

Tennessee Trial Court Vacancy Commission
Application for Nomination to Judicial Office

1/17/23

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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 Microsoft Word 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 Microsoft Word 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. Your complete application, including both the original and digital copies, must be received by the Administrative Office of the Courts on or before the deadline prescribed in the Notice of Vacancy. See section 1(g) of the application instructions for additional information related to hand-delivery of application packages.

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

PROFESSIONAL BACKGROUND AND WORK EXPERIENCE

1. State your present employment.

My law office is in Wartburg, Tennessee. I am the sole shareholder of Wilson & Brooks, P.C. James Frank Wilson and I practiced law together until he retired in September, 2016. I have maintained a solo practice since that date.

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

I have been licensed to practice in Tennessee since October 21, 1985.
BPR No. 011423

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.

Not applicable

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).

Not applicable

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).

I joined Phillips & Wilson P.C., as an associate in the Wartburg office on August 26, 1985. The firm dissolved about a year later. I continued to practice with James Frank Wilson until he retired in September, 2016. Wilson & Brooks, P.C. was formed in 1987. I have maintained the firm name and corporate status as a solo practice. I am responsible for all the legal matters and most of the administrative aspects of my practice. I supervised two staff members who I have worked with for more than 30 years.

I clerked for attorney Bob English in Knoxville, Tennessee, during law school and after graduation. I clerked for Mr. English until I joined Phillips & Wilson, P.C.

I worked at United Parcel Service (UPS) in their Nashville hub beginning my senior year of high school in 1976. I entered management as a supervisor in 1979 and held that position until I resigned to start law school in August, 1982.

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 have built a general civil and criminal practice in Wartburg, Tennessee that serves individuals, families and businesses in Morgan and the surrounding counties. I primarily practice in Anderson, Morgan, and Roane Counties.

The major areas of law I practice have remained consistent over time and can be summarized as follows:

1. General real property (litigation and document preparation) 25%
2. Real property transactions (title opinions and closings) 25%
3. Family law matters (divorce, custody, and adoptions) 20%
4. Wills and estates 15%
5. Criminal defense 10%
6. Business law matters and Plaintiff personal injury 5%

Prior to the pandemic, my practice was split evenly between an office practice and a trial practice. Since March 2020, I believe my practice is about 65% office and 35% court.

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 have practiced in all courts of the Seventh, Eighth and Ninth Judicial Districts associated with the counties mentioned above in my response to Question 6.

Most (85%-90%) of my trial court experience over the past 37 years is in the Chancery Courts for Anderson, Morgan, and Roane Counties. I have handled a spectrum of Chancery cases from uncontested name changes to cases involving complicated divorce and custody issues. I have represented many clients in real property litigation involving complex right-of-way, title, and boundary line issues. Additionally, I have handled will contests and many probate matters.

Approximately 5% of my trial court experience is handling family law matters in the General

Sessions Court for Morgan County, Tennessee, which has domestic jurisdiction.

The balance of my trial court experience (5%-10%) consists of criminal defense, personal injury (Plaintiff and Defendant), and breach of contract cases filed in either Criminal or Circuit Court. I have tried 25 to 30 cases in front of a jury.

I am admitted to practice in all Tennessee courts including Tennessee Supreme Court and Courts of Civil and Criminal Appeals. I have handled more than 25 appellate cases. Additionally, I am admitted to practice in the United States District Court for the Eastern District of Tennessee where I have defended the Morgan County Sheriff's Department against individuals claiming violation of their civil rights.

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

I have been directly involved in several cases which I found to be particularly rewarding, including the following:

1. In 1987, I handled the appeal of a worker's compensation case that went directly to the Tennessee Supreme Court. I successfully defended the Estate of Wilburn Laymance in the case of *Laymance v. Walnut Mountain, Inc.*, 1987 LEXIS 998. The case involved an award of worker's compensation benefits to Mr. Laymance, who acquired pneumoconiosis after operating a bulldozer for 14 years in a strip mine. At that time, it was difficult for employees in strip mines to prevail in pneumoconiosis cases because they worked in the open air above ground. Mr. Laymance passed away while the appeal was pending; however, he had a small child who received benefits until he reached the age of majority.

2. In 1995, I represented Debbie Koch who was the Plaintiff in *Koch v. Stout, et al.*, Morgan County Chancery Court No. 95-62. We prevailed and my client was awarded punitive damages in addition to compensatory damages. To my knowledge, that is the only award of punitive damages in the Chancery Court for Morgan County, Tennessee.

3. In 1998, I was appointed by the Morgan County Chancery judge to serve as the financial conservator for a disabled person. I managed her funds very carefully until she passed away in 2020. It was rewarding to assist Ms. B. and we were able to increase the value of her estate by several thousand dollars during time I was her conservator. *In Re: Conservatorship of Catherine B.*, docket number P-35-95.

4. In 2012, Attorney Brad Neff and I successfully appealed a criminal case involving a certified question of law. The case of *State v. Draper*, 2012 LEXIS 346 involved a challenge to evidence seized pursuant to a search warrant served on our clients. This case is rewarding because we navigated the complicated procedure for obtaining appellate review of a certified question of law as set forth in Rule 37(b)(2) of the Tennessee Rules of Criminal Procedure. Moreover, the appeal was successful and the charges against our clients were dismissed.

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

I have filled in for the Honorable Michael Davis, Morgan County General Sessions Judge, as needed over the years. Typically, I will hold court two to three times a year on average.

I served one term as a hearing committee member for the Tennessee Board of Professional Responsibility beginning in 1998. I believe I served one 3-year term.

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

None.

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.

University of Tennessee, Knoxville-Doctor of Jurisprudence-August 1982 to May 1985

Trevecca Nazarene University, Nashville, Tennessee-Bachelor of Arts in History-September 1977 to May 1982

PERSONAL INFORMATION

12. State your date of birth.

██████████ 1959

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?

35 years

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

Anderson County

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

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.

9785-2

6/18/1992	8/21/1992	Brock, Dennis	Closed	Dismissed by Investigations
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I defended Mr. Brock in Criminal Court. I worked out a plea agreement for him. He accepted the plea. Several months after I concluded my representation of him, he changed his mind and filed a complaint.

30061-2-TH

4/3/2007	7/25/2007	Todd, David N	Closed	Dismissed by Investigations
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David Todd was never my client. He was the opposing party in a case I handled.

44745-2-KB

10/22/2015	6/30/2016	Hardy, Darlene	Closed	Dismissed by Investigations
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Mrs. Hardy initiated a juvenile custody case. She was frustrated with me and everyone else involved in the case. She did not follow through with her Petition. Instead she filed a complaint against me, the judge and most of the other attorneys involved in the case.

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.

Morgan County Community Fund [East Tennessee Foundation affiliate]-2022 to present

I attend Christ Community Church in Oak Ridge, Tennessee.

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.

Not applicable.

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-1985 to present
American Bar Association-1986 to present
Anderson County Bar Association-1990
Roane County Bar Association-2019 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.

Not applicable.

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.

None.

ESSAYS/PERSONAL STATEMENTS

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

I have the knowledge and temperament to serve as a judge. I have extensive experience handling the types of cases most often filed in the Anderson County Chancery Court. I have practiced in front of many excellent jurists who have instilled in me a desire to be a judge. However, I did not think the opportunity would present itself until this vacancy. I will do my best to apply the law to the facts in every case. I will listen to the witnesses, arguments of counsel, carefully weigh the evidence and treat all parties and attorneys with respect.

I will become familiar with the docket before I take the bench if appointed. I believe this will help to ensure the transition to a new judge goes as smoothly as possible.

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 applying for Anderson County Chancery Court judge. I am familiar with and have handled the types of cases filed in Chancery Court my entire career. Anderson County has one Chancellor and one Circuit Court judge, the Honorable Ryan Spitzer. I know Judge Spitzer from his time as a prosecutor. I have had a good working relationship with him which would carry over to the bench.

I have known the Clerk and Master, Hal Cousins, professionally for many years. He and the staff in his office are professional, knowledgeable and have been very helpful to me over the years. I believe I have a good working relationship with them.

Historically, the Anderson County Chancery Court handled some criminal matters. I have experience in criminal defense from preliminary hearing through trial by jury and appeal. I am willing to hear some cases if needed.

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 law, including the Code of Judicial Conduct, without reservation. Over the years, I disagreed with some of the substantive law and rules of procedure that I encountered. However, I understand the reasons for them and will follow the law and rules of procedure unequivocally.

For example, I have questioned basing the calculation of child support per the Child Support Guidelines in part, on the number of days each parent spends with their child on paper. I have

often seen that criteria be used by parents against each other which is not in the best interest of a child. Nevertheless, the role of a judge is to implement the law as written which I will do.

Recently I have handled in two cases involving the private condemnation of property to secure ingress, egress, and utilities set out in *Tennessee Code Annotated* §54-14-102 et seq. I agree with the concept because no landowner should be landlocked; however, I find it difficult to apply the procedures set out in the statutes. I would prefer more clarity in the make-up of the jury of view who would be called upon to locate a route for ingress and egress.

These two examples help me realize there are provisions in the law that a judge may disagree with but will be called upon to rule. Consequently, it is imperative for a judge to research the applicable laws and rules and follow them.

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. **William Barry Bingham, M.D.** [REDACTED], Oak Ridge, TN 37830; [REDACTED]
[REDACTED]

B. **Honorable Michael A. Davis, Morgan County General Sessions Court Judge** [REDACTED]
[REDACTED], Wartburg, TN 37887; [REDACTED]

C. **Joe McCarty** (retired former owner of Diversified Electric)-[REDACTED], Oak Ridge, TN 37830; [REDACTED].

D. **Honorable Joseph H. Van Hook, Attorney at Law and Oliver Springs City Judge**; [REDACTED]
[REDACTED], Oliver Springs, TN 37830; [REDACTED]

E. **James Frank Wilson** (former law partner)-[REDACTED], Oak Ridge TN [REDACTED];
[REDACTED]

AFFIRMATION CONCERNING APPLICATION

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

I have read the foregoing questions and have answered them in good faith and as completely as my records and recollections permit. I hereby agree to be considered for nomination to the Governor for the office of Judge of the [Court] Chancery Court for the Seventh Judicial District (Anderson County) 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: February 2, 2023.



Signature

When completed, return this questionnaire to John Jefferson at the 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.

James William Brooks, Jr.
Type or Print Name

Signature

February 2, 2023
Date

011423
BPR #

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