

Tennessee Trial Court Vacancy Commission
Application for Nomination to Judicial Office

9/8/20

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McMinn County

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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. 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. 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.

Solo practitioner at the Law Office of Attorney D. Mitchell Bryant

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

1987; BPR#: 012581

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.

State of Tennessee, BPR#: 012581. October 4, 1987. My license is currently active.

4. Have you ever been denied admission to, suspended or placed on inactive status by the Bar of any State? If so, explain. (This applies even if the denial was temporary).

No.

5. List your professional or business employment/experience since the completion of your legal education. Also include here a description of any occupation, business, or profession other than the practice of law in which you have ever been engaged (excluding military service, which is covered by a separate question).

Jenne, Scott & Sellers, 1987 through 1988 - Cleveland, TN

Following my graduation from law school, I returned to my hometown of Cleveland, Tennessee and began practicing as an associate with the law firm of Jenne, Scott & Sellers. I worked with two other attorneys in Federal and State Courts throughout Southeast Tennessee. I worked primarily in the areas of Family Law, Personal Injury, and Criminal Defense.

Jenne, Scott & Bryant, 1989 through 1999 - Cleveland, TN

I became a partner in the law firm of Jenne, Scott & Bryant in 1989. During this period of time the firm had two to three lawyers, including myself. I litigated cases in the areas of Family Law, Personal Injury, Construction Law, and Criminal Defense. I tried numerous jury and bench trials in State and Federal court.

I also handled a variety of matters on appeal in State and Federal Court and appeared before various State Administrative Boards.

While employed at Jenne, Scott & Bryant, I also practiced in the United States Bankruptcy Court and handled Social Security Disability Appeals.

The vast majority of my clients were individuals, but I also represented a number of local and regional businesses and financial institutions, including a professional baseball team.

The Law Offices of D. Mitchell Bryant, 1999 through the present.

In 1999, I left the law firm in which I was a partner in order to open my own practice. During this period of time, I worked as a solo practitioner, with my main office located in Cleveland, Tennessee from 1999 through 2009. I maintained a satellite office in Athens, Tennessee during that time.

In 2009, I relocated my main office to Athens, Tennessee. I maintained a satellite office in Cleveland, Tennessee.

My practice consists of Family Law, including divorce, child custody, modifications, child support, adoptions, and orders of protection. I also handle various types of personal injury matters and disputed insurance claims. I handle probate and estate matters, construction law, real property disputes, and various other types of miscellaneous litigation.

Beginning in approximately 2010, I began to offer mediation services for individuals and businesses, mostly in the domestic relations field.

Other Work Experience:

While in high school, I worked a variety of jobs, including work on various farms, running a lawn service, cleaning vehicles for a used car lot, and working at a drive-in theater.

While at MTSU, I worked summers and holidays at Bowater (now Resolute Trust Corporation), a large paper mill in Calhoun, Tennessee.

During law school, I clerked 10 to 25 hours per week for what was then the Law Firm of Daniel and Oberman in Knoxville, Tennessee. During my last year, I spent approximately 25 hours each week working for the law firm on a variety of matters.

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 work as a solo practitioner practicing in State and Federal Court throughout Southeast Tennessee.

My practice consists primarily of representing individuals, but I have represented various small businesses in different types of litigation matters.

My present law practice consists of approximately:

1. 70% domestic related matters (divorce, modifications, child custody, child support, orders of protection, adoptions, legitimations and domestic-related mediations).
2. 15% personal injury and disputed insurance claims.
3. 5% probate and estate matters.
4. 5% construction law, real estate matters, and various miscellaneous litigation.
5. 5% criminal defense, in both State and Federal Courts.

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.

For the past 34 years, I have been a trial attorney in various State and Federal Courts in Southeast Tennessee.

In State Trial Courts, I estimate I have tried approximately 70 civil and criminal jury trials to verdict. I have tried an additional 13 civil and criminal jury trials in Federal Court. I have tried more than 2,500 other non-jury matters during that same period of time.

Among these trials were a 16-day jury trial involving a disputed business sale, a 14-day bench trial in a commercial construction dispute, 5 first degree murder trials, including one death penalty case, as well as numerous jury and bench trials lasting between 1 and 7 days.

In Appellate Courts, I have briefed and/or argued 52 cases before the Tennessee Court of Appeals, 14 cases before the Tennessee Court of Criminal Appeals, and 7 cases before the Tennessee Supreme Court, with 2 of those cases before the Tennessee Workers' Compensation Panel. I have handled 10 cases before the Sixth Circuit Court of Appeals.

I have represented individuals in most, Circuit, Chancery, General Sessions, Juvenile, Probate and Municipal Courts in Southeast, Tennessee.

I have also represented individuals and businesses at Administrative Hearings before:

1. Tennessee Department of Safety
2. Tennessee Department of Unemployment Compensation

3. Tennessee Pharmacy Board
4. Tennessee Dental Board
5. Tennessee Board of Licensing Contractors
6. Tennessee Board of Tax Equalization

I have represented approximately 250 individuals in Social Security Disability Administrative hearings, at both the Administrative level and on appeal in Federal Court.

I have represented several individuals in disputes heard by the American Arbitration Association.

I also represented an individual in a dispute with the Federal Government which was heard before the United States Court of Federal Claims in Washington, D.C.

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

I believe the below-listed matters are of special note—some because they helped shape case law in the State of Tennessee, some because they were cases of particular complexity and some because they have special meaning to me.

1. Appellate Court matters

A. *Randolph v. Randolph*, 937 S.W.2d 815 (Tenn. 1996). Briefed and argued by me before the Tennessee Supreme Court as part of the SCALES Project. Still the leading case in Tennessee defining the validity of antenuptial agreements. Cited more than 150 times.

B. *Brooks v. Brooks*, 992 S.W.2d 403 (Tenn. 1999). Tried and appealed twice. Cited in more than 200 subsequent Tennessee Appellate decisions. Defines the concept of voluntary underemployment for child support purposes.

C. *Barnette v. Barnette*, 27 S.W.3d 904 (Tenn. 2000). Held that private school tuition constitutes an extraordinary educational expense under the Tennessee Child Support Guidelines.

D. *Baines v. Baines*, No. E2009-00180-COA-R3-CV, 2009 WL 3806131 (Tenn. Ct. App. Nov. 13, 2009). The first case in Tennessee, and one of the first cases in the country, dealing with the application of an I-864 Affidavit of Support in a divorce case.

2. Matters of special note before Trial Courts:

A. *Bogges v. Collins*, a 16-day jury trial involving allegations of fraud and misrepresentation in the sale and purchase of a business.

B. *Pesce v. East Tenn. Constr. Co.*, a 14-day bench trial involving complex construction issues. Resulted in a six-figure verdict to favor my client, with an additional six-figure sum being awarded on appeal.

C. *In re Estate of Johnson*, a complex will contest matter involving 5 attorneys and 18 heirs. I represented 10 of the heirs, who were successful in overturning the will. The matter was ultimately settled following a protracted mediation.

D. *In re A.H.*, a court-appointed termination of parental rights case. The Trial Court terminated the parental rights of my 20-year old mother to her 3-year old son. Reversed and dismissed on appeal.

The son was returned to my client. My client subsequently married, went to school, and successfully raised her son who graduated from the University of Tennessee. My client keeps in touch with me on a regular basis.

E. *United States v. Meadows*, a not guilty verdict following a five-day jury trial in the United States District Court at Knoxville. Noteworthy to me because you rarely obtain a not guilty verdict in a Federal criminal jury trial.

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

Beginning in approximately 2010, I was approached to serve as a mediator by various attorneys in different types of cases. Most of my mediations involve divorce, child custody, and visitation, though I have also mediated personal injury claims, construction disputes, will contests, and other types of civil matters.

I am not a Rule 31 listed mediator (I have completed 3 of the 5 days of training) and do not hold myself out as such. However, other attorneys seem to have a good deal of confidence in my ability as a mediator, and I have had a high success rate in resolving cases.

I estimate I have participated either as a mediator or as counsel in approximately 750 mediations in the last 11 years.

I have served as a Special Judge in the General Sessions Courts of Bradley, McMinn, Polk and Meigs Counties and as Special Juvenile Judge in Bradley County.

I have been appointed as a Special Master in Courts in Bradley and McMinn Counties.

I have developed and taught two CLE programs:

1. Handling Federal Criminal Matters: A Beginner's Overview.

2. So You Want To Be A Panel Attorney? The Process of Becoming a CJA Panel Attorney in

Federal Court.

I try to make myself available to help and provide advice to other members of the Bar, especially younger attorneys. I handle several *pro bono* cases each year. Even though I no longer am required to be on the Court Appointed Criminal Panel, I make myself available for appointment to serious or challenging cases.

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

This is my first application for any State or Federal Judicial position.

EDUCATION

11. List each college, law school, and other graduate school which you have attended, including dates of attendance, degree awarded, major, any form of recognition or other aspects of your education you believe are relevant, and your reason for leaving each school if no degree was awarded.

I attended Middle Tennessee State University in Murfreesboro, Tennessee, between 1980 and 1984. I graduated Cum Laude with a B.A. Degree in history in 1984.

I attended The George C. Taylor College of Law at the University of Tennessee between 1985 and 1987. I graduated in May 1987 with a Doctor of Jurisprudence Degree.

PERSONAL INFORMATION

12. State your date of birth.

1962

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

I have lived in the State of Tennessee for 59 years.

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

I have lived continuously in McMinn County, Tennessee since 1990

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

McMinn

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

I have no prior military service.

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.

I am not.

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.

My disciplinary history report from the Tennessee Board of Professional Responsibility indicates I have had five complaints filed against me over 34 years, with the last being in 2007.

Four were dismissed, and on one I received a private informal admonition. I will be happy to discuss any of these matters with the members of the committee.

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.

Irreconcilable differences divorce in the General Sessions Court of Loudon County, Loudon, Tennessee #8057 in 2000.

A pro se litigant sued her husband and I, as his attorney of record, claiming she had been defamed by the pleadings filed in their divorce case. The matter was frivolous and was dismissed. McMinn County General Sessions Court # 2019-CV-1629.

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.

1. Boy Scouts of America (Assistant Scout Master, Troop 118; District Chairman for the Unaka District (2018-2020)).

2. Keith United Methodist Church (Former Board Member and Stewardship Chairman. Member of Shepherd Ministry.)

3. Athens Area Counsel for the Arts (Former Board Member)

24. Have you ever belonged to any organization, association, club or society which limits its membership to those of any particular race, religion, or gender? Do not include in your answer those organizations specifically formed for a religious purpose, such as churches or synagogues.

- a. If so, list such organizations and describe the basis of the membership limitation.
- b. If it is not your intention to resign from such organization(s) and withdraw from any participation in their activities should you be nominated and selected for the position for which you are applying, state your reasons.

I am a member of Kappa Sigma Fraternity. Kappa Sigma is an all-male social fraternity. I have had no active involvement since my graduation from Middle Tennessee State University in 1984.

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 (2010-present)
 McMinn County Bar Association (2010-present)
 Bradley County Bar Association (2010-present)
 Federal Bar Association (2010-2015)

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.

None.

27. List any public office you have held or for which you have been candidate or applicant. Include the date, the position, and whether the position was elective or appointive.

I have never held public office, nor have I been a candidate or applicant for public office.

ESSAYS/PERSONAL STATEMENTS

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

I am seeking the position of Circuit Court Judge for the Tenth Judicial District because I have a strong interest in seeing matters before this Court continue to be handled in a competent manner.

Having practiced for 34 years, I know how important each case is to the parties involved. The findings made by the Court have long-term, far-reaching effects—not only on those directly involved, but on their families as well.

The Circuit Court handles a large volume of cases, as well as numerous different types of matters. I feel I possess the right mixture of experience, temperament, and work ethic in order to ensure the litigants and attorneys who come before the Court receive fair consideration in a timely manner.

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 the position of Circuit Court Judge for the Tenth Judicial District, which covers Bradley, McMinn, Monroe and Polk Counties. This District is served by one Chancellor, three Circuit Court Judges, and one Criminal Court Judge.

In 2018/2019, the Circuit Court had 1,983 filings and disposed of 1,929 cases.

Approximately 13% of those dispositions were by hearing, the vast majority of which were domestic relations cases.

Over my 34 years of practice, I have handled every type of matter heard by the Circuit Court. I have a solid working knowledge of the Rules of Evidence and Civil Procedure.

I believe my selection to this position would ensure this Court would continue to operate in an efficient manner without the need for a steep learning curve. I have a good working relationship with all of the Circuit Court Clerks and their staffs in each county, which would help make for an orderly transition.

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 believe it is the responsibility of any person who sits in judgment of another to discharge that duty in a rational, fair, even-handed manner. A Judge should not use the position to impose their own feelings or ideas on others. They should listen to the evidence and apply the law as written by the Legislation or interpreted by the Tennessee Appellate Courts to that evidence.

As a practicing attorney, I have on numerous occasions represented parties who held positions I personally did not agree with or like. At times, the existing law required me to advocate positions I personally disagreed with. However, I feel I have done my best on behalf of my clients consistent with my ethical duties as an attorney and have been able to set aside my personal feelings and advocate zealously on their behalf. I would bring this same attitude to the

Bench if I were to receive this appointment.

Two areas I have disagreed with the substance of the law in the past involved the statute governing relocation of children outside the State of Tennessee and various aspects of the grandparent's visitation rights statutes. I have argued both sides of both issues and have seen results I felt were fundamentally wrong, but which were supported by the existing law.

In both types of cases, I later contacted members of the State Judiciary Committee to make suggestions as to what I thought were some needed changes in those laws.

As a Judge, I would apply the existing law to the facts of a particular case, whether I personally agreed with the law or not.

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. Travis D. Henry, [REDACTED] Cleveland, TN 37364-0236 [REDACTED]
B. Mike Bell, Chairman, State Senate Judiciary Committee, [REDACTED]
C. Joe Guy, Sheriff, McMinn Co., TN, [REDACTED] Athens, TN 37303 [REDACTED]
D. Francis Witt-McMahan, Executive Director, CASA Corridor of E. TN, [REDACTED]
E. Rhonda Cooley, Circuit Court Clerk, McMinn Co., TN [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 Circuit Court of the Tenth 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: April 1, 2021.



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.

D. Mitchell Bryant

Signature

April 1, 2021
Date

012581
BPR #

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

N/A