

Tennessee Trial Court Vacancy Commission
Application for Nomination to Judicial Office

04/15/16

Name: Cynthia Carole Chappell

Office Address: Chappell Law Offices
211 Union Street, Suite 200
Nashville, TN 37201
Davidson County

(including county)

Office Phone: (615) 620-3272 Facsimile: (615) 369-3344

Email Address:

Home Address:
(including county)

Nashville, TN 37201
Davidson County

Home Phone: not applicable Cellular Phone:

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 a solo practitioner with offices in Nashville, TN

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

1993, 016028

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.

TN 016028 1993 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).

1993 – August 1995, Solo practitioner with Russell X Thompson, Bolivar, TN

August 1995 – 1998, Member of Easterly & Chappell, Nashville, TN

1998 – 1999, Associate at Funk & Kay, Nashville, TN

1999 – 2003, Solo practitioner, Nashville, TN

2003 – April 2007 Associate at Dodson, Parker & Behm, Nashville, TN

April 2007 – present, Solo practitioner, Nashville, TN

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.

Since 2007 Chappell Law Offices shares office space with Hardin Law Office in the Stahlman Building, downtown Nashville. I do not employ other lawyers, but I regularly associate with other lawyers and typically have at least one assistant part time. My practice is divided among the following areas, with the largest percentages in criminal defense and family law, although the actual percentage fluctuates.

Criminal Defense, state and federal court;

Family law including divorce, custody, parentage, post-divorce issues, orders of protection, criminal and civil contempt actions;

Civil litigation, state and federal court; and

Advisory capacity numerous matters.

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.

My practice is focused on litigation. While I handle a variety of cases, my caseload is weighted towards criminal defense or civil and domestic matters often with a criminal component. Criminal justice has always been at the forefront of my interest and experience.

My trial court experience in state court has included both criminal and civil jury and non-jury trials, motion practice and all facets of a litigation practice. I have participated both as a first and second chair in representing defendants charged with misdemeanor and felony cases. My federal court criminal practice in which I have served as both first and second chair includes representation of defendants charged with white collar and other offenses. I have also represented numerous individuals or entities under investigation by various state and federal law enforcement agencies. My federal court civil practice consists of representation on both the plaintiff and defense side and includes individuals and businesses.

To illustrate the type of work I do, in the last ten months I have performed the following tasks:

obtained a multimillion dollar judgment for a publically traded company pursuing its former CEO for misappropriation (including extensive communications with the United States Attorney, the Securities Exchange Commission, the Internal Revenue Service, the Department of Revenue, nationwide auditing firms and other counsel); finalized through sentencing an individual charged in a complex health care fraud matter; represented an individual regarding Hobbs Act Robbery and related offenses; represented an organization that received a subpoena *duces tecum* related to a public corruption investigation; represented an individual charged with Reckless Endangerment; represented an individual under investigation for violation of the False Claims Act; prepared mediation statements and participated in civil mediations; defended a client charged with bank fraud in federal court; continued defense of an individual charged with sexual assault and battery in Circuit Court now set for trial; negotiated, tried and/or finalized numerous divorce and post-divorce actions; taken and defended several depositions including expert witnesses; represented and advised individuals in defending against Orders of Protection with concurrent criminal charges; advised clients in matters involving, restraining orders and orders of protection; served as a legal analyst for a television station; defended an individual under federal investigation for violation of kick back laws;

I am lead or co-lead counsel in every matter mentioned above. I have not included every matter in which I am involved at this time nor have I referenced confidential matters that could have required or may require the need for defense in a lawsuit but legal action was or has been avoided due (at least in part) to my representation pre indictment or suit.

In the last three years I have served as second chair in a Federal Death Penalty murder case; represented a corporation charged with vehicular homicide in Criminal Court; litigated and resolved a multi-million dollar post-divorce matter; represented a former employee of a public corporation charged criminally and civilly with fraud; counselled persons with connection to high profile civil and criminal matters; conducted preliminary hearings; and, handled many other matters similar to those referenced above.

In the course of my twenty-five year career and in addition to other matters mentioned I have prosecuted orders of protection, advised clients regarding step-parent adoptions and termination of parental rights, participated in Department of Safety property forfeiture proceedings, handled general sessions lawsuits as Plaintiff or Defendant's counsel, drafted premarital agreements, reviewed employment contracts and drafted rental agreements.

I have been involved in cases before the Court of Criminal Appeals, the Court of Appeals, and the Tennessee Supreme Court.

In 2014 I was appointed by then Mayor Karl Dean to the Board of Zoning Appeals, a seven member quasi-judicial body that convenes twice each month to hear matters involving zoning and land use. These hearings require a docket and case file review as well as knowledge of the metro code and ordinances, state laws and statutes and their interaction. Due to the size and growth of our county these dockets have significantly increased. I was reappointed to another 5 year term on this Board in May 2018.

With regard to the amount of legal work I perform, my clients are almost always referred to me

by former clients or other lawyers. I trust this means that clients have valued my experience and advice and that lawyers respect my work ethic and expertise. I am motivated to ensure that my clients receive as much personal assistance as possible directly from me. I perform all courtroom work and negotiations as well as the majority of the research, writing and correspondence. Legal writing is an important part of my practice, particularly in civil matters. Detailed motion practice is intertwined with all of my work. I am fortunate to work and collaborate with other lawyers in my office space on many current cases. I enjoy legal work as part of a team and am very comfortable sharing and discussing ideas and strategies as well as legal work with co-counsel.

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

I served as co-counsel for the Plaintiff in Davidson County Chancery Court in a case involving the constitutionality of the Tennessee Assisted Suicide Statute. We defended a Motion for Judgment on the Pleadings in July 2015 and subsequently perfected an appeal and attempted to have the Tennessee Supreme Court exercise its reach down jurisdiction. The case was withdrawn upon the client's death. The entire legal team in this matter worked pro bono.

With regard to my service on the Board of Zoning Appeals The Metropolitan Council conferred on us, among other matters, the jurisdiction to hear appeals regarding short term rental properties. Given that this is new legislation, there are frequently matters of first impression for us to decide. The recent sidewalk initiative generates growing requests for variances that also come before this Board. New policies and legislation lead to new matters to be addressed. The work performed by this seven member board is extremely important to the manner and nature of land use in this county and we have experienced an exponential growth in litigants before this Board.

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

I am licensed to practice in: Tennessee State Courts; Tennessee Court of Appeals; Tennessee Supreme Court; Federal District Courts of West, Middle and East Tennessee; 6th Circuit Court of Appeals; and the United States Supreme Court.

I have conducted or produced the following CLE seminars in the last five years:

2018 Short Term Rental Law

2017 Harry Phillips Inns of Court team - NFL Concussion Litigation;

2016 Harry Phillips Inns of Court team - Jury Nullification;

2014 Harry Phillips Inns of Court team - Changes to Workers Compensation Laws;

2013 Domestic Law Forum presenter – What to Do When your Domestic Case Becomes Criminal

I believe that legal services must not be denied to those who often can least afford them but most desperately need them. I maintain at least one open pro bono case file and recently obtained a divorce for a client against an abusive spouse. In the last 2 years I assisted a mother in finalizing a divorce against an alcoholic husband, successfully defended a former client's daughter on domestic assault charges; represented a U.S. Marine Captain in gaining custody of her four nieces and nephews so they could live in a stable loving home; and, assisted a mother, whose child qualified for educational travel abroad, to obtain guardianship paperwork so we could obtain the child's passport despite the father's absence.

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

2017 20th Judicial District State Trial Court Vacancy due to retirement of Davidson County Judge Randall Wyatt

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.

Rhodes College, 1986 – 1990, attended on Presidential Scholarship (partial), majored in the law and government track of Psychology, B.A. Psychology 1990

Memphis State University, 1990 - 1993 J.D. 1993, attended on the full Herbert C. Herff Scholarship, Mock Trial winner 1992, Am Jur Award Mock Trial 1992, served as a criminal law clerk to the Shelby County Criminal Court Judges 1992-1993

PERSONAL INFORMATION

12. State your date of birth.

1968

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

My entire life.

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

I have resided in Davidson County since 1995.

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

Davidson

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

Not applicable

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

No

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

No

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

I have had two Bar complaints filed against me in my career of which I received notice. The first was filed in or around 2000 by the opposing party in a divorce and custody action complaining primarily about my impeachment of him during cross examination and about the outcome of the hearing which was not favorable to him. The complaint was quickly dismissed.

Another complaint was filed in or around 2001 by a client after a four day criminal jury trial. My client was one of six co-defendants charged with violating the "school zone" drug laws by conspiring to possess with intent to sell more than 100 pounds of marijuana. The jury convicted all defendants. All received lengthy sentences. My client had rejected an offer to plead to a lower class felony. He complained to the Board of Professional Responsibility and in a post-conviction petition that I did not properly represent him at trial. The complaints were dismissed.

When I applied for a trial court vacancy in 2017, it was brought to my attention that another complaint had been received in or around 2007, but subsequent phone calls to the BPR indicate it was dismissed administratively and I have no further information.

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.

An uncontested divorce was granted to me in case number 15D1816 in March 2016

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.

Former Board Member Nashville Crime Stoppers, Glendale Elementary PTO, Meigs Magnet Middle School PTO

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.
- 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.

No

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.

American Bar Association, Tennessee Bar Association; Nashville Bar Association (member of CLE Committee 2016 – 2017, Chair, 2018, Member of General Sessions Court Committee and Chair 2017); National Association of Criminal Defense Lawyers, Tennessee Association of Criminal Defense Lawyers; United States Criminal Justice Act Panel. [To my recollection I have maintained membership in good standing in all of the above associations for at least ten years and likely much longer] Harry Phillips Inns of Court Master 2014-2017/Emeritus Member 2017; Tennessee Supreme Court Historical Society 2015 to present; Women's' White Collar Defense Association 2018, Fellow of the Nashville Bar Foundation 2017; Fellow of the Tennessee Bar Foundation 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.

Nashville Business Journal Best of the Bar, Family Law 2017

Selected to serve as an expert in criminal defense practice for the American Bar Association Tennessee Public Defender Workload Study 2016

Recognition for 10 years of service on United States Criminal Justice Act Panel

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.

Current member Davidson County Board of Zoning Appeals, appointed by former Mayor Karl Dean 2014 and approved by the Metropolitan City Council, reappointed by Mayor David Briley and approved by the Metropolitan City Council May 2018.

ESSAYS/PERSONAL STATEMENTS

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

Practicing law and serving my clients has been my sole profession for 25 years. Serving as Judge could be an opportunity to enjoy the law and serve the public in a broader capacity. I believe my legal and life experiences, temperament, interest in the law and intellectual curiosity are positive qualities that would translate well into service as a Judge. It is important to our community and the legal justice system that our Criminal Court judges commit to demonstrating integrity and moral leadership. Judge Norman has admirably served our community and particularly affected the manner in which the criminal justice system addresses addiction. I humbly make that same commitment.

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)*

I am seeking appointment to the Davidson County Criminal Court to serve as one of six Judges in a large metropolitan area in middle Tennessee. This Court hears criminal motions, jury and non-jury trials, guilty pleas and a variety of post-conviction matters. The Court also oversees the grand jury and has the authority to approve applications for search warrants including applications for electronic interception (wire taps). My appointment would increase the number of women on the bench and would also increase the number of former private practitioners appointed or elected. I am familiar, at least from a practice perspective, about the administration of the court room. I would strive to quickly and efficiently educate myself regarding all pending matters in order to effectively manage the caseload. I would add a wide range of legal experience and knowledge of different methods of practice from many forums.

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

Yes. I believe in the rule of law. One example would be ruling on requests for re-hearings after a decision has been made by the Board of Zoning Appeals (BZA). These requests must be predicated on new evidence that could not have been reasonably presented at the original hearing. Applicants are sometimes disappointed by the underlying decision and request a re-hearing solely to reargue their case. This is not the proper remedy and does not comply with our rules. Another example of upholding the rule of law relates to short term rental appeals in front of the BZA. Persons appear before us who have operated without a permit because they did not know a permit was (now) required. In attempting to follow the law by obtaining a permit, applicants may admit that they had already been renting the property, which is cause to deny the permit. Previously the Board had no discretion in what appeared to me to be ex post facto enforcement. Fortunately the council modified the law to allow the Board some discretion in these matters, but until the law was changed we upheld the law as written.

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. Hon. John P. Brown, (retired) | Nashville, TN 37215 |
| B. Kathy Nelson, | Nashville, TN 37215 |
| C. Greg Smith, Stites & Harbison, | Nashville, TN 37219 |
| D. David Taylor, | Nashville, TN 37203, |
| E. Kathleen Morris, Attorney at Law, | Nashville, TN 37210 |

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] _____ 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 23, 2018.

Cynthia Chappell
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.

Cynthia Chappell
Type or Print Name

Cynthia Chappell
Signature

7/23/18
Date

016028
BPR #

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

| |
|--|
| |
| |
| |
| |
| |
| |
| |
| |
| |
| |