

Tennessee Trial Court Vacancy Commission
Application for Nomination to Judicial Office

1/31/19

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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 ceesha.lofton@tncourts.gov, or via another digital storage device such as a flash drive.

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

PROFESSIONAL BACKGROUND AND WORK EXPERIENCE

1. State your present employment.

I serve as Deputy District Attorney General for the Sixth Judicial District.

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

2008 – BPR #27306

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 is the only state in which I have been licensed to practice. In addition, I am licensed in the following federal courts:

Supreme Court of the United States – June 2, 2014 – Active

United States Court of Appeals for the Sixth Circuit – September 16, 2013 – Active

U.S. District Court for the Eastern District of Tennessee – October 18, 2013 – Active

U.S. District Court for the Middle District of Tennessee – September 9, 2013 – Active

U.S. District Court for the Western District of Tennessee – October 24, 2013 – 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).

Practice of Law

Throughout my studies at the University of Tennessee College of Law, I worked as a clerk at the Office of the District Attorney General for the Sixth Judicial District. After sitting for the bar examination in 2008, I was sworn in as an Acting Assistant District Attorney General pending my bar passage. I served in this capacity from August 2008 through October 2008.

In November 2008, I began service as Assistant District Attorney General in Knox County for D.A. Randall E. Nichols. I served in this capacity until August 2012.

In August 2012, I was sworn in as an Assistant Attorney General in the Office of the Attorney General and Reporter in Nashville. I served in this capacity until August 2014.

In August 2014, I was sworn in as Deputy District Attorney General to newly elected Knox County D.A. Charme P. Allen. I currently serve in this capacity.

Experience other than the Practice of Law

I was raised in my family's business. During my early childhood, my parents operated M.A. Hixson's Grocery, a small, family-owned grocery store outside of Crossville. The store was open Monday through Saturday, 7 a.m. to 8 p.m., without the assistance of hired employees. By my teenage years, my father had transitioned into operating a small chain of convenience stores in the Crossville area. I worked in these stores after school and in the summers as a teenager.

In high school, I developed an interest in broadcast communications. I gained employment at WOWF-FM, a country radio station in Crossville. Initially, I worked as a statistician for the station's coverage of high school football and basketball broadcasts. When I obtained my driver's license, I began working afternoons and weekends at the station, providing news, weather, and obituary reports.

After enrolling at the University of Tennessee as an undergraduate, I volunteered at WUTK-FM, the University's student-operated radio station. I became the station's sports director and hosted a daily sports talk show known as Rock Solid Sports. In the spring of 2003, I began broadcasting U.T. baseball games on WUTK. That fall, I reached an agreement with Bearden High School to broadcast their football games. I sold underwriting packages to local businesses and used the proceeds of these sales to purchase the equipment needed to broadcast from away sites and to pay my broadcast staff, which included a color commentator and a studio host.

In the fall of 2003, I worked as an associate producer for Titans Radio broadcasts. I produced a pregame show and served as a broadcast booth assistant during home games. The following year, I worked as a producer on Sunday Sports Extra on WBIR-TV in Knoxville.

In 2003, I began an eight-year employment with the Vol Network as an announcer, reporter, and producer for University of Tennessee athletic broadcasts. I reported during the broadcasts of Tennessee football and basketball games and served as a producer/studio host for midweek

broadcasts, such as Vol Calls and Big Orange Hotline. My primary responsibility for the Vol Network was play-by-play and color commentary for Tennessee baseball broadcasts. I worked on the baseball broadcast team beginning in 2005, my senior year at U.T., throughout my time in law school, and through my first three years as an Assistant District Attorney General. The broadcast schedule during this time was strenuous. College baseball plays a 56-game regular season, which generally results in four to five games a week from late January through May or June.

In 2017, the faculty at the University of Tennessee College of Law approved my appointment as Adjunct Professor of Law. I am currently in my third year teaching as an adjunct professor of trial practice.

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 currently serve as Deputy District Attorney General for the Sixth Judicial District of Tennessee. Our office is solely responsible for all criminal prosecutions in Knox County. In order to fulfill this prosecutorial function, our office staffs three divisions of the Criminal Court, four criminal divisions of the General Sessions Court, the Grand Jury, and the Juvenile Court. As provided by law, our lawyers may also appear from time to time in Circuit Court, Chancery Court, or the civil division of the General Sessions Court.

In my role as Deputy District Attorney General, I am the direct supervisor for a staff of almost 80 employees, including 40 Assistant District Attorneys General. My supervisory duties include the setting of parameters for plea negotiations, review and approval of cases bound over from the General Sessions Court to the Grand Jury and Criminal Court, approval of cases presented for direct review by the Grand Jury, regular meetings with personnel to ensure compliance with office policy and ethical standards, and the review of cases for possible appeal to the Court of Criminal Appeals.

I dedicate considerable effort to formulating and advising General Allen on office policy, training prosecutors and law enforcement officers, reviewing and promoting criminal legislative proposals, and supervising our office's interaction with the media. I have conducted numerous training sessions for our staff, as well as outside entities such as the Knoxville Police Department, the Knox County Sheriff's Office, and Knoxville's Police Advisory and Review Committee (PARC). I assist in drafting and reviewing our office's legislative proposals and travel to Nashville yearly to promote the legislative package of the Tennessee District Attorneys General Conference. As office spokesman, I coordinate and supervise our office's interaction with the media. My goal in this area is to strike the correct balance between properly advising the citizenry about the work of a public office while simultaneously adhering strictly to the ethical rules regarding extrajudicial statements. I coordinate our office's responses to requests made pursuant to the Tennessee Public Records Act. I work closely with other public officials—including law enforcement agency chiefs, judges, clerks, magistrates, and other elected

officials—to ensure the efficient and proper operation of the Knox County criminal justice system.

In addition to my supervisory duties, I have maintained my own caseload during my time as Deputy District Attorney General. I have prosecuted multiple cases to jury trials, including cases of first degree murder, second degree murder, voluntary manslaughter, vehicular homicide, aggravated rape, felony drug charges, aggravated assault, simple assault, and resisting arrest. I have personally prosecuted countless other cases that did not culminate in a jury trial. I have worked with law enforcement officers to coordinate investigative efforts prior to charge. In this capacity, I have worked with state and federal agents to obtain warrants and orders from state court judges.

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.

Assistant District Attorney General, November 2008 to August 2012: I began my career as a DUI prosecutor assigned to Knox County's Second Sessions Court. After a period in General Sessions Court, I was assigned to prosecute DUI cases in Criminal Court where I tried many cases to a jury. In addition to my primary duties as a DUI prosecutor, I also assisted other units within the office such as the Major Crimes Unit and the Drug Unit.

I was reassigned to the Child Abuse Unit in the summer of 2011 to fill the position of Steven Sword, who had been appointed as Criminal Court Judge by Governor Haslam. I investigated and prosecuted hundreds of cases of physical and sexual abuse of children, as well as cases of child exploitation. I worked closely with law enforcement officers, advising on investigatory tactics, assisting in the drafting of search warrants and investigative subpoenas, and approving or declining the filing of charges. I served as a member of the Knox County Child Protective Investigation Team, a multidisciplinary team of prosecutors, doctors, law enforcement officers, and social workers tasked with investigating all reported child abuse cases in Knox County. I also served on Knox County's Child Fatality Review Team, a multidisciplinary panel that reviews every non-natural child death in the county.

Assistant Attorney General, August 2012 to August 2014: My practice at the Office of the Attorney General and Reporter in Nashville was voluminous and wide-ranging. It included criminal and civil litigation at both the state and federal levels. I represented the State of Tennessee in over 80 cases before the Tennessee Court of Criminal Appeals. I participated in 18 oral arguments before this body. I defended Tennessee criminal judgments in over 60 habeas corpus actions in all three federal districts in Tennessee, as well as the United States Court of Appeals for the Sixth Circuit. Many of these habeas corpus suits were capital cases. I represented numerous state agencies and officials in various state and federal civil suits, including asset forfeitures, handgun permit appeals, declaratory judgment actions, and injunctive actions. I appeared in numerous courts across the state in this capacity. In some cases, I represented state judges and district attorneys general. I was part of a three-attorney

team that defended Tennessee's single-drug lethal injection protocol, both in the Chancery Court for Davidson County and before the Tennessee Court of Appeals. I briefed and orally argued to the Tennessee Supreme Court in defense of a statute authorizing the State to seize and forfeit real property used in the commission of child exploitation offenses. I reviewed the legality of administrative rules promulgated by state agencies prior to their approval by the Attorney General. I assisted district attorneys general in the investigation and prosecution of white collar and public corruption cases. Finally, on the request of two members of the General Assembly, I authored Attorney General Opinion No. 14-13, "Pedestrian and Vehicular Use of Marked Bicycle Lanes," and No. 14-61, "Constitutionality of Payment Requirement for Liquor-by-the-Drink Licensees."

Deputy District Attorney General, August 2014 to present: As Deputy District Attorney General, I supervise our office's litigation in all courts with criminal jurisdiction in Knox County, including our three trial court divisions. I personally have maintained an active trial practice. As described above, I have prosecuted multiple serious cases to jury trial, and I have prosecuted many other cases that have been disposed of by agreement. On two occasions, I received a special appointment from the Attorney General and Reporter to argue on behalf of Tennessee in appellate oral arguments. I have represented the Department of Safety and Homeland Security in appeals of handgun permit denials in the General Sessions Court for Knox County, Civil Division. I have appeared in the Chancery Court for Knox County on behalf of the State in an action to recover seized personal property. I work closely with the Office of the Attorney General and Reporter to discuss legal strategy and to identify cases that are appropriate for appeal.

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

State v. Herbert Michael Merritt, No. 91370 (Knox Crim. Ct. Div. III). I served as co-counsel in the State's prosecution of the defendant for the first degree murder of a bar patron in the Halls community of Knox County in 2008. The defendant shot the random victim multiple times and then barricaded himself inside the bar and mutilated the victim's body before officers were able to negotiate his peaceful surrender. One of the main issues at trial involved the admission of expert mental health testimony and how it related to the defendant's ability to form the requisite mental state of premeditation. The defendant was convicted as charged, and his conviction was affirmed on appeal. *See id.*, No. E2011-01348-CCA-R3-CD, 2013 WL 1189092 (Tenn. Crim. App. Mar. 22, 2013), *perm. app. denied* (Tenn. Aug. 13, 2013).

State v. Mark Stephen Foster, No. 94077 (Knox Crim. Ct. Div. II). In February 2010, the defendant, a disgruntled teacher at Knoxville's Inskip Elementary School, went to school on a snow day and shot the principal and assistant principal, seriously wounding both victims. I served as co-counsel during the prosecution of the defendant for attempted first degree murder and other firearms charges. The defendant pled guilty and received a sentence of 56 years.

West, et al. v. Schofield, et al., No. 13-1627-I (Davidson Ch., Part I); No. M2014-00320-COA-R9-CV, 2014 WL 4815957 (Tenn. Ct. App. Sept. 29, 2014). A group of condemned state inmates sued multiple state officials and employees seeking to have Tennessee’s one-drug lethal injection protocol declared unconstitutional. I worked on a three-attorney team charged with formulating a litigation strategy and defending the protocol before the Chancery Court of Davidson County. We sought interlocutory appeal after the Chancellor ordered the State to disclose the identity of those people directly involved in the execution process as part of its discovery obligation. I briefed the case and received a special appointment to argue before the Tennessee Court of Appeals that the identities sought were confidential and not subject to discovery. The Tennessee Supreme Court later adopted our argument and ruled in the State’s favor in a case argued by the Office of Solicitor General. *See West, et al. v. Schofield, et al.*, 460 S.W.3d 113 (Tenn. 2015); *see also West, et al. v. Schofield, et al.*, 519 S.W.3d 550 (Tenn. 2017) (ruling on the merits of the case cited previously and upholding Tennessee’s one-drug lethal injection protocol).

Jonathan Wesley Stephenson v. State, No. E2012-01339-CCA-R3-PD, 2014 WL 108137 (Tenn. Crim. App. Jan. 13, 2014), *perm. app. denied*, (Tenn. Sept. 19, 2014). In a complex capital case originating from Cocke County, I served as lead counsel on appeal before the Court of Criminal Appeals and on application pursuant to Tenn. R. App. 11 before the Tennessee Supreme Court. The petitioner was convicted for the 1989 murder of his wife and sentenced to death based upon Tennessee’s “murder for remuneration” aggravating circumstance. After his initial death sentence was reversed in 1994 for an instructional error, the petitioner agreed to serve a sentence of life without the possibility of parole. In 2000, however, the petitioner obtained state habeas corpus relief because life without parole was not an available sentence for murder at the time of the crime. He was resentenced to death by a jury in 2002. Against this procedural backdrop, the petitioner raised 19 issues in his post-conviction appeal. The State prevailed in the Court of Criminal Appeals, and the Tennessee Supreme Court refused to grant permission to appeal.

Scott W. Grammer v. Michael Donahue, Warden, No. 13-5770 (6th Cir. June 10, 2014). This federal habeas corpus appeal arose in the wake of the U.S. Supreme Court’s decisions in *Martinez v. Ryan*, 566 U.S. 1 (2012) and *Trevino v. Thaler*, 569 U.S. 413 (2013), which, for the first time, allowed state prisoners to allege the ineffectiveness of post-conviction counsel as a cause that would excuse their procedural default for failing to fairly present an issue in state court proceedings before raising that issue in a federal habeas corpus suit. I represented the state prison warden in the appeal to the United States Court of Appeals for the Sixth Circuit and argued on brief that the district court properly denied the petition for writ of habeas corpus. The petitioner, who was serving an effective 22-year sentence following three convictions of aggravated sexual battery in Hamilton County, argued that he exhausted his state remedies by raising a claim of ineffective assistance of counsel for failure to challenge the sufficiency of the evidence during his state post-conviction proceedings. The Court of Appeals remanded the case to the district court for a consideration of the merits of the petitioner’s claim.

Miqwon Leach v. Jerry Lester, Warden, No. 14-5005 (6th Cir. Sept. 17, 2014). I represented the state prison warden in this federal habeas corpus appeal and successfully argued to the Court

of Appeals for the Sixth Circuit on brief that the district court properly dismissed the petition in this case due to lack of subject-matter jurisdiction and for the failure to state a claim upon which relief can be granted. The petitioner is serving a sentence of life without the possibility of parole for a 1999 murder in Obion County.

State v. Sprunger, 458 S.W.3d 482 (Tenn. 2015). I represented the State before the Tennessee Supreme Court in this case involving the forfeiture of real property pursuant to Tenn. Code Ann. § 39-17-1008, which allows for the forfeiture of real property used in the commission of child exploitation offenses. The appellant challenged the sufficiency of the evidence supporting the Chancery Court's finding of forfeiture and argued for an interpretation of the law that, if adopted, would have prevented future forfeitures under this statute as a practical matter. The Court instead held that the district attorney general seeking forfeiture in this case did not strictly comply with the mandatory procedural requirements in the statute and, on this basis, returned the remaining proceeds from the sale of the real property to the appellant.

State v. Aguilar, 437 S.W.3d 889 (Tenn. Crim. App. 2013). I served as lead counsel for the State on the appellant's direct appeal of his convictions for sexual exploitation of a minor. I argued on appeal that the appellant had no reasonable expectation of privacy in the contents of a file-sharing program on his computer, an established point of Fourth Amendment law in federal court that had never been expressly adopted by Tennessee state courts. The Court of Criminal Appeals adopted my standing argument and, for the first time in a reported case, found that the 2005 amendment to Tenn. Code Ann. § 39-17-1003 expressly authorizes the aggregation of exploitative images to increase the offender's punishment.

State v. Jessica Kennedy, No. E2013-00260-CCA-R3-CD, 2014 WL 3764178 (Tenn. Crim. App. July 30, 2014), *perm. app. denied* (Tenn. Dec. 16, 2014). The defendant was charged in Monroe County for her role in the 2010 murder of the victim, who was shot, his body placed in the trunk of his car, and his car set on fire. A jury convicted the defendant of facilitation of first degree murder, and she received a sentence of 22 years. I represented the State before the Court of Criminal Appeals, where she raised ten issues on direct appeal. The judgments of the trial court were affirmed.

State v. Timothy Dwayne Ison, No. 106155 (Knox Crim. Ct. Div. III). I served as lead counsel in the prosecution of the defendant for the 2015 stabbing of a stranger on a Knoxville greenway. The jury convicted the defendant of first degree murder in a 2017 trial. In the sentencing phase, the jury imposed a sentence of life without the possibility of parole based, in part, upon the aggravating circumstance that the murder "was committed at random and the reasons for the killing are not obvious or easily understood[.]" the first time that this aggravator had been used in a Knox County court since its enactment in 2011. *See* Tenn. Code Ann. § 39-13-204(i)(17). The case is pending direct appeal before the Court of Criminal Appeals and is scheduled for oral argument on November 19, 2019. *See id.*, No. E2018-02122-CCA-R3-CD.

State v. Johnson and Williams, 538 S.W.3d 32 (Tenn. Crim. App. 2017). Two University of Tennessee football players were accused of the aggravated rape of a female student-athlete. I served as co-counsel during this litigation, which included an interlocutory appeal to the Court

of Criminal Appeals regarding the defendants' attempts to access via subpoena the cellular telephones and social media accounts belonging to the alleged victim and other witnesses. Following a ten-day jury trial in July 2018, the defendants were acquitted.

State v. Ralpheal Cameron Coffey, No. 110330 (Knox Crim. Ct. Div. III). In 2016, the defendant led authorities on a two-county high speed chase that resulted in a fatal crash at a Knox County intersection. A Knoxville man who was engaged to be married the next weekend was killed, along with the defendant's passenger. I served as lead counsel in the prosecution of the defendant, which culminated in a jury trial in January 2019. The defendant was convicted of reckless vehicular homicide, reckless homicide, and numerous felony drug charges, including possession with intent to sell cocaine in a drug-free school zone. He was sentenced to forty-eight years in prison. The case is pending direct appeal before the Court of Criminal Appeals. *See id.*, No. E2019-01764-CCA-R3-CD.

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

Policy Advisor

One of my most important roles as Deputy D.A. is policy advisor to General Allen. As District Attorney General of the third largest county in the State, her policy decisions affect countless people involved in the criminal justice system. We dedicate a considerable amount of time to ensure that important policy issues are carefully considered and that decisions are made that align with the spirit and the letter of the law, as well as the best interests of the people of Knox County.

From the outset of this term, it was apparent that the opioid epidemic would be the defining challenge facing our criminal justice system for the foreseeable future. Our approach in this area has been two-fold: aggressively investigate and prosecute the drug suppliers while looking for creative ways to break the cycle of addiction that was creating the demand on the streets.

In order to increase pressure on the drug suppliers, our Office partnered with the Appalachia High Intensity Drug Trafficking Area and other law enforcement agencies to create the Drug-Related Death Task Force. The Task Force has revolutionized the way we investigate and prosecute drug-related deaths in Knox County. To date, we have prosecuted over 20 drug dealers for second degree murder due to their drugs leading to overdose deaths in users. In addition to the murder charges, the Task Force has commenced hundreds of new drug investigations by carefully collecting and utilizing evidence left behind at overdose scenes.

To alleviate the demand on the streets, we have taken new approaches to deal with opioid addicts who, but for their addiction, could lead lawful, productive lives. In 2017, we launched the Shot at Life program, a grant-based treatment regimen that provided the opioid-antagonist drug Vivitrol to select inmates prior to their being released from the detention facility.

Participants also received group counseling and therapy as part of their release into the community. Program participants have demonstrated lower recidivism rates than their fellow inmates.

In the criminal justice system, we also see the intersection of the drug crisis and our nation's mental health crisis. To help our system better cope with dual-diagnosis individuals who engage in criminal activity, we have collaborated with local agencies to send dual-diagnosis, low-level offenders to the Behavioral Health Urgent Care Center (BHUCC) in lieu of incarceration. Our initial focus was to send these offenders directly to the Center as a jail diversion program. We are now in the process of identifying individuals who are already incarcerated who would benefit from the services at the BHUCC.

This year, Knox County stakeholders began implementation of an expanded pretrial release program based upon a scoring matrix specifically created for our jurisdiction that measures an arrestee's propensity to reoffend and that arrestee's likelihood to appear for court. After being operational for only a few months, the program already supervises hundreds of pretrial releasees who were released to supervision in lieu of having to post a cash bail. I served on the supervision workgroup for this project. Working with judges, clerks, defense attorneys, consultants, and pretrial officers, I helped to formulate the supervisory requirements for individuals released to the program.

Officer-involved shootings (OIS) have been at the forefront of any discussion involving the criminal justice system of late. Formerly, agencies in Knox County investigated their own incidents of OIS. General Allen has spearheaded the effort to adopt an approach that is more transparent and removes any appearance of a conflict of interest within the investigating agency. I have been deeply involved in this process and worked closely with the agency chiefs to create a workable agreement that achieves our policy goals, protects the integrity of these investigations, and provides clear guidance to the officers on the scene of an OIS.

In a related topic, there has been an increase in the number of law enforcement agencies utilizing body camera technology with their officers. Currently, three agencies in our jurisdiction utilize body cameras, with the largest being the Knox County Sheriff's Office. This year, I worked closely with the leadership of all of our law enforcement agencies and representatives from the defense bar to formulate policies and procedures for the provision and storage of this evidence. Our collaborative efforts led to a uniform, county-wide policy that allows defense attorneys to access police videos at the earliest point of a prosecution while still maintaining the integrity of the investigation and the rights of all parties involved.

In 2018, I approached General Allen with a proposed model to assist in the investigation and potential prosecution of cold case homicides and sexual assaults. After receiving her approval, I worked with the faculty at the Duncan School of Law and the U.T. College of Law to implement an externship for the investigation of Knox County cold cases. This model utilizes law students to give a fresh look at cases that have gone unsolved for years. It also provides students with a better opportunity to study and understand the pre-charge responsibilities of a prosecutor. We are currently reviewing applications for our third semester of work in the Cold

Case Justice Unit.

Finally, our Office recognizes the important role of Tennessee's expunction laws for individuals who are looking for a fresh start. I supervise our involvement in Expungement Court, a collaborative effort between the District Attorney General's Office and the Clerk's Office. Instead of mailing their applications to multiple offices and waiting for weeks or months for a reply, expunction applicants can now come to Expungement Court twice a week where prosecutors and clerks will be on hand to help assist with the processing of their applications. Expungement Court has greatly streamlined a process and helped thousands of citizens obtain the relief that they are entitled at law.

Communications/Community Outreach

We place a great emphasis on communicating with our citizens and being a visible part of the Knox County community. This constitutes a large part of my job responsibilities as Deputy D.A. I regularly speak to civic groups and community organizations regarding current topics in the criminal justice system. For years, I have volunteered as a judge at the Jenkins Trial Competition at the U.T College of Law. I am a regular participant in the Knoxville Bar Association's Buddy Match program, an initiative to increase diversity within the bar. In order to help promote civics education among our youth, I participated in the KBA's Constitution Day program. I worked with a group of second graders at South Knox Elementary as they developed a presentation about our founding documents, which they presented to a member of our local judiciary on Constitution Day. I have authored two articles for the KBA publication DICTA: "The Public Safety Act of 2016: Points of Litigation" and "When a True Man Acts Unlawfully: *State v. Perrier* Reshapes Self-Defense Law in Tennessee".

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

In March 2017, I applied to the Merit Selection Panel for the position of United States Magistrate Judge for the Eastern District of Tennessee at Knoxville. I was not one of the five finalists submitted to the district judges for consideration.

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.

The University of Tennessee College of Law, 2005-2008

- Doctor of Jurisprudence, *summa cum laude*
- Order of the Coif
- Concentration in Advocacy and Dispute Resolution
- Recipient of the Robert E. Pryor Award for Excellence in Advocacy
- Recipient of the Constitutional Law Award, the Trial Practice Award, and the Interviewing and Counseling Award
- Howard Baker Memorial Scholar, Robert A. Finley Scholar, and College of Law Scholar

The University of Tennessee, Knoxville, 2001-2005

- Bachelor of Science in Communication, *summa cum laude*
- Major in Broadcasting and Political Science
- Bicentennial Scholar

PERSONAL INFORMATION

12. State your date of birth.

██████████ 1983

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

I have lived in Tennessee my entire life.

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

I have lived in Knox County continuously since 2001, with the exception of 2012 through

2014, when we lived in Rutherford County during my employment at the Office of the Attorney General and Reporter in Nashville.

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

Knox 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.

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. You may wish to request a report from the appropriate supervisory authority (or authorities) for a complete history.

None.

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.

No.

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.

Laurel Church of Christ, Member

Sertoma Center, Board of Directors, 2016 to present

CASA of East Tennessee, Board of Directors, 2015 to 2018

Knox County Republican Party, Parliamentarian, February 2019 to September 10, 2019

West Knox Republican Club

-President, January 2018 to September 10, 2019

-Vice President, January 2017 to December 2017

-Treasurer, January 2016 to December 2017

National Rifle Association, Life Member

East Tennessee Council on Children and Youth, Member

Tennessee Farm Bureau, Member

Friend of the Great Smoky Mountains National Park

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.

Knoxville Bar Association, 2008-2012, 2014 to present

-Member of the Criminal Justice Section

Hamilton Burnett American Inn of Court, 2010 to present

Knoxville Federalist Society, 2017 to present

National District Attorneys Association, 2016 to present

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.

knoxbiz.com 40 Under 40, 2019 Honoree

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.

Other than my response to Question 10, above, this is the first time I have sought public office.

ESSAYS/PERSONAL STATEMENTS

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

I have dedicated my career to public service in Tennessee's criminal justice system. I have witnessed firsthand how a trial judge's decisions affect countless defendants, victims, and witnesses. I have dealt with the ramifications of a judge's decisions years, if not decades, later through the study of transcripts in appellate litigation. I believe in the importance of our work, and I feel a personal responsibility to ensure that it is done correctly.

My wife, Rachel, and I are raising three daughters in this community. We are invested here. I have a deep desire to ensure that we have a local criminal justice system that protects public safety through the fair application of the criminal code. Properly done, our system can accomplish the dual goals of maintaining public order while simultaneously building the citizens' confidence in the government's ability to operate fairly and under the rule of law.

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 seek appointment to the Criminal Court for Knox County, Division II, which is being vacated by the retirement of the Honorable Bob R. McGee. There are three divisions of the Criminal Court in Knox County. They share jurisdiction of all criminal cases arising within the county. Based upon my current experience, I am confident that I would have a healthy working relationship with the other two judges on this Court, as well as the clerks and other courtroom staff.

The appointee to this office must be prepared to stand for election in a March 3 primary election. Given the timing of this appointment and the primary election, I have made the necessary preparations to be a candidate for this office.

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)*

A judge must uphold and enforce the law regardless of that judge's personal opinions

regarding the substance of the law. As an Assistant Attorney General, I often represented the Department of Safety and Homeland Security in appeals from civil asset forfeiture cases. At the time, the venue for appealing the decision of an administrative law judge—no matter where the seizure occurred in the state—was in the Chancery Court for Davidson County. While I do not oppose asset forfeiture laws as a general matter, I found that this venue law operated to create a hardship on seemingly innocent third-party property owners who sought in good faith to exercise their rights under the law. For instance, imagine an innocent property owner whose vehicle was seized in an outlying county based upon the criminal conduct of a family member. The innocent property owner, acting *pro se*, inadvertently missed a filing deadline with the administrative agency. He would then have to incur the expense of travelling to Nashville to appeal the dismissal of his claim. In this situation, I was compelled to advance the position of my client—that the appeal should be dismissed—even though I personally believed that this statutory scheme created an unfair hardship on truly innocent third-party property owners.

In 2017, the General Assembly amended this law to create appellate venue closer to the county of seizure. Additionally, third-party owners now have a statutory right to be heard prior to the issuance of a forfeiture warrant.

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.

<p>A. Randy McNally Lieutenant Governor of Tennessee [REDACTED] [REDACTED] Nashville, Tennessee 37243 [REDACTED] [REDACTED]</p>
<p>B. Charne P. Allen District Attorney General, Sixth Judicial District [REDACTED] Knoxville, Tennessee 37902 [REDACTED] [REDACTED]</p>
<p>C. Mark E. Stephens District Public Defender, Sixth Judicial District [REDACTED] Knoxville, Tennessee 37919 [REDACTED] [REDACTED]</p>
<p>D. Douglas A. Blaze Dean Emeritus, Professor of Law, and Director of the Institute for Professional Leadership The University of Tennessee College of Law [REDACTED] Knoxville, Tennessee 37996 [REDACTED] [REDACTED]</p>
<p>E. Mike Buckley Associate Minister Laurel Church of Christ [REDACTED] Knoxville, Tennessee 37919 [REDACTED] [REDACTED]</p>

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 Criminal Court, Division II, for the Sixth 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: October 18, 2019.



Signature

When completed, return this questionnaire to Ceesha Lofton, 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.

Kyle Alexander Hixson
Type or Print Name


Signature

October 18, 2019
Date

027306
BPR #

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