

The Governor's Council for Judicial Appointments

State of Tennessee

Application for Nomination to Judicial Office

Name: Leslie Anne Longshore

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(including county) Chattanooga, Hamilton County, TN 37402

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INTRODUCTION

The State of Tennessee Executive Order No. 41 hereby charges the Governor's Council for Judicial Appointments with assisting the Governor and the people of Tennessee in finding and appointing the best and most qualified candidates for judicial offices in this State. Please consider the Council'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 Council 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 Council 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 document.) Please read the separate instruction sheet prior to completing this document. Please submit original (unbound) completed application (*with ink signature*) and any attachments 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, Sex Crimes Unit
Hamilton County District Attorney's Office

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

Licensed in 1998, BPR# 019132

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.

Licensed in Tennessee in 1998, BPR# 019132

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).

1996 – Graduated from law school

1997 – Contract employee, Dale Buchanan and Associates – Wrote appeals briefs in Social Security Disability matters

July, 1997 – October 1997 – Contract Development Analyst, BlueCross BlueShield of Tennessee

1998 – 2002 – Self employed – Contract labor for Hugh Kendall, Attorney, practicing in Wills, Trusts and Estates; Contract labor providing legal services for Public Guardian for the Elderly,

mainly preparing, filing and litigating Petitions to Appoint Conservators for Elderly community members; accepted appointments in Chancery Court as guardian ad litem in Conservatorship matters and appointments as Conservator for three individuals

September 2002 – March 2003 – Southeast Tennessee Legal Services – Assisted domestic violence victims obtain Orders of Protection and Divorces in Circuit Court

March 2003 – May 2011 – Hamilton County District Attorney's Office, Assistant District Attorney

May 2011 – September 2013 – Director of Human Resources for Hamilton County General Government

September 2013 – Present – Hamilton County District Attorney's Office, Assistant District Attorney

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 was unemployed during part of 1996 and 1997 after the birth of my first child and prior to passage of the Bar Exam. Thereafter, I was self-employed doing contract work, part-time.

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.

I am an Assistant District Attorney in Hamilton County handling sex crimes and crimes against children. My work is 100% criminal.

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 Council 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 Council. Please provide detailed information that will allow the Council 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.

I graduated law school in May of 1996 and gave birth to my first child in August. I did not perform any legal work until mid 1997. Prior to passing the bar exam, I worked as an independent contractor writing briefs for a local law office (Dale Buchanan and Associates) in social security disability matters. I worked briefly at BlueCross BlueShield of Tennessee as a Contract Development Analyst (approximately July, 1997- October, 1997), but left when I discovered I was expecting my second child. I resumed brief writing and was licensed to practice law in 1998. From 1998 until 2002 I was self-employed. During that time, I worked with Hugh Kendall, a local Wills and Trusts practitioner, and began performing legal services for the Public Guardian for the Elderly.

The Public Guardian for the Elderly is notified by Older Adult Services or Adult Protective Services of adults in the community who are unable to take care of themselves, for whatever reason. I petitioned the Court on behalf of the Public Guardian for the Elderly to have a Conservator appointed for these individuals. Eventually, this led to appointments as Guardian ad Litem and Conservator in guardianship matters in Chancery Court. I was appointed as Conservator for three individuals during this time and continued in that capacity until my last ward passed away in 2011. As Conservator, I was responsible for the medical and financial decisions on behalf of my wards.

In September of 2002, I accepted employment with Southeast Tennessee Legal Services. At Legal Services, I assisted victims of domestic violence obtain orders of protection and divorces in Circuit Court. Occasionally, I would accompany clients to General Sessions Court when they were required to appear as victims of domestic violence. I remained in that position until March 2003 when I was hired by the Hamilton County District Attorney's Office.

My first assignment with the District Attorney's Office was in Juvenile Court. At Juvenile Court, I prosecuted cases ranging from Drinking Underage to Child Rape cases. There are no jury trials in Juvenile Court, but I had many bench trials during my tenure in Juvenile Court, sometimes several in a day. Juvenile matters are considered delinquencies, rather than crimes; therefore, the focus in Juvenile Court is on the rehabilitation of the juvenile and providing services to their families as needed. I also handled Child Abuse cases in Juvenile Court as the Juvenile Court has concurrent original jurisdiction in those matters.

In August of 2004, I was assigned to Criminal Court where I prosecuted general felonies and misdemeanors. I began also handling Child Abuse/Child Sexual Abuse cases in 2005 and was assigned exclusively to the Child Abuse/Child Sexual Abuse Division in 2005.

As the Child Abuse/Child Sexual Abuse prosecutor, my lighter caseload allowed more time to concentrate on these serious cases. My caseload was almost exclusively A felonies (carrying up to 60 years) and B felonies (carrying up to 30 years) for each count. Indictments in these matters frequently contain multiple counts. As the Child Abuse/Child sexual Abuse prosecutor, I am the leader of the Child Protection Investigation Team (CPIT). I am also a member of the Child Fatality Review Team. Because these cases are different than other prosecutions, the majority of the time, charges are brought by original presentment before the Grand Jury rather than an arrest. I review these cases before charges are brought and sometimes there is not sufficient evidence to pursue criminal charges. On complex matters, I present the case to the Grand Jury personally, to ensure that the Grand Jurors are given all the information they needed to make their decision. As an Assistant District Attorney, I am the first judge on all cases and am called upon to make

hard decisions daily.

In May of 2011, I left the District Attorney's Office to accept an appointment as the Director of Human Resources for Hamilton County General Government. Reporting directly to County Mayor Jim Coppinger, I was responsible for the hiring and hiring practices of the County. I consulted with County management regarding employee discipline and terminations. As the Director of Human Resources, I reviewed adverse actions that were appealed by employees. I was the Chairman on the Employee Appeals Board and wrote the decisions for that body. When employees complained of discrimination to the EEOC or other administrative boards, I gathered the documents and information requested and drafted the County's position statement when necessary. I was responsible for FLSA compliance and responses to employees' claims for unemployment. I conducted annual trainings for management and was responsible for County adherence to and maintenance of the Employee Handbook. I was responsible for the County Health Insurance and Employee Pharmacy. While I was the Director, we began the process to set up an Employee Clinic that was completed in December of 2013. Although I was successful in this position, I felt called back to prosecution.

In September of 2013 I returned to the District Attorney's Office as the Child Abuse/Child Sexual Abuse prosecutor. Since my return, I have regained the duties I had when I left; however, I have also gained additional cases and a partner in the division. Currently, my division handles all sex crimes, all child abuse crimes, all sex offender registry crimes and all sexual exploitation crimes.

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

State v. Derrell and Jamila Nunn, 2009 Tenn. Crim. App. LEXIS 1025 - This was an Aggravated Child Abuse case with both parents charged. The child was so badly injured that he was confined to a wheelchair, could not speak, could not eat, could do nothing but sit in the chair. Both parents were convicted of Aggravated Child Abuse under a theory of criminal responsibility for the conduct of another. They were each sentenced to twenty years. This case is of special note to me because it had lingered in the office for five years before it came to me. In the meantime, the defendants, who were on pretrial release, had conceived another child that died at 6 weeks of age under suspicious circumstances. There was a Motion to Dismiss the morning of trial that I successfully argued. This was a huge victory for us because the case was so old when we tried it and because these defendants were truly a threat to children.

State v. Jamar McField, 2011 Tenn. Crim. App. LEXIS 475- This was a homicide of a four year old who was brutally beaten death after a potty-training accident. When his eight year old sister returned home she found him "cold as a popsicle." The defendant gave a statement describing in explicit detail the savage abuse the child had suffered at his hands. This case is important because we had an issue of a confession after an initial, unwarned, custodial statement. Pretrial, I argued that the defendant's statements were both admissible, or, in the alternative I argued that even if the first statement was inadmissible, it did not render the second inadmissible. The trial court admitted both statements. On appeal, the Court found that the first statement should have been suppressed but that admission of same was harmless error. The Court relied upon the very

cases I had argued during the pretrial suppression hearing. The defendant was convicted of First Degree Murder and given a life sentence.

State v. Napoleon White – This was a Child Rape case that involved the anal penetration of a seven year old boy by a family friend late one night in his own home. While there was no confession, there was compelling DNA proof. The defendant received 20 years on a plea immediately prior to closing statements. This case is of special note because for some time after the case was concluded this victim would call me on Mother's Day and come by to see me, especially when he received a good report card at school. I know that I made a difference for that child.

State v. Michael Campbell – This was a sexual exploitation case wherein the defendant was cutting out the heads of young girls in photographs and pasting them to his pornography, thereby making his own child pornography. One of the victims was the child of the defendant's roommate. I felt strongly that this child was a real victim who could be identified and humiliated by these images if they were ever to be released. I was contacted by a prosecutor in another state who had a similar case, so, rather than dismiss the case, I argued that whether these images contained simulated sexual activity was a jury question. The trial judge initially ruled in my favor, but following an interlocutory appeal, the case was overturned. This was important because there was an ambiguity in the law that needed to be clarified.

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.

N/A

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.

While I was self-employed, I performed legal services for the Public Guardian for the Elderly and accepted appointments in Chancery Court. Through the course of my work in Chancery Court, I was appointed Conservator for three adult individuals. I acted as Conservator for two elderly men who suffered with Alzheimer's/Dementia. Both of these gentlemen had deteriorated to the point of requiring full time care in a nursing facility by the time I was appointed their Conservator. Neither ever knew my name or remembered my face. I managed their medical and financial decisions until their respective deaths. The third individual for whom I was appointed Conservator was an adult female in her forties who was intellectually disabled. Her family had

become unable to control her and I was appointed. I arranged housing for this ward, took her to the grocery store and to medical appointments. I handled her finances, making sure her bills were paid and providing her with spending money as needed. I acted as her Conservator until I accepted employment with the District Attorney's Office.

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

N/A

13. List all prior occasions on which you have submitted an application for judgeship to the Governor's Council for Judicial Appointments 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.

N/A

EDUCATION

14. List each college, law school, and other graduate school that 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.

Vanderbilt University, 1988-1991, Bachelor of Arts, Communication Studies
Georgia State University, College of Law, 1993-1996, Juris Doctor

PERSONAL INFORMATION

15. State your age and date of birth.

My date of birth is August 9, 1970 and I am 44 years old.

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

August 9, 1970 – October, 1991; May, 1996 – present

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

Approximately 19 years, from May of 1996 to present.

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

Hamilton 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.

N/A

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. Please state and provide relevant details regarding any formal complaints 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.

N/A

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 that you have held in such organizations.

First Baptist Church; Tornado Club, McCallie School; Parent Volunteer Leadership Committee, McCallie School; Chattanooga Women's Leadership Institute

27. Have you ever belonged to any organization, association, club or society that limits its membership to those of any particular race, religion, or gender? Do not include in your answer those organizations specifically formed for a religious purpose, such as churches or synagogues.
- If so, list such organizations and describe the basis of the membership limitation.
 - If it is not your intention to resign from such organization(s) and withdraw from any participation in their activities should you be nominated and selected for the position for which you are applying, state your reasons.

N/A

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 that you have held in such groups. List memberships and responsibilities on any committee of professional associations that you consider significant.

N/A

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

N/A

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

N/A

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.

N/A

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.

Director of Human Resources for Hamilton County General Government, May 2011 – September 2013. Appointed by Hamilton County Mayor Jim Copping.

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 that reflect your personal work. Indicate the degree to which each example reflects your own personal effort.

Attachments A-C are 100% my work; Attachment D -I collaborated with another attorney – 50% my work

ESSAYS/PERSONAL STATEMENTS

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

I have committed my career to public service for Hamilton County and its citizens. Beginning with my work as a Conservator for elderly and disabled persons and continuing through my service as both an Assistant District Attorney and as the Director of Human Resources, I have focused my career on making this community better and safer for everyone. It is my desire to protect our citizens and better our community that drives me to seek this position. As Judge I will protect the community with tough sentences for the convicted violent and persistent offenders, while scrupulously protecting the rights of all criminal defendants. I will ensure a fair process for both parties while following the law. Finally, I will happily preside over the Drug Court as it gives an opportunity for participant's to turn their lives around while accepting the consequences of their decisions.

36. State any achievements or activities in which you have been involved that 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)*

Prosecutors are unable to practice civil law; therefore, pro bono service is precluded. However, serving as a prosecutor requires a commitment to equal justice. As a prosecutor, I represent all citizens of Hamilton County, not just the victims. My responsibility is to seek the truth and promote justice. This includes declining prosecution where there is insufficient evidence, as well as prosecuting vigorously those matters where there is. Daily, I review cases and decide whether or not there is a violation of the criminal law and whether or not there is sufficient evidence for prosecution. If a defendant's wish is to plead guilty, I have the discretion to judge the appropriate consequences based upon the proof and the need to protect the community. My decisions are made case by case, but guided by the realization that justice is not possible if people in similar situations are subject to different punishment arbitrarily.

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)*

The position I am seeking is Criminal Court Judge for 2nd Division of Criminal Court in Hamilton County. The Criminal Court handles both felony and misdemeanor violations of the criminal law, and is the sole forum for criminal jury trials in Hamilton County. There are three divisions and three judges for the Hamilton County Criminal Court. Division II is unique, inasmuch as it the Division II judge presides over the Hamilton County Drug Court.

If selected, I would bring years of experience and commitment to public service, public safety and justice to the bench. I will follow the law, issue tough sentences to the repetitive and violent offenders, and strive to treat fairly defendants and victims, alike. I look forward to the prospect of presiding over the Drug Court, as it is a rigorous program for non-violent offenders facing lengthy sentences, and benefits both the offenders and the community.

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)*

My husband and I are co-Presidents of the Tornado Club, which is the sports booster club at our boys' school. The Tornado Club runs the concessions at most school sports functions and all the proceeds go to the school for the purchase of needed uniforms, equipment, technology etc. We are also the proud parents of three very involved children, so their activities are our activities. When we are not chasing after a team we usually have a house full of kids. I believe parental involvement is a huge factor in the future success and happiness of a child. If I am appointed Judge, I desire to be involved in Families First or some like organization that helps parents learn how to be involved and engaged with their kids. I believe family love, support and accountability can play a big part in whether a child grows up to be a productive member of society or someone we see in Criminal Court.

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

At the age of forty, I left a job I loved and accepted an appointment as the Director of Human Resources for Hamilton County General Government. Mayor Jim Coppinger had a bright new vision for Hamilton County and I was excited to be a part of this.

I was appointed amid the objections of the entire Department I was to direct. I had never practiced in Employment Law, nor had I managed an Employee Benefits program. Within two months, I had the responsibility for a reduction in force that left thirty-six people without jobs and had to make changes to the Employee Health Insurance, including switching to an unpopular provider. The hostility towards me was palpable.

I stayed in that position for more than two years and I truly believe I left the Department better than I found it. I implemented programs that saved taxpayer dollars and improved services for employees, and gradually, I gained the respect of other County managers who had doubted me. While I loved working for the County Mayor, I felt I was not doing what I was called to do and returned to the District Attorney's Office.

A Criminal Court judge must be willing to work hard to come to the right conclusion, be able to command respect and maintain order in the face of angry and disappointed people, and most of all must be willing to follow the law when it is uncomfortable or unpopular. I am uniquely qualified to do so.

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)*

Yes. As a prosecutor in the Sex Crimes Unit, I handle violations of the Sex Offender Registry. This law requires convicted sex offenders to register certain information about themselves with

the Sheriff's Office at regular intervals, sets out strict residential and work restrictions and regulates where the offender can be or remain. While I agree that a Sexual Offender Registry is necessary and appropriate, frequently the combined effects of the Registry provisions render it nearly impossible for these offenders to stay in compliance.

Because of the Registry restrictions, sexual offenders have difficulty obtaining and keeping employment. They often become unemployed and homeless, as they are limited in where they can live. Sexual offenders are not allowed in public parks where community groups provide meals to the homeless. It becomes harder and harder for the unemployed, homeless offender to comply. Nonetheless, I prosecute violations of the Sex Offender Registry, even when I feel the requirements have become particularly onerous for a given offender. The community has a high interest in monitoring sex offenders given what is known about recidivism. The rather weighty burden on these offenders is simply outweighed by the need to inform and protect the public.

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 Council or someone on its behalf may contact these persons regarding your application.

A. Jim Coppinger, Hamilton County Mayor

625 Georgia Avenue,

Chattanooga, TN 37402

423-209-6100

B. Neal Pinkston, Hamilton County District Attorney

600 Market Street, Suite 310

Chattanooga, TN 37402

423-209-7400

C. Bill Cox, Retired, Hamilton County District Attorney

D. George Robinson, CEO

Top Flight, Inc.

1300 Central Avenue

Chattanooga, TN 37408

(423) 648-5424

E. Ben McGowan, Attorney

Summers, Rufalo and Rodgers

735 Broad Street #800

Chattanooga, TN 37402

423-265-2385

AFFIRMATION CONCERNING APPLICATION

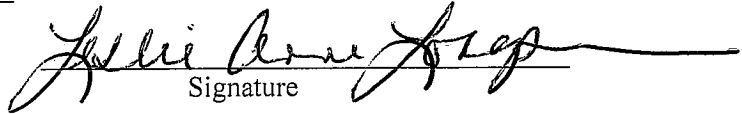
Read, and if you agree to the provisions, sign the following:

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] 11th Judicial District Criminal Court, Div. II of Tennessee, and if appointed by the Governor and confirmed, if applicable, under Article VI, Section 3 of the Tennessee Constitution, 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 Council 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 Council may publicize the names of persons who apply for nomination and the names of those persons the Council nominates to the Governor for the judicial vacancy in question.

Dated: February 20, 2015.


Signature

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



**THE GOVERNOR'S COUNCIL FOR JUDICIAL APPOINTMENTS
ADMINISTRATIVE OFFICE OF THE COURTS**

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

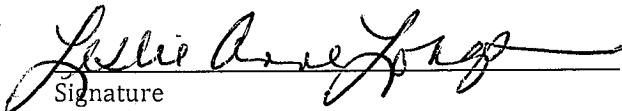
**TENNESSEE BOARD OF PROFESSIONAL RESPONSIBILITY
TENNESSEE BOARD OF JUDICIAL CONDUCT
AND OTHER LICENSING BOARDS**

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 Governor's Council for Judicial Appointments to request and receive any such information and distribute it to the membership of the Governor's Council for Judicial Appointments and to the Office of the Governor.

Leslie Anne Longshore

Type or Print Name


Signature

February 20, 2015
Date

019132

BPR #

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

N/A

HAMILTON COUNTY, TENNESSEE

Position Statement

Charging Party: [REDACTED]

Respondent: Hamilton County Government

Case No.: TN-2011-00032-20-N

RESPONSE OF HAMILTON COUNTY GOVERNMENT TO CHARGES OF DISCRIMINATION AND RETALIATION UNDER USERRA

This memorandum serves as the position statement of Hamilton County Government ("the County"), with respect to the above-referenced charges of discrimination and retaliation filed by [REDACTED] ("Charging Party"). Specifically, the Charging Party alleges that he was discriminated against based upon his membership in the National Disaster Medical System (NDMS), Disaster Medical Assistance Team (DMAT), TN-1, and retaliated against for deployment with DMAT TN-1 in April of 2011, in violation of Title 38 U.S. Code Sections 4301-4335 and 20 C.F.R. Part 1002. For the reasons stated herein, the Charging Party's allegations are without merit and the County requests that all charges be dismissed.

RELEVANT FACTS

Charging Party was hired by the County as an Emergency Medical Technician (EMT) with the Emergency Medical Services Department (EMS) in September of 1999. Charging Party completed Paramedic school in 2003 and was promoted to Paramedic. Also during 2003, Charging Party became a member of NDMS DMAT TN-1. Charging Party applied for a promotion to Lieutenant in November-December of 2009. Selections were made in January of 2010. Charging Party was not selected for promotion.

Since becoming a member of NDMS DMAT TN-1, Charging Party has been activated or deployed approximately five to seven times. Most recently, Charging Party was activated on April 28, 2011 to respond to Alabama due to a string of severe tornadoes that hit the tri-state area, including Hamilton County.

Hamilton County was hit by multiple tornadoes on April 27, 2011. On this date, Charging Party was not scheduled to work for Hamilton County. Due to the extreme damage caused by the tornadoes, Charging Party volunteered for service on the 27th with the Dallas Bay Fire Department. Dallas Bay was sent to Catoosa County, Georgia for Search and Rescue operations, and informed both Lieutenant Greg Allen and Captain Wade Batson of same. During the early morning hours of April 28, at approximately 3:30 am, Charging Party contacted Captain Wade Batson to inform him that Charging Party was still out with Dallas Bay. Both Charging Party and Captain Batson agree that this call was made; however, Charging

Party states that he indicated, at that time, that he would not be able to report for his 7:00 am shift. Captain Batson indicated that he instructed Charging Party to call back later when Charging Party was sure he could not come in for his 7:00 am shift. Sometime during this time period a state of emergency was declared for Hamilton County.

Charging Party returned from Catoosa County at approximately 5:30 am. He did not report for his shift at 7:00 am, nor did he call again until 3:00 pm, to report that he would be in at 7:00 pm. At that time Charging Party was told that his shift had been covered with overtime. Later that evening, Charging Party was activated with his DMAT team. He was released from activation on May 3, 2011, and returned to work on May 4, 2011. Upon his return, Charging Party was informed that he was given a Formal Warning for failing to show for his April 27 shift or call in within the appropriate time frame. At that time Charging Party was not given a copy of the Formal Warning. Charging Party indicated that he felt that the write-up was unfair, and requested a meeting with EMS Director, Don Allen.

On May 19, 2011, Charging Party was called in to meet with Lieutenant Greg Allen, Captain Wade Batson, Deputy Chief John Combs and Chief Ken Wilkerson. The hearing was recorded, and during that hearing, a 90 day probationary period was added, with 30 day intervals reporting to the three different Lieutenants. (Attachment A).

ARGUMENT

Charging Party alleges two distinct violations of USERRA. He alleges that he was overlooked for promotion as a result of his NDMS membership/service, and he alleges that he was retaliated against for his April-May activation when he was given a formal written warning and 90 days probation after returning from this activation.

A person alleging discrimination under USERRA must show the following:

1. That he/she is protected under USERRA as a result of past, present or future affiliation with the uniformed services;
2. That an adverse employment action by the Employer occurred; and
3. That there was a causal relationship between employees protected status and the adverse employment action.

See 20 C.F.R. section 1002.23.

Charging Party was not discriminated against based upon his NDMS DMAT membership/service when he was not selected for promotion in January 2010.

County agrees that the Charging Party, as a result of his membership in the NDMS DMAT TN-1 team, is protected under USERRA. County also stipulates that Charging Party was not selected for promotion to Lieutenant in January of 2010. Therefore, the only issues to be addressed are whether denial of this promotion is an adverse employment action, and, if so, whether such action was motivated by Charging Party's status as a member of NDMS DMAT TN-1, either in whole or in part.

Promotions are governed by Hamilton County Government Human Resources Procedure Rules 2200 et seq. entitled Registers. Rule 2206 – Promotional Register reads, “Each employee who receives a passing grade on a competitive promotional register will be placed on a promotional register for the class of position in the order of examination rating.” (Attachment B).

In December of 2009, a promotional register was compiled for the EMS Lieutenant positions. Said register is attached hereto as Attachment C. Each person selected for promotion scored higher on the promotional register than Charging Party. Charging Party’s allegation of discrimination in the January of 2010 promotions is without merit.

Charging Party was not retaliated against by the County for his activation during the April-May 2011 tornadoes in the tri-state area.

Again, the County stipulates that Charging Party is protected under USERRA. County also stipulates that an adverse employment action was taken against Charging Party by County, with reference to the written Formal Warning and 90 day probationary period. However, County denies that such actions were motivated in any way by Charging Party’s activation in April-May of 2011, or his status as a member of NDMS DMAT TN-1.

The write-up of Charging Party was based upon his violation of established Hamilton County and EMS policies and procedures.

Disciplinary actions within the County are governed by the Hamilton County Employee Handbook (the “Handbook”). Employees within EMS are also governed by their Standard Operating Guidelines, (the “SOGs”). With regard to the disciplinary actions taken against Charging Party, there are several Handbook sections as well as SOG sections implicated. Section 503 of the Handbook, Absences and Leave provides that scheduled leave is leave that is requested and approved at least by the close of business on the preceding workday. Any other absence is unscheduled leave. (Attachment D). SOG’s section F, Three governs leave time and swaps within EMS and reads, in relevant part, “Personnel requesting sick time will notify their supervisor no later than 2 hours prior to the start of their shift.” (Attachment E). Based upon the foregoing, Charging Party’s write up was based upon Hamilton County and EMS policies and procedures regarding unscheduled absences. Despite the disagreement about the facts of the Charging Party’s 3:30 am phone call on April 28, he was not requesting sick leave, nor was he activated by NDMS DMAT TN-1. He was out performing volunteer work. Handbook section 508 provides that, “Regular employees may not engage in any outside employment that adversely affects their work performance as an employee of the County or creates a conflict of interest. Employees must at all times give first priority to the performance of their Hamilton County job.” (Attachment F). Charging Party’s written Formal Warning was based upon established rules and procedures, and was, therefore, not retaliatory.

Placing Charging Party on 90 day probation was within the realm of consequences available for infractions of the type committed by Charging Party and was neither retaliatory or discriminatory.

an employee with regular status may be placed on disciplinary probation for a period not to exceed six months." (Attachment G). Thus, for infractions where termination is a permissible disciplinary action, probation may be proscribed in lieu of termination.

Section 702 of the Handbook deals specifically with suspensions, demotions and terminations. Section 702(3) provides, in relevant part, "Adverse action – Actions involving suspension, demotion or termination....Examples of cause for suspension, demotion, or termination include, but are not limited to ... h. Absence from work without proper notification or authorization." (Attachment H). Charging Party was absent from work without proper notification or authorization which is cause for termination. In lieu of termination, Charging Party was placed on 90 days of probation, as is permitted by Section 701 of the Handbook. Charging Party was not retaliated against for his service with NDMS DMAT TN-1; rather, he was disciplined for an unauthorized absence from work.

Placing Charging Party on 90 days probation was not inconsistent with treatment of others similarly situated; therefore, there is no discrimination.

The Handbook contemplates disciplinary probation for employees who fail to show for work without the proper authorization and/or notification. While this remedy may seem drastic for a single episode, the circumstances warranted such action. Charging Party is a highly trained professional who performs a very specialized service for the County. He rides on an ambulance and provides emergency medical treatment to people who are sick or injured. A State of Emergency was declared in Hamilton County as a result of a severe string of tornadoes. During this type of situation the SOG's provide that, "All HCEMS personnel are subject to be called in to report for duty at anytime should circumstances arise warranting such action. These situations include but are not limited to: Mass Casualty Incidents, natural disasters, weather related emergencies, etc." (Attachment I). Charging Party was aware of this rule and his status as a paramedic makes his unauthorized absence at this particular time a much more serious infraction.

In 1993, there was a blizzard in Hamilton County. An employee was disciplined for leaving his duty station for thirty (30) minutes on his downtime to go check on his family. That employee was suspended for 48 hours without pay. The disciplinary action taken against that employee was more harsh than the action taken against Charging Party, due in large part to that employee's insubordination. (Attachment J). However, that incident as the incident with Charging Party shows a pattern of treatment of absences more severely when EMS is experiencing a widespread emergency condition than at other times.

Placing Charging Party on 90 days probation was in the realm of permissible disciplinary actions for an unauthorized absence and was consistent with actions taken in the only other similar situation. Therefore, there was no retaliation or discrimination. These claims are without merit.

CONCLUSION

For the reasons stated herein, the County respectfully requests that the Department of Labor dismiss the pending charges.

M. COPPINGER
COUNTY MAYOR



LESLIE ANNE LONGSHORE, J.D.
DIRECTOR
HUMAN RESOURCES DEPARTMENT

HAMILTON COUNTY, TENNESSEE

CERTIFIED MAIL

91 7199 9991 7030 8344 0724

December 1, 2011

Mr. [REDACTED]
[REDACTED]
Chattanooga, TN 37421

Dear [REDACTED],

Thank you for meeting with me regarding your recent termination from the Juvenile Detention Facility. In considering your appeal, I have spoken with Sam Mairs, Martin Harrelson, Charles Cheshire, Timothy Mott, Michael Bogardus and Cathy Ryon. I have viewed the video of the altercation with Ms. Ryon and I have reviewed your personnel file. Having taken these steps, it is my decision that your termination should be overturned.

While my decision favors you, it is not without great concern that I make this decision. Your personnel file reflects multiple suspensions over a prolonged period as well as an apparent disregard for the seriousness and importance of your position. That having been said, the video data of the events of September 10, 2011, is somewhat ambiguous. Further, the time lapse between the event and your ultimate termination is troublesome. It is for those reasons that I cannot uphold your termination but find, instead, that you should be suspended without pay for a period of ten (10 days).

However, you should be aware that given your lengthy history of disciplinary actions, including this most recent event, any further violations of the Employee Handbook or the Policy & Procedures Manual for the Juvenile Detention Center, however small, may be grounds for your immediate termination.

If you have any further questions or concerns, please feel free to contact me.

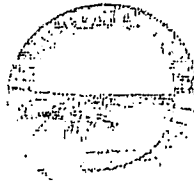
Best regards,

A handwritten signature in cursive script that reads "Leslie Anne Longshore".

Leslie Anne Longshore
Director of Human Resources

Cc: Sam Mairs, Administrator of Juvenile Court
Charles Cheshire, Detention Unit Superintendent
Rheubin Taylor, County Attorney

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HAMILTON COUNTY, TENNESSEE

MEMORANDUM

TO: JUDGE SUZANNE BAILEY, JUVENILE COURT JUDGE

FROM: LESLIE ANNE LONGSHORE, DIRECTOR OF HUMAN RESOURCES *Janet*

DATE: DECEMBER 7, 2011

RE: [REDACTED]

Findings regarding decision to overturn the termination of [REDACTED] from the Juvenile Detention Center.

1. The video of the events of September 10, 2011, does not clearly depict an argument; there is no sound so it is impossible to know what was said.
2. All parties describe the exchange differently. Some call it an argument, while others call this a disagreement.
3. The Juvenile Court Policy and Procedure Manual does not contain a written Policy or rule against arguing in front of the residents, nor does it clearly define, "argument."
4. All parties agree that the verbal policy that had been communicated to employees within the recent past was that there should be no arguing in front of residents, although there appears to be some confusion as to what constitutes an argument vs. a disagreement.
5. The Juvenile Court Policy and Procedure Manual does indicate that residents are to be watched at all times by all staff, but it does not state that a Staff Member is responsible or assigned to a certain resident or group of residents, nor does it state that staff cannot leave residents they are supervising with another staff member.
6. The Juvenile Court Policy and Procedure Manual does not establish either minimum or maximum numbers of residents that may be supervised by a single staff member.
7. The Juvenile Court Policy and Procedure Manual does not state that male residents must be supervised by male staff and female residents must be supervised by female staff while on kitchen duty. The unwritten practice appears to be that any staff may supervise any residents while on kitchen duty.
8. There are conflicting accounts of the immediate events leading up to [REDACTED] exiting the kitchen. Some accounts have Mr. Mott, the training officer and superior to [REDACTED], telling [REDACTED] to leave the kitchen; others indicate that he was not told to leave, but told that this matter did not need to be discussed in front of the residents, at which point [REDACTED] exited the kitchen.

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9. At no time were any residents left without a staff member in the room with them.
10. The matter was discussed that evening during an all staff meeting. All staff were allowed to return to their duties.
11. There were no reports or statements submitted to management until ten (10) days later.
12. ██████████ was not terminated until twenty (20) days after the incident.
13. ██████████ has a history of disciplinary actions spanning the course of six (6) years.
14. Said history makes ██████████ eligible for a higher level of discipline as a repeat offender.