrative appeals, divorces and other family-law matters. My law practice has covered widely different areas of the law – some unknown to most attorneys – and I believe that that experience can be an asset to the Court.

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. My work with local legislative bodies has involved innumerable situations in which I must advise them of a statute or other authority that governs a situation even though I disagree with the substance of that law. I recently wrote an opinion to a Shelby County Commissioner regarding an aspect of school funding that governs the school budget. Personally, I would have written the governing statute differently, but of course the Shelby County Commission must know and follow Tennessee state law, not my personal opinion of what the law should be.

In my work with regulatory boards, I have again described the governing law to board members, and enforced it in court, even though I personally disagree with the law. When I was interim school board attorney, I learned that an attorney may appear on behalf of a student at a school disciplinary hearing. This, of course, is a due-process consideration, but I had never considered it in the school disciplinary context. My preference would be not to involve attorneys making arguments at an elementary school student's disciplinary hearing, but the law allows it and so governs the situation. Because a student's parents elected to have their attorney present, I was present for the school board and I cross-examined the student's mother as I would at any other hearing.

These situations arise with regularity in my legislative and regulatory work.

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. Not immediately available due to approaching deadline; will supplement application.

B.

C.

D.

No. 31, Supplemental Answer:

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. Brian L. Kuhn, General Counsel, Memphis Airport Authority, tele. (

B. John L. Ryder, Esq., Harris Shelton Law Firm, Memphis, tele. (

C. Monice Hagler, Esq., Hagler Law Firm, Fmr. City Atty, Memphis, (

D. Suresh Kari, M.D., Memphis V A Hospital, Fmr. Chief of Emergency Room,

E. Barbara Prescott, Ph.D., Tenn. Bd. of Regents; Exec. Dir., PeopleFirst, Memphis Fast Forward; and V.P., Allie Prescott & Partners; (

E.

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 Thirtieth 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: July 7, _____, 2016.

Robert Bishop Poling
Signature

When completed, return this questionnaire to _____, 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 Bishop Rolwing
Type or Print Name

Robert Bishop Rolwing
Signature

July 7, 2016.
Date

013625
BPR #

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

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| <u>Missouri, Missouri Bar No. 37672</u> |
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