

Tennessee Trial Court Vacancy Commission
Application for Nomination to Judicial Office

04/15/16

Name: Stanley A. Kweller

Office Address: 214 Second Avenue North, Suite 103
(including county) Nashville, TN 37201 (Davidson County)

Office Phone: 615-256-2602 Facsimile: 615-242-5967

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.

I am an attorney in private practice working in the offices of Jackson, Kweller, McKinney, Hayes & Lewis a professional association.

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

I was licensed to practice law in Tennessee in 1977, Board of Professional Responsibility #005429.

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 have been licensed to practice law in the State of Tennessee since September 17, 1977, BPR #005429. My license is 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).

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).

September 1977 to approximately February 1979; Associate attorney with Gore & Hillman in Bristol, Tennessee.

February 1979 to August 1986; Assistant District Attorney General for the State of Tennessee in Blountville, Tennessee in the Second Judicial District.

September 1986 to November 1991; Associate attorney with Flynn & Neenan, P.C. in Nashville, Tennessee.

November 1991 to date; In November, 1991, I began my own practice as an attorney with Robert

L. Jackson & Associates. I am still with that firm currently known as Jackson, Kweller, McKinney, Hayes & Lewis, a professional association.

I worked a number of jobs during and after high school including working at my father's business, Hy's Car Wash, located in Chattanooga, Tennessee, at various times between 1963 and 1974.

During college I had various jobs, including working as life guard at a club in Atlanta, Georgia then known as The Progressive Club. I also worked in the construction industry after graduation from college and before attending graduate school.

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.

My present practice is a general, primarily, civil practice. Approximately 60-65% of my practice is related to domestic relations law including divorce, child custody, parenting issues, and child support.

The balance of my practice consists of general, civil litigation. As an example, I currently have cases pending in three of the Chancery Courts for Davidson County, Tennessee, that involve matters unrelated to domestic relations including matters related to real estate contracts, partnership issues, general business litigation, and the breakup of a family business. I also have matters pending in the Circuit Courts for Davidson County, Tennessee, that are unrelated to the domestic relations area.

I do not limit my practice to one area of the law. I believe that my practice is one that provides me a very broad base from which to transition into a Davidson County Chancellor.

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.

Beginning with my practice in 1977 with the firm of Gore & Hillman in Bristol, Tennessee, my practice has almost always been a litigation-oriented practice. My first jury trial was in 1976; have been trying cases of various types since that time. The first jury case that I tried was defending a locally-owned department store in Bristol, Tennessee, in a tort claim where a patron of the store had fallen and been injured. My recollection is that I was able to obtain a Defendant's verdict in that case. During that same period of time, before going to the District Attorney General's Office in Sullivan County, Tennessee, I defended a federal criminal matter and tort cases. I also tried a number of jury and non-jury matters that were generally civil as well as representing defendants in criminal matters both on a paid and pro bono basis.

Beginning in 1979, I was employed by the office of the District Attorney General for Sullivan County, Tennessee, the Second Judicial District. From that time until I left that office to move to

Nashville, Tennessee in September 1986, I represented the State of Tennessee in every type of criminal proceeding that can be imagined. From the lowest classification of misdemeanor criminal matter to cases involving the ultimate penalty. I tried cases in the General Sessions Court for Sullivan County in both sections of the county, (for those of you that don't know Sullivan County is divided in some ways like the State of Tennessee into three (3) separate parts), and I also tried a number of jury cases in the Criminal Court for Sullivan County in front of a number of different Judges. On one occasion I was asked to assist my co-worker, H. Greely Wells, who was appointed as the District Attorney Pro Tem for Knox County in a murder investigation and ultimate trial that was tried before the late Justice Adolpho Birch sitting by designation in Knoxville.

My experience during that time included, literally thousands, of non-jury trials and hearings and jury trials at the Criminal Court, which are too numerous to detail. During the time that I was a prosecutor I was involved in cases that specifically targeted prostitution in Sullivan County by closing down what were then called massage parlors which were actually fronts for commercial prostitution rings. I was also involved in investigations which were conducted by joint TBI, FBI operations relative to gambling and official corruption. I was able to use the civil law in order to assist our office in literally shutting down 12 massage parlors at one fell swoop and severely hampering the ability of the purveyors of prostitution to continue their operations.

I left the District Attorney General's Office to pursue private practice in Nashville to be closer to my family living in Nashville and parents who lived in Chattanooga at that time. My parents ultimately moved to Nashville upon their retirement.

I began work in Nashville in September of 1986 as an Associate Attorney with the firm of Flynn & Neenan, which firm is no longer in existence. I was employed by them in a general civil practice, including work in trials in the area of personal injury cases, general business and corporate litigation and representing small businesses in this area. I also handled generally small criminal matters for clients of the firms or referrals that were made to me based upon my experience of a prosecutor.

I participated in a number of jury trials and multiple hearings during my tenure with Flynn & Neenan. One of the more interesting jury cases which I participated in trying involved a claim by a firefighter and police officer who were significantly injured as a result of drunk driver. We were not only able to obtain a verdict against the drunk driver but also against the owner of the car, who happened to be his mother, to have that verdict stand up ultimately receive a significant recovery on behalf of both of these individuals. Our office, Flynn & Neenan, represented the police officer in that case.

In the fall of 1991, after marrying my current wife, Virginia, I found that I needed to make a change and take more control over what I did as an attorney, both from a financial standpoint and from a practice standpoint. I had met and become acquainted with Robert L. "Bobby" Jackson, Esquire through handling cases, primarily, against him in Nashville. When the opportunity to go to work with him in his association of attorneys, I could not pass it up.

I have been in practice with Bobby Jackson since the fall of 1991 and have found that practice to be both challenging and fulfilling. I represent various local businesses in all types of commercial

issues, including contract negotiations, lease negotiations, litigation involving employment matters, real property and other general types of civil practice.

I have been involved in working as an independent attorney with Corrections Corporation of America for a number of years, assisting inmates in matters related to the protection of their rights while they are incarcerated. That is a paid position. It allows me, in effect, to keep my finger in the criminal justice arena. That part of my practice also gives me a very different perspective from that of the typical civil litigation attorney.

During the course of my practice I have engaged in all types of civil litigation, Medicare, Medicaid fraud related issues that were litigated at some length in the Chancery Courts here in Davidson County, Appellate work of all types but primarily in the last ten (10) years in the domestic relations area. I represented a number of small businesses in Nashville. I have been involved with them for a number of years and continue to actively engage in that practice.

I also have engaged in a practice of representing individuals and companies related to employment discrimination law and feel very comfortable in that arena as well. Along with the now deceased attorney from Atlanta, I tried a case involving sexual harassment where the defendant was the United States Department of the Army. We were successful in obtaining a substantial jury verdict for our client. I also participated in a case that was ultimately settled that involved a claim also against the Department of the Army involving claims for violations of the Americans with Disabilities Act. That case was also settled in a very successful manner for our client.

I have tried cases in front of Courts, Boards and Agencies all over the State of Tennessee. I have argued a number of different types of Appellate cases and I have represented both individuals and companies in litigation in Federal District Court in both the Eastern and Middle Districts of Tennessee and the Sixth Circuit Court of Appeals.

I have also represented clients in front of various Boards and state Agencies, including cases involving the Board of Psychologists and Psychological Examiners, the Board of Nursing and even the Board of Pardons and Paroles. I have appealed cases from those agencies and organizations to the Chancery Court of Davidson County and have appeared frequently in the Chancery Court representing different types of individuals and businesses in matters that the Chancery Court routinely handles.

I have extensive expertise in the Fourth and Third Circuits Court for Davidson County, particularly, in the last few years along with the Chancery and Circuit Courts in Williamson County, Wilson County, Sumner County, Cheatham County, Robertson County, and Maury County, virtually the entire Middle Tennessee area in domestic relations matters.

I find in my practice that the most intriguing and engaging cases are ones that involve complicated fact patterns or complicated legal issues. During the course of my career I have had the opportunity to handle both and find that they are taxing intellectually but the most enjoyable in terms of feeling of accomplishment when the case has been concluded. These cases include domestic cases, involving the U.C.C.J.E.A. (Uniform Child Custody Jurisdiction Enforcement Act), business cases involving complex financial transactions and governmental issues and civil

litigation involving actions to pierce the corporate veil. I have had the opportunity to handle all of these types of cases and believe that those challenges have made me a better lawyer and put me in the best position possible to be an excellent Judge.

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

As stated above, my practice has been a general one in nature covering all areas of the law. I feel quite comfortable representing individuals and companies in a number of different areas. I believe that I have an excellent reputation for being a careful, well prepared attorney. I believe that reputation includes the fact that I don't make wild crazy statements or accusations about either the facts or the law and that I have read and researched the law so that when I speak of it I do so with a solid foundation.

As briefly discussed above, I have had an opportunity during my practice to handle more and more complicated and complex cases. Those cases are complicated either because of fact patterns, which are outside of the general realm, or because of complicated legal issues. These cases includes cases involving the Uniform Child Custody Jurisdiction Enforcement Act; cases that have made multiple trips to the Court of Appeals on general and civil contractual issues and even criminal cases that involved complicated issues regarding double jeopardy.

As I stated before in response to question 8, I have been involved in a number of different types of cases that were certainly significant to my clients but more importantly helped established what I believe to be a pattern for me of handling cases that were factually and legally challenging. The personal injury case involving the police officer who was injured as a result of a drunk driver involved significant issues relative to the responsibility of the owners of property being held liable for the action of others who use that property. In both of the employment law cases involving the Department of the Army were cases were Motions for Summary Judgment were successfully challenged. In both of those cases, we were able to demonstrate to the Court that the Government was responsible for the acts of its employees in discriminating against other employees by virtue of relatively novel legal theories.

I have been involved in cases of this type throughout my career and continue to do so. These cases challenge me intellectually and increase my abilities and understanding of the law and how it should be administered as a Judge.

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

My answers to the questions number 7 and 8 are a good representation of my legal experience.

10. List and describe all prior occasions on which you have submitted an application for any state or federal judicial position.

I have made three (3) previous applications for judgeship. One in 1994 shortly after Judge Shriver passed away. I applied for the position of Criminal Court Judge in Davidson County, Tennessee. Second, in 2003. I applied for the position of Chancellor when there were two (2) Chancery positions open in Davidson County, Tennessee. My name was not submitted to the Governor on either occasion. Third, in 2011 I submitted my name for the Third Circuit Court of Davidson County, Tennessee, opening. I was selected as one of the three whose name was sent to the Governor. The Governor appointed Phillip Robinson who was ultimately elected to that position.

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.

I graduated from Emory University in 1972 with a Bachelor of Arts Degree. I also graduated from Emory University in 1974 with a Master of Arts Degree. I graduated from the University of Tennessee College of Law with a Juris Doctorate in 1977. I have never attended a school after high school where I did not receive a degree.

PERSONAL INFORMATION

12. State your date of birth.

My date of birth is September 28, 1950.

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

I have lived continuously in the State of Tennessee since the spring of 1951 when my parents moved back to Tennessee from Pittsburgh, Pennsylvania where I was born. Other than living in Atlanta, Georgia during college, graduate school and two summer jobs out of state (Kentucky and North Carolina), I have not lived outside the State of Tennessee.

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

I have lived in Davidson County since September of 1986.

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

I am registered to vote in Davidson County.

16. Describe your military service, if applicable, including branch of service, dates of active duty, rank at separation, and decorations, honors, or achievements. Please also state whether you received an honorable discharge and, if not, describe why not.

I have no military service background.

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.

I have not ever pled guilty or been convicted or have been in violation of any law, regulation or ordinance.

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.

I have not ever been under any type of investigation for possible violation of a criminal statute. I am not under any investigation for violation of any disciplinary rule.

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.

I had been asked to respond to the Board on two different matters during my career. One in 1998 and one in 2007. In both of those cases, the formal complaint was dismissed without any further action by the Board after the parties had submitted their materials to the board.

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, I have not had a tax lien or collection procedure instituted against me.

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

I have never filed for bankruptcy.

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.

Yes, in 1984 I was involved in a divorce action in Chancery Court for Sullivan County, Tennessee, docket number 82-15-4334. The divorce was granted. The opposing party was my then wife, Susan Kweller.

In 1993, my wife, Virginia Kweller, and I sued CNA on a claim regarding our homeowner's insurance policy. Initially the claim was filed in General Sessions Court under docket number 93GC17125. That case was appealed and/or transferred to the Circuit Court under case number 94C71 and was resolved by settlement.

In 2003, I was involved in a law suit with a former client. In that matter, I had represented a lady by the name of Beverley Martindale in a personal injury matter. I missed the statute of limitations. When I realized what had happened, I contacted my client immediately both by phone and by mail and advised her of what happened and advised her that she should seek other counsel and may wish to consider a lawsuit against me. Ultimately, that suit was filed under docket number 03C666, in the Circuit Court for Davidson County, Tennessee and that case was settled.

Also in 2003 an attorney with whom I continue to practice, Larry Hayes, Esquire and I were involved in a lawsuit in Chancery Court under case number 03-2440-I, styled Hayes and Kweller versus International Credit Corporation, LLC. That matter was a fee dispute and was also settled.

In 2007, I filed a General Sessions Court action against a former client under docket number 07GC21084 regarding fees and that matter was also settled.

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.

I am a member of the Congregation, Ohabai Sholom, The Temple, in Nashville, Tennessee and have been for a number of years. I am currently a member of the Board of Trustees for Congregation of Ohabai Sholom. I am also a member of the Jewish Community Center in Nashville, Tennessee and have been since 1986.

I am a member of the National Ski Patrol and have been a member for over 30-years and work through the Beech Mountain Ski Patrol.

I have served as a board member of the Jewish Family Services in Nashville, Tennessee. It does not technically have a membership and I have served on the Community Relations Committee for the Jewish Federation of Nashville.

I am a fellow of the Nashville Bar Foundation.

I have worked as a (SOS) with the organization known as Habitat for Humanity in the past. I have not been active with that organization in the last few years. I have participated in a number of builds for organizations and acting with Habitat. I found that work to be most fulfilling and enjoyable.

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.

I have never belonged to any organization that limits its membership based on race, religion, or gender.

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.

I am currently a member of the Nashville and Tennessee Bar Associations. I have been a member off and on in both of these organizations since moving to Nashville. At various times in

the past I have acted as a committee member in the Nashville Bar Association both for the Legislative Affairs Committee and also on at least one occasion in the past on the Ethics and Professionalism Committee.

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.

I have been chosen by my peers to be included in the Super Lawyers of the Middle South® since 2008. This selection process for this honor is a multiphase process including the creation of a candidate roll, research by the Super Lawyers staff and a peer review of the candidates by other attorneys. Each candidate is evaluated on 12 indicators of peer recognition and professional achievement. Selections are made on an annual state by state basis.

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.

The only public office in which I have held or in holding is that of a hearing panel member for the Board of Professional Responsibility. I was appointed to that position in 2015 and continue in that capacity at present.

ESSAYS/PERSONAL STATEMENTS

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

I believe that my experience as an attorney, both in terms of the time practicing (over 39 years) and breath of practice, provides me with the depth of knowledge and the patience to be an excellent judge. I want to serve the people of this county and the state. I believe that my abilities, my background, my education, and experience all lead me to think that this position is one where I can provide the type of quality and expertise that will promote not only the civil justice system but will promote the public's confidence in that system, an absolute necessity if it is to survive and thrive.

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 position I am seeking is that of Chancellor for Part II of the Chancery Court for Nashville, Davidson County, Tennessee. There are currently four Chancellors in Davidson County. The Davidson County Chancery Court is unique among the Chancery Courts for the State of Tennessee in that in addition to their regular practice as Chancellors, they are called upon to hear

the overwhelming majority of Appeals administrative agencies in the State of Tennessee. My experience has taught me that the Davidson County Chancery Courts are involved in very cutting edge legal issues that are brought either by or against the State of Tennessee regarding matters which affect citizens all across the state. A recent example of that includes the litigation brought on behalf of the late John J. Hooker regarding the right to die. I believe that my selection to this Court would help maintain the very highest standards for which the Chancery Courts of Davidson County have been known since their inception.

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)*

The simple answer is yes, Chancellors were originally known as the “Conscience of the King”. They are required to interpret the laws passed by the legislature and apply those laws to the facts before them. Yet being the “Conscience of the King” does not mean that Chancellors or any Judge has the ability to mold the law into what they believe it should be.

Courts are called upon to interpret the laws and to determine if they meet basic constitutional standards and guidelines, it is not the job of a Trial Judge or Chancellor to substitute their opinions as to what the law should be.

As an attorney, I have represented individuals whose beliefs, positions, and perhaps whose lifestyles I do not agree with yet I provided them with what I believe to be excellent representation and always put their interest at the forefront because they were the client. These differences did not affect my representation.

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. Robert L. “Bobby” Jackson, *Esquire*
Jackson, Kweller, McKinney, Hayes & Lewis

B. Charles W. Bone, *Esquire*
Bone McAllester Norton, PLLC

C. R Eddie Wayland, <i>Esquire</i> King & Ballow
D. Dana Moore E.N.A. (Education Network of America)
E. Lindsey Cooper


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] Chancery Court, Davidson County Part III 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: May 19, 2016.



Signature

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



**TENNESSEE TRIAL COURT VACANCY COMMISSION
ADMINISTRATIVE OFFICE OF THE COURTS**

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

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

WAIVER OF CONFIDENTIALITY

I hereby waive the privilege of confidentiality with respect to any information that concerns me, including public discipline, private discipline, deferred discipline agreements, diversions, dismissed complaints and any complaints erased by law, and is known to, recorded with, on file with the Board of Professional Responsibility of the Supreme Court of Tennessee, the Tennessee Board of Judicial Conduct (previously known as the Court of the Judiciary) and any other licensing board, whether within or outside the State of Tennessee, from which I have been issued a license that is currently active, inactive or other status. I hereby authorize a representative of the Trial Court Vacancy Commission to request and receive any such information and distribute it to the membership of the Commission and to the Office of the Governor.

Stanley A. Kweker

Type or Print Name

Signature

5/19/16

Date

005429

BPR #

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

None
