

Tennessee Trial Court Vacancy Commission
Application for Nomination to Judicial Office

04/15/16

Name: Brian Todd Martin

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(including county)

Brentwood, (Williamson) TN 37020

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INTRODUCTION

Tennessee Code Annotated section 17-4-301 et seq. charges the Trial Court Vacancy Commission with assisting the Governor and the People of Tennessee in finding and appointing the best qualified candidates for judicial offices in this State. Please consider the Commission's responsibility in answering the questions in this application questionnaire. For example, when a question asks you to "describe" certain things, please provide a description that contains relevant information about the subject of the question and, especially, that contains detailed information that demonstrates that you are qualified for the judicial office you seek. In order to properly evaluate your application, the Commission needs information about the range of your experience, the depth and breadth of your legal knowledge, and your personal traits such as integrity, fairness, and work habits.

This document is available in word processing format from the Administrative Office of the Courts (telephone 800.448.7970 or 615.741.2687; website www.tncourts.gov). The Commission requests that applicants obtain the word processing form and respond directly on the form. Respond in the box provided below each question. (The box will expand as you type in the document.) **Review the separate instruction sheet prior to completing this document. Submit by the noon deadline date an original (unbound) completed application (with ink signature) to the Administrative Office of the Courts.** In addition, submit a digital copy with electronic or scanned signature via email to debra.hayes@tncourts.gov, or via another digital storage device such as flash drive or CD.

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

PROFESSIONAL BACKGROUND AND WORK EXPERIENCE

1. State your present employment.

I am Division Counsel for the Nashville Field Division of the Bureau of Alcohol, Tobacco, Firearms, and Explosives within the United States Department of Justice.

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

I became licensed in 1997. My Tennessee Board of Professional Responsibility number is 018785.

3. List all states in which you have been licensed to practice law and include your bar number or identifying number for each state of admission. Indicate the date of licensure and whether the license is currently active. If not active, explain.

Tennessee – 018785

I became licensed in October of 1997. My license to practice law is 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).

United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives:

Division Counsel (2013 to present)

Senior Attorney (2006-2011 and 2012-2013)

Chair, Professional Review Board (2011-2012) – The Chair serves as the head of the disciplinary review board for the agency. The Board reviews evidence of allegations of misconduct of employees and recommends a lawful course of action. As Chair, I supervised a staff of employees and coordinated the Board's activities as they related to consideration of the evidence,

and made a call for a vote on action. I oversaw the drafting of any written product related to the Board's action.

Shenandoah University, Bernard J. Dunn School of Pharmacy: Adjunct Faculty – I instructed pharmacy degree-seeking students with legal instruction on pharmacy law.

United States Department of Justice, United States Marshals Service: Deputy Assistant Director (DAD), Acting, Training Division (2011-2012) – I provided leadership and guidance to headquarters personnel on the development and delivery of training across the Service.

Walters State Community College, Public Safety Division: Adjunct Instructor – I provided instruction to criminal justice students on State and Federal constitutional law.

Assistant District Attorney General, Office of the District Attorney (Second Judicial District)

King Pharmaceuticals, Inc. - Director, Human Resources Legal Affairs

Mississippi County Community College: Lead Instructor (Criminal Justice) – I provided instruction to undergraduate students focusing on criminal justice studies.

United States Department of Justice, Executive Office of U.S. Attorneys:

Eastern District of Tennessee, Special Assistant United States Attorney (2010-2013)

District of Puerto Rico: Special Assistant United States Attorney (2007)

6. Describe the nature of your present law practice, listing the major areas of law in which you practice and the percentage each constitutes of your total practice.

I am the primary legal officer for the Bureau of Alcohol, Tobacco, Firearms and Explosives, and am responsible for overseeing the agency's legal matters in Tennessee and Alabama. I represent the agency's interests in civil and criminal proceedings, as well as in licensing actions in administrative hearings before Administrative Law Judges and informal, hearing officers. I also provide day-to-day legal counsel to agency leadership and staff on a variety of matters, including negotiating and drafting contracts and general agreements applicable to the office, compliance with statutory and regulatory requirements at the state and federal level, and employee-employer relations. I write briefs and memoranda of law in response to administrative or civil actions in federal courts. I sit, as directed, as a legal representative in federal civil and criminal litigation. I conduct a legal review of all requests for orders to conduct electronic surveillance.

Day-to-day legal counsel – 50%

Administrative hearings – 5%

Regulatory compliance – 30%

Federal civil matters – 5%

Federal criminal matters – 10%

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.

I began my legal career as a criminal justice instructor for a community college. Thereafter, I became employed as an attorney for a pharmaceutical manufacturer and distributor, where I negotiated, drafted, and interpreted contracts, assisted with mergers and acquisitions, managed the corporate's intellectual property portfolio, and assisted with employer-employee relations, to include addressing allegations of employee misconduct. In 2000, I became an Assistant District Attorney General (ADA) for Sullivan County, Tennessee. As an ADA, I handled a variety of felony offenses from the point of investigation through trial and sentencing. The cases included homicides and other violent offenses, property and financial crimes, narcotics offenses, and crimes against children. I also handled related civil litigation, including Habitual Traffic Offender adjudications and forfeitures. In September of 2000 through November of 2004, I served as a U.S. Army Judge Advocate, which included a one-year activation in support of Operation Enduring Freedom. In 2006 I accepted a position as a Staff Attorney within the Firearms, Explosives, and Arson Division (FEA) in the Office of Chief Counsel at the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) in the U.S. Department of Justice. In 2007, ATF temporarily assigned me to a Violent Crime Impact Team (VCIT) at the U.S. Attorney's Office for the District of Puerto Rico, where I lived during the assignment. As a part of the VCIT, I served as a Special Assistant U.S. Attorney (SAUSA) and prosecuted violent firearm offenses within the District. Upon my return to ATF, I assumed my role as Staff Attorney and was then promoted to Senior Attorney in FEA. As a Senior Attorney in FEA, I assisted in the

classification of regulated devices and materials, drafted memoranda of law, and responded to Executive and Legislative Branch requests for assistance on technical/legal matters.

In 2010, to assist in the investigation and prosecution of a complex smuggling operation, ATF assigned me to assist with the U.S. Attorney's Office for the Eastern District of Tennessee as a SAUSA. The case resulted in a felony offense for an individual operating as a business entity. I was later selected to serve as the Chair of ATF's Professional Review Board (PRB). The PRB is responsible for reviewing and addressing allegations of employee misconduct, and recommending a lawful course of action – clearance, caution, warning, suspension, or termination. After one year, as a part of a leadership program, I was assigned to serve as the Deputy Assistant Director of the Training Division at the headquarters of the U.S. Marshals Service. While there, I addressed the creation and delivery of a comprehensive training program across the entire agency.

I returned to ATF and resumed my position as Senior Attorney within FEA. In 2013, I was selected as the Division Counsel for the Nashville Field Division of ATF. As Division Counsel, I conduct formal and informal hearings related to administrative actions related to licensed persons and entities, represent ATF's interests in civil litigation, and provide day-to-day legal counsel to the senior leadership and staff of the Division.

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

I have conducted countless criminal and civil hearings before a variety of tribunals at the state and federal level. I have litigated civil and criminal matters at bench trials and before a jury. I have conducted administrative hearings before informal hearing officers, as well as Administrative Law Judges. I write responsive briefs for matters pending before federal courts.

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

Not applicable.

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

Not applicable.

EDUCATION

11. List each college, law school, and other graduate school which you have attended, including dates of attendance, degree awarded, major, any form of recognition or other

aspects of your education you believe are relevant, and your reason for leaving each school if no degree was awarded.

Boston University School of Law – Master of Laws (August 2017 to present). The awarding of a degree is anticipated in September of 2018, with highest honors.

American University, Washington College of Law – Master of Laws (January 2011 to June 2013). The degree was not awarded as I relocated for the U.S. Government to Tennessee.

The University of Memphis, Cecil C. Humphrey’s School of Law – Juris Doctor (August 1994 to May 1997).

East Tennessee State University (Graduate School)– Master of Arts in Teaching (August 1993 to May 1994). The degree was not awarded. I was accepted into law school and left the program.

Walters State Community College (March 1993) – I completed a continuing education unit of one class (Interviewing and Interrogation), which lasted one week. No degree was offered or conferred.

East Tennessee State University – Bachelor of Science (August 1988 to May 1991)

Southwest Virginia Community College (November 1989) – I completed a one-month course related to certification, which I received.

New River Community College – Associate in Applied Science (January 1987 to May 1991); One-year Certificate (January 1987 to May 1992).

PERSONAL INFORMATION

12. State your date of birth.

██████ 1967

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

I lived in Tennessee from 1967 to 1987. I returned to Tennessee in 1991 and stayed until 2006. I returned 2013 and have remained here until present. My present length of residency is more than five years.

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

More than 5 years.

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

Williamson County, Tennessee

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 entered the U.S Army (Reserves) as a 1st Lieutenant in 2000 and served as a Judge Advocate. In 2003, I was activated into the U.S. Army in support of Operation Enduring Freedom. I spent the next year serving as the Chief of Criminal Law at Camp Atterbury Maneuver and Training Center in Indiana. I received the following awards: Army Service Ribbon, Armed Forces Reserve Medal (with "M" device), for being mobilized, the National Defense Service Medal, the Global War on Terrorism Medal, and an Army Reserve Commendation. I receive an Honorable Discharge at the rank of Captain in November of 2004.

17. Have you ever pled guilty or been convicted or are now on diversion for violation of any law, regulation or ordinance other than minor traffic offenses? If so, state the approximate date, charge and disposition of the case.

No.

18. To your knowledge, are you now under federal, state or local investigation for possible violation of a criminal statute or disciplinary rule? If so, give details.

No.

19. Please identify the number of formal complaints you have responded to that were filed against you with any supervisory authority, including but not limited to a court, a board of professional responsibility, or a board of judicial conduct, alleging any breach of ethics or unprofessional conduct by you. Please provide any relevant details on any such complaint if the complaint was not dismissed by the court or board receiving the complaint.

Zero

20. Has a tax lien or other collection procedure been instituted against you by federal, state, or local authorities or creditors within the last five (5) years? If so, give details.

No.

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

No.

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

I was the plaintiff in Brian Martin v. Amy Martin, which was a dissolution of marriage proceeding in the Chancery Court for Sullivan County at Bristol, TN. The action was filed in January of 2002. The grounds for dissolution were irreconcilable differences. The marriage was dissolved, by agreement, on March 20, 2002. The docket number and the exact date of filing are not presently available to me.

I was the plaintiff in Brian Martin v. Meadow Branch South Property Owners Association, Inc., which was filed in the Circuit Court for the City of Winchester, VA in late 2012. The exact dates of filing and resolution are not presently available to me. The docket number is CM-12-6. The matter arose after I made a demand under Virginia law to review records of the homeowner's association (HOA) related to actions of the HOA Board and use of HOA funds. The management company and elected members of the HOA Board failed to comply with my request so I filed a demand for the records with the Circuit Court. After an initial court appearance before the court, the matter was resolved by agreement when the court ordered the release of the records and the HOA paid costs associated with my expenses.

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.

National Rifle Association

Tennessee Firearms Association

Brentwood (TN) Historic Commission

Williamson County (TN) Republican Party

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.

In my youth I was both a Cub Scout and Boy Scout, which previously limited membership to only males.

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.

Tennessee Bar Association 2017-2018

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.

Special Commendation, U.S. Department of Justice
President's Award, Tennessee District Attorney General's Conference
Army Reserve Commendation

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.

I am appointed as a member of the Brentwood (TN) Historical Commission.

ESSAYS/PERSONAL STATEMENTS

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

Alexander Hamilton, said, "Laws are dead without the courts to expound and define their true meaning and operation." Statutory law is subordinate to the Constitution. Our legislative bodies are most often well meaning, but absent a learned judiciary, they may inadvertently run afoul of the Constitution and the Executive Branch may follow.

As a judge, I would sit in balance of the legislative process and the executive's implementation of laws. I believe that a position as judge requires a person with both a sufficient depth and breadth of knowledge and experience. Absent the right balance, neither the people who are reliant upon government, or the government, will be assured of a right and just outcome. I believe that after more than twenty years, I have attained the right balance of breadth and depth. Appointment to the bench allows me to continue to serve the people.

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 current vacancy is the result of an increase in caseload. As Chief Justice Bivins recognized, a properly balanced caseload in the judiciary is critical to, "the fair and efficient administration of justice." Throughout my career I have exceeded the minimum standards and, many times, I have been able to set new standards. By being experienced in a broad range of the law, I can quickly step in and lend assistance to the current bench, reducing backlogs, and allowing cases to resume a faster resolution. The 21st Judicial District is a multi-county Judicial District, and I appreciate the variety of different needs among litigants and counsel. I believe that my selection and appointment will continue the good work of the current bench in the 21st Judicial District while expediting cases.

30. Will you uphold the law even if you disagree with the substance of the law (e.g., statute or rule) at issue? Give an example from your experience as a licensed attorney that supports your response to this question. *(250 words or less)*

I will uphold the Constitution and all laws that are not in violation of it, regardless of my agreement or disagreement with the statute or rule.

More than a decade ago, the Tennessee General Assembly enacted a tax on those persons who possessed illegal narcotics. While the law had a beneficial intent, it struck me as possibly in violation of the 5th Amendment's right against self-incrimination; however, neither the Court of Criminal Appeals nor the Supreme Court had struck it down on those grounds. Despite my reservations, where cases came before me, I made sufficient inquiry into their validity and, if they met the statutory requirements, proceeded with the case and assisted the Department of Revenue in their tax collecting efforts. Later, the Supreme Court struck down the law as applied, but not on 5th Amendment grounds, but on strict statutory interpretation, as applied to the identified defendants.

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.

Judge Robert H. Montgomery
TN Court of Criminal Appeals
400 Clinchfield Street, Suite 210
Kingsport, TN 37660



B.

Judge James F. Goodwin
Sullivan County Justice Center
PO Box 585
Blountville TN 37617



C.

Barry P. Staubus, District Attorney General
Sullivan County Justice Center
140 Blountville Bypass
P.O. Box 526
Blountville, TN 37617



D.

David G. Jolley, United States Marshal
United States Marshals Service
Howard H. Baker, Jr. U.S. Courthouse
800 Market Street, Suite 320
Knoxville, TN 37902



E.

Blaine E. Wade, Chief of Police
Bristol (TN) Police Department

801 Anderson Street

Bristol, TN 37620



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 Circuit Court in the 21st 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 6, 2018.



Signature

A handwritten signature in black ink, written over a horizontal line. The signature is cursive and appears to read "Debbie Hayes".

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

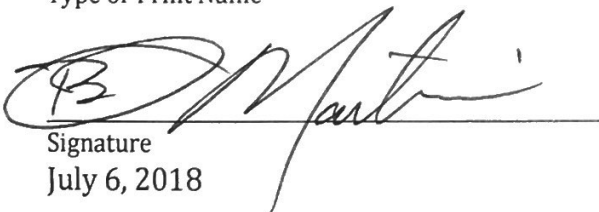
**TENNESSEE BOARD OF PROFESSIONAL RESPONSIBILITY
TENNESSEE BOARD OF JUDICIAL CONDUCT
AND OTHER LICENSING BOARDS**

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.

Brian Todd Martin

Type or Print Name



Signature

July 6, 2018

Date

018785

BPR #

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

