

Tennessee Judicial Nominating Commission
Application for Nomination to Judicial Office

Rev. 22 December 2011

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INTRODUCTION

Tennessee Code Annotated section 17-4-101 charges the Judicial Nominating 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 <http://www.tncourts.gov>). The Commission requests that applicants obtain the word processing form and respond directly on the form. Please respond in the box provided below each question. (The box will expand as you type in the word processing document.) Please read the separate instruction sheet prior to completing this document. Please submit the completed form to the Administrative Office of the Courts in paper format (with ink signature) *and* electronic format (either as an image or a word processing file and with electronic or scanned signature). Please submit seventeen (17) paper copies to the Administrative Office of the Courts. Please e-mail a digital copy to debra.hayes@tncourts.gov.

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

PROFESSIONAL BACKGROUND AND WORK EXPERIENCE

1. State your present employment.

I am an Assistant Public Defender for the Sixteenth Judicial District in Murfreesboro, Tennessee, covering Rutherford and Cannon Counties.

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

I was licensed in Tennessee in 1984. My Board of Professional Responsibility Number is 010822.

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.

I was licensed in Mississippi in May of 1983 upon graduation from law school. However, I never practiced law there and went on inactive status in approximately 1988.

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, other than voluntarily going on inactive status in Mississippi as stated above.

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).

1. Corporate Counsel for Mr. Transmission, Inc./International Transtech Corporation from 1983 to 1987 in Nashville, Tennessee. I established a legal department for the company, which franchised automotive repair service centers across the United States, and also provided alternate fuel products for automotive use, including propane and compressed natural gas conversions for motor vehicles. My duties included overseeing all litigation for the company, hiring of outside counsel, negotiation of contracts, writing of all

corporate contracts, franchise agreements, leases and the like. I also formed and administered corporations and participated in an initial public offering when the company went public on NASDAQ.

2. Corporate Counsel for Service Merchandise, Inc., from 1987 to 1988, in Nashville, Tennessee. My duties involved the negotiation and writing of commercial leases for locations across the United States.
3. Associate with Burger, Fly & McFarlin from 1988 to 1989, in Murfreesboro, Tennessee. I participated in the general practice of law, including criminal, civil, domestic relations, contracts, corporate law, and trial practice.
4. Assistant Public Defender for the Sixteenth Judicial District from September 1, 1989, to the present. I am responsible for the handling of criminal cases for indigent defendants as appointed by the courts. I am responsible for negotiation of all such cases, investigation and trials of same, if needed. I am also responsible for processing appeals of cases, writing briefs, and arguing before the appellate courts. My practice has included the handling of cases in Juvenile, General Sessions and Circuit Courts, and has covered a multitude of offenses. I am death penalty certified in the State of Tennessee.
5. Since June 1, 2012, I have been the President of City Cafe, Inc., and, along with my wife, have been the owner and operator of The City Cafe, a restaurant business located in Murfreesboro, Tennessee. This is a wholly owned subsidiary of Perkins Enterprises, Inc., which is a corporation owned by my wife and me.
6. For several years I have served as the Music Director for Barfield Baptist Church in Murfreesboro, Tennessee. This is an unpaid, volunteer position. I am responsible for the selection and coordination of all music for worship services and special presentations, including musical performances for Christmas and Easter Services, and directing the choir and congregation in worship and revival services.

6. If you have not been employed continuously since completion of your legal education, describe what you did during periods of unemployment in excess of six months.

I have not had any such periods of unemployment since completion of my legal education.

7. 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.

As an Assistant Public Defender, my practice is 100% criminal law. I represent indigent defendants primarily in the Circuit Courts of Rutherford County, with some practice in General Sessions Court. I am responsible for the handling of cases from indictment to conclusion, including interviewing clients and witnesses, investigating the case, negotiations with the district attorney general's office, along with preparation for and trial of cases. I am also responsible for preparing appeals when necessary, including writing of briefs and argument before the Court of Criminal Appeals and the Supreme Court. I also have participated in community education programs dealing with legal issues, including call-in programs on the local radio station and speaking to high school and Leadership Rutherford classes.

8. 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 making your description, include information about the types of matters in which you have represented clients (e.g., information about whether you have handled criminal matters, civil matters, transactional matters, regulatory matters, etc.) and your own personal involvement and activities in the matters where you have been involved. In responding to this question, please be guided by the fact that in order to properly evaluate your application, the Commission needs information about your range of experience, your own personal work and work habits, and your work background, as your legal experience is a very important component of the evaluation required of the Commission. Please provide detailed information that will allow the Commission to evaluate your qualification for the judicial office for which you have applied. The failure to provide detailed information, especially in this question, will hamper the evaluation of your application. Also separately describe any matters of special note in trial courts, appellate courts, and administrative bodies.

From 1983, when I graduated from law school, until August of 1988, I was primarily responsible for seeing that legal matters for the corporations who employed me were handled, either personally or by participating with outside counsel. As such, I tried many issues relating to contracts and obligations, including both defense and prosecution of such matters. In matters which arose within the State of Tennessee, I tried cases in the General Sessions Courts and Circuit Courts of Nashville, Davidson County, mainly individually and occasionally with outside counsel. I also participated in the trials of cases in the Federal District Court in Nashville. I also handled cases with outside counsel in Jackson, Dresden, and Knoxville, Tennessee. In the trial in which I participated in Knoxville, the company was represented by Donald Paine, and I both assisted Mr. Paine in the trial and testified.

Since Mr. Transmission, Inc. and later, International Transtech Corporation, did business nationally, I also assisted outside counsel in the trials of cases in other states, including helping in the preparation of cases for trial and sometimes testifying on behalf of the company. These states included Texas, Louisiana, Alabama, Kentucky, and others, in both state and federal

courts. While outside counsel primarily handled the trial of such cases, I did participate with them in preparing the cases for trial and participating, to a limited extent, in the actual trials. I would estimate that during this time, I either handled myself or participated with outside counsel in the trials of dozens of cases involving areas of law such as contract law, franchise law, collections, real estate, and other civil issues. I also handled an appeal to the Court of Appeals in Knoxville on my own.

From August of 1988, until I became an Assistant Public Defender on September 1, 1989, I was in private practice with the firm of Burger, Fly & McFarlin in Murfreesboro, Tennessee. During this time, I continued to handle cases as outside counsel for International Transtech Corporation and engaged in the general practice of law. During this time, I handled a trial of a divorce matter in Coffee County, Tennessee; a landlord/tenant dispute in Murfreesboro, Tennessee; and it was during this time that I tried my first criminal defense case, as appointed counsel in a case involving the charge of burglary. Although I was associated with the firm, I was solely responsible for the handling of my own cases, including preparation, trial and appeal. During this time, the District Attorney General, Guy Dotson, Sr., recommended me for the position of assistant public defender which I now hold.

Since joining the Office of the Public Defender on September 1, 1989, until the present, I have participated in the trials of scores of cases, defending indigent defendants against criminal charges. I have handled trials of every kind of case, from the simplest misdemeanors to first degree murders and everything in between. These included trials in General Sessions, Circuit and Juvenile courts of Rutherford and Cannon Counties, and I have prosecuted numerous appeals to the Court of Criminal Appeals and applications to the Tennessee Supreme Court. Some of these cases have included the possibility of enhanced punishment, and I am the only attorney in our office other than Gerald Melton, the Public Defender, who is death penalty qualified. I have also assisted other attorneys in our office in the trials of their cases and helped to train them in trial practice. At various times during my tenure with the office, I have served as the sole attorney in Juvenile Court and was responsible for all the trials for a period of time in the Circuit Court in which I served. During my entire time with the Public Defender's Office, I have primarily handled my own cases from start to finish with minimal help from others in the office. I have written and typed my own motions, briefs, applications to appeal, and the like for my whole career. In short, I have always had a very strong work ethic, preparing and trying my cases faithfully and to the best of my ability, often working under adverse circumstances and with difficult clients. One area where I take some measure of pride is the fact that I have never refused to take any case or represent anyone during my almost twenty-three years in the Public Defender's Office, and I have always worked diligently for all my clients to get the best result possible.

9. Also separately describe any matters of special note in trial courts, appellate courts, and administrative bodies.

Several years ago, I tried a case which appeared to be a case of first impression in Tennessee and maybe in the United States, in which my client was charged with vehicular homicide by allowing, where the victim was an unborn child. The first trial of the case resulted in a hung jury

and a mistrial.

10. If you have served as a mediator, an arbitrator or a judicial officer, describe your experience (including dates and details of the position, the courts or agencies involved, whether elected or appointed, and a description of your duties). Include here detailed description(s) of any noteworthy cases over which you presided or which you heard as a judge, mediator or arbitrator. Please state, as to each case: (1) the date or period of the proceedings; (2) the name of the court or agency; (3) a summary of the substance of each case; and (4) a statement of the significance of the case.

I have never served as a mediator, an arbitrator, or a judicial officer.

11. Describe generally any experience you have of serving in a fiduciary capacity such as guardian ad litem, conservator, or trustee other than as a lawyer representing clients.

I have not served as a guardian ad litem, conservator, or trustee. I have served as a deacon for several churches, including First Baptist Church, Smyrna, Tennessee; Third Baptist Church of Murfreesboro, Tennessee; and I am currently serving as a deacon of Barfield Baptist Church of Murfreesboro, Tennessee. During my nine years of service at Barfield Baptist Church, I served as chairman of deacons for approximately five years.

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

None.

13. List all prior occasions on which you have submitted an application for judgeship to the Judicial Nominating Commission or any predecessor commission or body. Include the specific position applied for, the date of the meeting at which the body considered your application, and whether or not the body submitted your name to the Governor as a nominee.

I have never submitted an application for judgeship to the Judicial Nominating Commission or any predecessor commission or body.

EDUCATION

14. 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.

1. University of Mississippi. August, 1975 to August 1980. Bachelor of Arts Degree with major in Political Science.
2. University of Mississippi School of Law. August 1980 to May, 1983. Juris Doctorate Degree.

PERSONAL INFORMATION

15. State your age and date of birth.

I am 55 years old. My date of birth is April 3, 1957.

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

Since June 1, 1983.

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

Since June 1, 1983.

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

I am registered to vote in Rutherford County.

19. 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.

I have not served in the military.

20. Have you ever pled guilty or been convicted or are you now on diversion for violation of any law, regulation or ordinance? Give date, court, charge and disposition.

No.

21. 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.

22. If you have been disciplined or cited for breach of ethics or unprofessional conduct by any court, administrative agency, bar association, disciplinary committee, or other professional group, give details.

None.

23. 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.

24. Have you ever filed bankruptcy (including personally or as part of any partnership, LLC, corporation, or other business organization)?

No.

25. Have you ever been a party in any legal proceedings (including divorces, domestic proceedings, and other types of proceedings)? If so, give details including the date, court and docket number and disposition. Provide a brief description of the case. This question does not seek, and you may exclude from your response, any matter where you were involved only as a nominal party, such as if you were the trustee under a deed of trust in a foreclosure proceeding.

No.

26. 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.

Barfield Baptist Church, Murfreesboro, Tennessee. Music Director and Deacon. 2002 to present.
Spring 2 Life Ministries, Murfreesboro, Tennessee. Board Member. 2011 to present.

27. 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

28. 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.

Rutherford and Cannon County Bar Association. 2012.

Tennessee Association of Criminal Defense Lawyers. 2002-2012.

29. List honors, prizes, awards or other forms of recognition which you have received since your graduation from law school which are directly related to professional accomplishments.

None.

30. List the citations of any legal articles or books you have published.

None.

31. List law school courses, CLE seminars, or other law related courses for which credit is given that you have taught within the last five (5) years.

None.

32. 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.

33. Have you ever been a registered lobbyist? If yes, please describe your service fully.

No.

34. Attach to this questionnaire at least two examples of legal articles, books, briefs, or other legal writings which reflect your personal work. Indicate the degree to which each example reflects your own personal effort.

Examples attached. These are 100% my personal effort.

ESSAYS/PERSONAL STATEMENTS

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

I am seeking this position in order to serve my community and the judicial system and because I believe that my extensive experience has given me the insight and knowledge that will allow me to bring positive changes in any area where change is needed, along with the ability work within the areas where no change is needed. The vast majority of my experience has been in a position of service to others and I would truly like the opportunity to take this experience to the next level. I have been encouraged by the positive reaction of my peers and associates to my announcement that I would seek this position and truly believe I can work with everyone to make a good system even better. Again, because of my experience, I feel I would be ready to work effectively from the first day I started.

36. State any achievements or activities in which you have been involved which demonstrate your commitment to equal justice under the law; include here a discussion of your pro bono service throughout your time as a licensed attorney. *(150 words or less)*

I have spent virtually my entire career representing those who have few, if any, options in life to deal with their circumstances. I have always tried to show compassion for my clients and their families and I truly believe that justice is not something which should be available only to those who can afford it. Even though I have been asked many times why I am not in private practice, I truly feel that I have been called to help those who may be overlooked or even looked down upon. My entire career for almost 23 years has been to help those who often have the greatest need of help but the least ability to obtain it. I would hope to continue to be able to help others,

through all my activities, including my service on the board of Spring2Life Ministries, an addiction recovery program.

37. 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)*)

This judgeship is for Part III of the Circuit Court for Rutherford and Cannon Counties. The Sixteenth Judicial District is located in the center of the state, and Murfreesboro is approximately 30 miles southeast of Nashville on I-24. There are four Circuit Courts and one Chancery Court. Currently, Parts II and III hear virtually all the criminal cases with the other courts hearing the civil matters. My selection for this position would have a positive impact on the court since my experience of over 29 years would allow me to immediately be able to handle matters very quickly from day one. In addition, I have known all the judges for a long time and have worked in all of their courts. I would be able to work with all of them very easily and immediately, and I have a good relationship with all the judges.

38. Describe your participation in community services or organizations, and what community involvement you intend to have if you are appointed judge? *(250 words or less)*

Currently, I serve as a deacon of Barfield Baptist Church and Music Director. I volunteer as a leader for Vacation Bible School and the Barfield Baptist Youth. I have been involved as a leader on two Mission Trips for the youth during the summer and have served as a Sunday School teacher and Outreach Director.

I am also a member of the board of Spring2Life Ministries, which operates group homes for men to recover from drug and alcohol addiction and provides services to prepare them to live a new life without addiction.

In the past, I have served as an Assistant Scoutmaster and Troop Committee Chairman for the Boy Scouts and as Cubmaster for the Cub Scouts. I was a coach for Optimist Little League and Murfreesboro T-Ball and Coach Pitch leagues. I served on the board of Murfreesboro Little Theater and have been an active volunteer, member and performer with the Arts Center of Cannon County. I have been a member of the Murfreesboro Noon Lions Club. I have also performed with The Center for the Arts in Murfreesboro. I also was a leader for a Youth Drama Team at my former church, and served as chairman of the deacons for five years at my present church. I also helped direct a choir at the Rutherford County Workhouse.

Should I be appointed judge I would seek to continue my present activities of service to my church and my community and expand my activity as time permits and opportunities arise.

39. Describe life experiences, personal involvements, or talents that you have that you feel will be of assistance to the Commission in evaluating and understanding your candidacy for this judicial position. *(250 words or less)*

In high school I lettered for four years in football and track and three years in basketball. I graduated as Salutatorian of my class and was listed in Who's Who Among American High School Students. I attended Boy's State as both a delegate and as a leader and received the American Legion Award as well as the Academic Athlete Award in 1975 as the athlete with the highest grades.

At the age of 16, I obtained the rank of Eagle Scout in the Boy Scouts of America.

I have been married to the former Cindy Lee Dockery for 34 years and we have three children, ages 30, 28 and 25. We have one grandchild who will soon be one year old. She is a former teacher and current Flight Attendant with Southwest Airlines.

Over the years I have performed in several community theater productions including Inherit the Wind, My Fair Lady, The Music Man, Big River, and most recently, Fiddler on the Roof. I feel that acting has helped me be more effective in my courtroom presentations. I am the bass singer for a mixed quartet known as the B-4s and am learning to play the violin.

I also have experience in lighting and sound design and execution and am a self-taught auto mechanic and computer designer and builder. I have experience in several areas of construction, including plumbing, electrical, flooring, and carpentry. My wife and I currently own and operate a business known as The City Cafe in Murfreesboro.

40. 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 absolutely am a firm believer in the rule of law and can state without reservation that I would uphold the law even if I disagreed with it. I think the best example I can give is my almost 23 years of representing criminal defendants and advocating for them, even in the face of having to take unpopular positions for less than sympathetic clients. This includes many offenses against children, which I find personally abhorrent. However, I have always done my duty to advance my client's interests in spite of my personal convictions, because the law requires everyone be provided with an adequate and effective defense. Therefore, I know that I would act in accordance with the law and uphold it, even if I disagreed with or disliked it. In this area, it is not about me or my personal opinions.

I also do not believe in judicial activism and would classify myself as a strict constructionist when it comes to the law. I believe it is the duty of a judge to know the law, but not make the law. A judge should always follow the law as given him by the lawmakers and as interpreted by the courts of superior jurisdiction.

REFERENCES

41. 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. Gerald L. Melton, District Public Defender

16th Judicial District

[REDACTED]

[REDACTED] 37130

[REDACTED]

B. William Whitesell, District Attorney General

16th Judicial District

[REDACTED]

[REDACTED]

[REDACTED]

C. Glenn Chrisman, Chief of Police

Murfreesboro Police Department

[REDACTED]

[REDACTED]

[REDACTED]

D. Robert Arnold, Sheriff

Rutherford County Sheriff's Department

[REDACTED]

[REDACTED]

[REDACTED]

E. Ron Byers, Pastor

Barfield Baptist Church

[REDACTED]

[REDACTED]

[REDACTED]

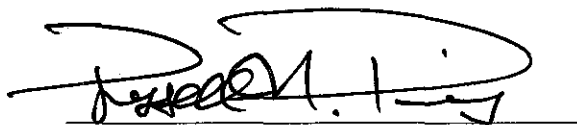
AFFIRMATION CONCERNING APPLICATION

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

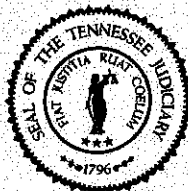
I have read the foregoing questions and have answered them in good faith and as completely as my records and recollections permit. I hereby agree to be considered for nomination to the Governor for the office of Judge of the Circuit Court, Part III, 16th Judicial District of Tennessee, and if appointed 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 30, 2012.


Signature

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



TENNESSEE JUDICIAL NOMINATING COMMISSION

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

**TENNESSEE BOARD OF PROFESSIONAL RESPONSIBILITY
TENNESSEE COURT OF JUDICIARY
AND OTHER LICENSING BOARDS**

WAIVER OF CONFIDENTIALITY

I hereby waive the privilege of confidentiality with respect to any information which 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 Court of 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