Tennessee Judicial Nominating Commission

Application for Nomination to Judicial Office

Rev. 22 December 2011

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INTRODUCTION

Tennessee Code Annotated section 17-4-101 charges the Judicial Nominating 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 http://www.tncourts.gov). The Commission requests that applicants obtain the word processing form and respond directly on the form. Please respond in the box provided below each question. (The box will expand as you type in the word processing document.) Please read the separate instruction sheet prior to completing this document. Please submit the completed form to the Administrative Office of the Courts in paper format (with ink signature) ***and*** electronic format (either as an image or a word processing file and with electronic or scanned signature). Please submit seventeen (17) paper copies to the Administrative Office of the Courts. Please e-mail a digital copy to debra.hayes@tncourts.gov.

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

PROFESSIONAL BACKGROUND AND WORK EXPERIENCE

1. State your present employment.

I am a senior partner and attorney with Bullock, Fly, Hornsby & Evans, a law firm in Murfreesboro, Tennessee.

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

I was licensed to practice law in 1982 and given a BPR Number of 9996.

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).

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).

August 1982 to July 1983 - I was the Judicial Clerk for the Honorable Ben H. Cantrell, Tennessee Court of Appeals. I reviewed cases for factual issues, researched legal issues and prepared draft opinions on civil cases before the Tennessee Court of Appeals.

July 1983 to March 1987 - I entered the United States Air Force as a JAG attorney (covered in Military section below, but inserted herein to show no break in employment).

March 1987 to September 2007 - In addition to practicing law in Murfreesboro, Tennessee, I was transferred to the United States Air Force Reserves (covered in Military section below)

March 1987 to present – I left active duty to enter the private practice of law in Murfreesboro, Tennessee. I was initially hired as an associate with Burger, Fly, and McFarlin. Upon the departure of Ken Burger around 1990, I became partner in reconstituted firm of Bullock, Fly, and McFarlin. Upon election of Ben Hall McFarlin, Jr. to General Sessions Judge of Rutherford County in 2006, I continued as a partner in the law firm then known as Bullock, Fly & Hornsby. In 2011, Luke Evans was admitted as partner in the law firm now known as Bullock, Fly, Hornsby & Evans. Bullock, Fly, Hornsby and Evans is comprised of 8 attorneys. In addition to the law firm, William Bullock, Luke Evans and I have a partnership designated as the 302 North Spring Street Partnership which owns the real estate in which my law firm is located. The law firm pays any and all upkeep and taxes on the real estate.

1988 to present – I am managing partner of the Rogers Hornsby Venture. Said partnership consists of the four grandchildren of Rogers Hornsby, a Hall of Fame baseball player. Curtis Management Group is the agent for the partnership and negotiates contracts with other companies to use the likeness and name of Rogers Hornsby in advertising and merchandising. I approve the contracts, receive the money from Curtis Management Group, disburse the money equally among the grandchildren (my monetary interests were given to my children), and provide 1099's at the end of the year for the recipients.

6. If you have not been employed continuously since completion of your legal education, describe what you did during periods of unemployment in excess of six months.

Not Applicable

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

I am involved in the general practice of law, with the primary focus on litigation. As a partner in the largest firm in Murfreesboro, I provide legal representation for individuals in need. My primary focus is on litigation and representing clients before courts and other tribunals. Between June 1, 2011 and May 31, 2012, I was in court for 146 matters involving family law issues, 63 matters in criminal courts, 46 matters in Juvenile Court, and 26 other matters. In addition, over that same 12 month period, I participated in 19 depositions, 30 mediations, and 2 unemployment hearings. My practice includes family law (including divorces, legitimation, support, adoptions, and orders of protection) (30%), criminal law (20%), juvenile law (20%), and personal injury law (10%). The remaining 20% of my time is spent on estate and probate work, consumer law, employment law, education law, military law, and virtually any area of the law with the exception of real estate law and federal income tax law.

8. 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. In making your description, include information about the types of matters in which you have represented clients (e.g., information about whether you have handled criminal matters, civil matters, transactional matters, regulatory matters, etc.) and your own personal involvement and activities in the matters where you have been involved. In responding to this question, please be guided by the fact that in order to properly evaluate your application, the Commission needs information about your range of experience, your own personal work and work habits, and your work background, as your legal experience is a very important component of the evaluation required of the Commission. Please provide detailed information that will allow the Commission to evaluate your qualification for the judicial office for which you have applied. The failure to provide detailed information, especially in this question, will hamper the evaluation of your application. Also separately describe any matters of special note in trial courts, appellate courts, and administrative bodies.

After graduating from law school, I was employed as Judicial Law Clerk for the Honorable Ben Cantrell of the Court of Appeals. I reviewed cases for factual issues, researched legal issues and prepared draft opinions on civil cases before the Tennessee Court of Appeals. At this time, I acquired an extensive knowledge of appellate procedures and was exposed to many different civil law issues. In the next 29 years, both as an Air Force Judge Advocate and a civilian attorney, I represented well over 10,000 clients in a variety of civil and criminal cases. I have prosecuted and defended individuals before at least 100 juries in criminal cases. Those matters were before military courts-martial and the Circuit Courts of Rutherford, Cannon, Coffee, Marshall and other middle Tennessee counties. Two of these litigated cases were first degree murder cases. While I often could not choose my clients, I nevertheless had at least 20 acquittals while defending individuals accused of criminal offenses. During my active duty service in the Air Force Judge Advocate General Corps, I was a Special Assistant U.S. Attorney, Western District of Texas, and prosecuted

civilians for criminal offenses committed on military installations. As a military attorney I often represented individuals before administrative hearings involving discharges, demotions, and doctor credentialing. I also represented the Air Force before the Merit Systems Protection Board and the EEOC. In the private practice of law, I have appeared in proceedings in virtually every county of Middle Tennessee. I have engaged primarily in litigation. I have served as appellate counsel in the State of Tennessee in at least 35 different cases, a list of which is attached. At the General Sessions and Circuit Court level, I have represented individuals in divorce, custody and support hearings. At the Juvenile Court level, I have represented juveniles in delinquency matters. I have also represented individuals in legitimation and support proceedings in the Circuit and Juvenile Courts of Rutherford County. After filing a Title IX action against the Rutherford County Board of Education in 1992, I became the attorney of choice for many teachers and students, and in that capacity appeared on their behalf before various courts and administrative bodies on various Education Law issues. I have represented individuals before the Department of Labor and Workforce Development in unemployment hearings. I have been certified to represent former military members for disability claims they may have against the Veterans Administration. I have represented individuals filing bankruptcies in the Middle District of Tennessee. I have successfully filed suit for medical malpractice. I have filed suit in Federal District Court for violation of my client's civil rights. I have drafted literally thousands of wills, living wills, and powers of attorney. I have made a conscious decision to not engage in real estate closings and federal income tax issues. Other than these two areas, I have handled most every other type of case over my 30 years of practice. I have also been involved in the supervision and training of hundreds of young attorneys that have worked for me in the military and private practice.

I am generally the first one to arrive at the office in the morning, beginning work on weekdays before 8:00 a.m. I am also one of the last individuals to leave the office after 5:00 p.m. When there are trials on my schedule I often return to the office after hours or on weekends. Over half my typical workday is spent in the courtroom. When I am not in court, I am doing research, conducting depositions, or meeting with clients. The judges in this Circuit can verify that I show up at court in a timely manner and am invariably well prepared.

9. Also separately describe any matters of special note in trial courts, appellate courts, and administrative bodies.

The following are some noteworthy cases in which I served as counsel.

a. As set forth in paragraph 25 below, for two years I was a volunteer girls' soccer coach at Central Middle School when the school had no teacher willing to coach. After this period, I discovered that the Rutherford County School Board was funding supplemental pay for four coaches in two male sports while funding only one coach for one female sport. I also discovered that coaches of male sports received higher supplemental pay than coaches of female sports. Because I was not available to coach the team the following year, I went to

the School Board and requested that they fund a coach for the female soccer team and further, that they look into my concerns of unequal funding. When my request was denied, I filed a Title IX complaint with the United States Department of Education. The investigation found discrimination by the Rutherford County School Board of Education. As a direct result of my complaint, the following additional sports are being funded at the middle schools in Rutherford County: cross country, volleyball, soccer (male and female), tennis, track, softball, and baseball.

b. Approximately five years ago, a member of the Tennessee Air Guard, pled guilty to misdemeanor domestic assault of his son and wife. He did so without an attorney and was unaware of the possibility of diversion and the effects such a conviction would have upon his career. (Pursuant to the Lautenberg Amendment to the Federal Gun Control Act, as a result of his conviction, said member could not carry or possess a weapon and thus was required to be discharged from the Tennessee Air Guard). By the time I was contacted, the time to appeal had expired. Accordingly, I filed a motion for writ of error coram nobis with the trial court. Although the court denied the motion on the basis that the claim was barred by the statute of limitations, the court also expressly stated that it wished that it could grant my client the relief requested and that it was confident that if my client had initially hired an attorney a resolution could have been obtained which would not have jeopardized his military service. Based on the trial court's finding, I immediately filed a request for a pardon with the Tennessee Board of Probation and Parole. I obtained supporting statements from the victims who also appeared and testified at the hearing that they never wanted a criminal conviction. They also explained the exigent circumstances wherein the member had been drinking and the son instigated the incident. I obtained numerous statements from the member's commanders and fellow guardsmen requesting a pardon on the basis that he was an integral member of the unit and his failure to be deployed would adversely affect the remaining military members being deployed. They likewise confirmed that this behavior was inconsistent with the member's twenty plus history in the Guard. I had the transcription of the trial court's ruling included in the package. I convinced the District Attorney General to not oppose the request. Finally, I informed the Board that the reason that my client wanted relief was so that he could be deployed to the Middle East with his co-workers and he felt an obligation to go with his troops. My client was retirement eligible and could have simply retired and avoided going to Iraq. The Board unanimously recommended that a parole be granted. Governor Bredesen granted a parole on one of his last days in office. The member was able to continue his service and ultimately deployed to Iraq. The member recently reached 30 years of honorable service and has since retired.

c. In the early 90's, issues were being raised as to the rights of a custodial parent versus a noncustodial parent in decision-making. Likewise, during this time there was interest by some people in educating their children within the home. In Rust v. Rust, 864 S.W.2d 52 (Tenn.Ct.App. 1993), I advocated a position that in the event of a dispute, the custodial parent was the ultimate decision-maker as opposed to the courts deciding educational and other issues. The trial court disagreed and rendered a decision it felt was in the best interests of the children and required them to be educated in a regular school environment and not at home. There was no case law in effect at the time and the Court of Appeals in

the Rust case agreed with my position that the custodial parent is the ultimate decision maker absent harm to a child, which was the law in effect until the adoption of parenting plans.

d. Initially, military pensions were not divisible by state courts. After Congress adopted the Former Spouses' Protection Act, states in certain limited circumstances could divide a military pension. In Kendrick v. Kendrick, 902 S.W.2d 918 (Tenn.Ct.App 1994), the trial court awarded to a wife one-half of the future military member's future pension despite the marriage only lasting approximately 10 years and it taking 20 years for the benefits to be awarded. I asserted on appeal that a non-service member should only be awarded a portion of the benefits accrued during the marriage. The Court of Appeals agreed and set forth a formula for properly dividing a military pension based upon the portion of the time the parties were married while the spouse was in the military. That formula awarding to the non-military member a percentage of the retirement benefits earned while the parties were married and the military member served honorably is still being used today.

e. In Lopez v. Taylor, 195 S.W.2d 627 (Tenn.Ct.App 2005), a mother had agreed to pay a portion of a child's college education as part of the divorce settlement. After the child was emancipated, the child and father committed fraud and submitted to the mother false invoices which resulted in her paying in excess of 100% of the college costs. I argued on appeal that the trial court's action requiring her to continue to pay one-half of the future college expenses was in error. The Court of Appeals agreed and held that while an agreement to pay post-high school expenses can be enforceable, the acts of the child and father was a breach of the agreement entitling her to reimbursement of the amounts paid over 50% and relinquishing her of any future obligations to that child.

f. The initial child support guidelines did not discuss the unique arrangement wherein a military member could waive his Basic Allowance for Housing (BAH) and Basic Allowance for Subsistence (BAS), and live on base and eat at the dining facility. I requested the Department of Human Services to impute income for individuals for the amount of BAH and BAS they would have received if they receive housing and food in lieu of said payments. Said definition was subsequently added to child support guidelines.

10. If you have served as a mediator, an arbitrator or a judicial officer, describe your experience (including dates and details of the position, the courts or agencies involved, whether elected or appointed, and a description of your duties). Include here detailed description(s) of any noteworthy cases over which you presided or which you heard as a judge, mediator or arbitrator. Please state, as to each case: (1) the date or period of the proceedings; (2) the name of the court or agency; (3) a summary of the substance of each case; and (4) a statement of the significance of the case.

a. Approximately 15 years ago, I was appointed special judge in the General Sessions Court of Rutherford County, Tennessee when a local health care provider filed suit against both the mother and father for dental services rendered. The father was the District Attorney General in an adjoining county and I was appointed because the General Sessions

Judges knew the father. The father claimed that under the terms of their Marital Dissolution Agreement, he was only required to pay one-half of the medical payments and the records reflected he had indeed paid his half. I ruled that both parents were jointly and severally liable to the health care provider for necessities provided for their minor child and any claims of reimbursement by the Father had not been raised, but could be raised in their divorce action.

b. Approximately five years ago, when prominent local attorneys Darrell Scarlett and Daryl South were involved in a divorce matter wherein one of the parties was in the military, the two of them agreed to have me arbitrate the issue of division of military retirement. I simply ruled upon the amount of the retirement available and advised the attorneys of the language and form needed in the order for DFAS (Defense Finance and Accounting Service) to divide the retirement.

11. Describe generally any experience you have of serving in a fiduciary capacity such as guardian ad litem, conservator, or trustee other than as a lawyer representing clients.

a. I was appointed as executor of the estates of Vida Hornsby in Davidson County in 1988, and Arlene Kampe in St. Louis, Missouri in approximately 1992. Both estates were closed in timely manner.

b. I was appointed as conservator for a Cornersville, Tennessee, ward about 15 years ago. There were multiple surviving grandchildren who would not agree to any other grandchild being appointed. I was appointed by Chancellor Cox in Marshall County as I was the only attorney of the numerous ones involved wherein no objection was lodged. For approximately one year I insured that the ward could remain in his house with around the clock care. I hired and paid home health care individuals, paid income taxes, paid medical bills, and took care of all legal issues of the ward. The case was closed when the ward passed away.

c. In the late 1980s and early 1990s, I was often appointed as guardian ad litem in conservator and involuntary commitment proceedings involving veterans at the Alvin C. York Medical Center.

d. I am currently serving as trustee in the Benjamin Sheffey Hornsby Trust and the Alice Meadows Testamentary Trust. In that capacity, I invest money, prepare income tax returns and in the case of the Alice Meadows Trust, take care of the needs of Emily Meadows who is currently attending college at Middle Tennessee State University.

e. I was recently appointed by Judge David Bragg to inventory the cases of Jerry Scott, an attorney placed on disability status, and take any and all action necessary to protect the interests of Jerry Scott and his clients. This appointment was made within the last month and is ongoing. I have intervened in court proceedings requesting a stay of the proceedings so that the former clients of Jerry Scott could obtain new counsel. I have contacted many of the clients informing them of Jerry Scott's disability status and his inability to continue

to represent them and offered help in obtaining new counsel.

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

I am admitted to practice law before the United States District Courts for the Middle District of Tennessee and Eastern District of Tennessee. I am also admitted to practice before the United States Court of Appeals for the Armed Services (previously known as the Court of Military Appeals). I am also certified to represent individuals before the VA for veterans' disability claims.

13. List all prior occasions on which you have submitted an application for judgeship to the Judicial Nominating Commission or any predecessor commission or body. Include the specific position applied for, the date of the meeting at which the body considered your application, and whether or not the body submitted your name to the Governor as a nominee.

Not Applicable

EDUCATION

14. 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.

Middle Tennessee State University -- B.S. 1978 cum laude and with Distinction in University Honors. Attended from Fall of 1974 to graduation in Spring of 1978. Major: Mathematics. Class Standing: Top Five Percent (GPA 3.75/4.00). Received Charles F. Lewis Award 1975 (Outstanding Freshman Mathematician). Citizen Central Bank Award 1978 (Outstanding Honor's Student). Who's Who Among Students in American Universities and Colleges, 1977-1978. Elizabeth Buford Shepherd scholarship recipient 1974-1978 (academic scholarship). Dean's List four years. Mike Vickery Scholarship Award 1976-1978 (Highest GPA in Sigma Alpha Epsilon fraternity). Sigma Club Scholastic Fraternity.

University of Tennessee – J.D. 1982. Attended from Fall 1979 to Spring 1982. Class Standing: Top Thirty Percent. Dean's List (three years). American Jurisprudence Award 1981 (Criminal Law). Phi Delta Phi Fraternity. Who's Who Among American Law Students, 1981-1982.

PERSONAL INFORMATION

15. State your age and date of birth.

I am 56 and was born on March 5, 1956.

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

I have lived in State of Tennessee since 1968. Pursuant to the Servicemembers' Civil Relief Act (then known as the Soldiers' and Sailors' Civil Relief Act), I continued to maintain Tennessee as my state of domicile from 1983 to 1987 while stationed in Texas (I voted in Tennessee, kept a Tennessee driver's license, and maintained an address in Tennessee as my legal residence).

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

I have lived in Rutherford County for over twenty-five years (since 1987).

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

I am registered to vote in Rutherford County.

19. 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.

July 1983 to June 1985 – United States Air Force. Assistant Staff Judge Advocate, Brooks Air Force Base, Texas. As Claims Officer, I managed a three-member office responsible for processing claims in southeastern Texas. I investigated medical malpractice and federal tort claims, prepared preliminary briefs dealing with legal issues and recommended tactics for trial or settlement. As Chief of Military Justice, I advised commanders on proper actions on offenses occurring within their units. I prosecuted felonies and misdemeanors. I provided legal assistance to the Air Force Drug Testing Laboratory. I also reviewed administrative cases and represented the Air Force before the Merit Systems Protection Board, the EEOC, and other federal agencies. I provided legal assistance to military members and their dependents and advised them on real estate law, family law, taxation, consumer protection, landlord-tenant law, and bankruptcy law. I had extensive experience preparing wills, powers of attorney, and contracts. As Special Assistant U.S. Attorney, I prosecuted civilian offenders before the Federal Magistrate for offenses committed on military installations.

June 1985 to March 1987 – United States Air Force. Area Defense Counsel, 3rd Judicial Circuit, Lackland Air Force Base, Texas. I provided defense services to 40,000 military members at the largest and busiest base level defense office in the Air Force. I had sole responsibility in over 50 felony and misdemeanor trials (over 90% were jury trials). The charges in the cases I defended included larceny; indecent assault; child molestation; pornography; fraud; desertion; the sale, possession, distribution, and manufacture of illicit drugs; and other military offenses. I worked with a variety of expert witnesses (forensic toxicologists, social workers, physicians, and psychiatrists). I also provided defense services and represented clients in courts-martial at Holloman Air Force Base, New Mexico, and Kelly Air Force Base, Texas. My other responsibilities included representing Air Force members in administrative matters pertaining to involuntary discharges, nonjudicial punishment (Article 15), demotions, and doctor credentialing hearings. I participated in at least 20 contested administrative hearings involving discharges and demotions. My number of acquittals was tops in the Air Force at the time. I was elected as Outstanding Young Man of America in 1985.

March 1987 to March 1989 – United States Air Force Reserves. Assistant Staff Judge Advocate, Ellsworth Air Force Base, South Dakota. I served as lead prosecutor in courts-martial. I trained junior attorneys in trial techniques. I also advised clients on real estate law, family law, taxation, consumer protection, landlord-tenant law, and bankruptcy law. During this time I also had extensive experience preparing wills, powers of attorney and contracts.

March 1989 to September 2007 – United States Air Force Reserves. Circuit Defense Counsel, Travis Air Force Base, California. I served as lead defense counsel in courts-martial throughout the Western United States. Generally, I was called onto active duty to represent an accused charged in a general courts-martial. I represented a two-star general at Barksdale Air Force Base, Louisiana in an administrative discharge action. I was personally requested as I was the most senior circuit defense counsel in the Air Force (he was permitted to retire). I represented another client in a first-degree murder case at Kirtland Air Force Base, New Mexico. I was selected as there were no other Air Force defense attorneys with experience litigating a first degree murder case (I negotiated the case to be referred as non-capital and client was convicted of a lesser included offense at a litigated trial). I was requested to represent an Army Senior Noncommissioned Officer at Fort Campbell, Kentucky in a case involving alleged assaults. The accused believed that there was undue command influence by the referring two-star general and the Army attorneys were reluctant to make the allegation (I filed a motion to dismiss for undue command influence and the charges were withdrawn to avoid a hearing after another general, a colonel, a lieutenant colonel and the Staff Judge Advocate were called to testify about the undue command influence). I represented clients in courts-martial for most offenses listed in the Uniform Code of Military Justice (UCMJ) at Luke Air Force Base, Arizona; Davis-Monthan Air Force Base, New Mexico; Kirtland Air Force Base, New Mexico; Beale Air Force Base, California; Dyess Air Force Base, Texas; Edwards Air Force Base, California; Hill Air Force Base, Utah; March Air Force Base, California; Vandenberg Air Force Base, California; Nellis Air Force Base, Nevada; McChord Air

Force Base, Washington; McClellan Air Force Base, California; and Travis Air Force Base, California. When charges were referred to a court-martial at Arnold Air Force Base, Tennessee, I was appointed as Special Prosecutor for the first court-martial in the history of the base (I was successful in obtaining a conviction for obtaining money under false pretenses). I was often called onto active duty to attend seminars and train junior attorneys on trial techniques and strategies. When the 118th Air Wing (Berry Field, Nashville, Tennessee) had numerous Tennessee Air Guard members being deployed to the Middle East, I provided legal assistance to these members getting mobilized (I primarily drafted wills and powers of attorney so that their affairs were in order and the military member would not have to worry about potential legal matters during their deployment).

I received the following awards and decorations during my 24 year career: Meritorious Service Medal (with one oak leaf cluster); Air Force Commendation Medal with two oak leaf clusters); Air Force Achievement Medal; Air Force Organizational Excellence Award (with two oak leaf clusters); National Defense Service Medal; Global War on Terrorism Service Medal; Air Force Longevity Service Award (with one silver oak leaf cluster); Air Force Reserves Medal (with silver hourglass device); and Air Force Training Ribbon. An oak leaf cluster is awarded for the second and subsequent award. At the sixth award, a silver oak leaf cluster is awarded. The silver hourglass is awarded after serving 20 years in the Reserves. In 1996 I received the Air Force Legal Services Agency Reginald C. Harmon Award for being the Outstanding Reserve Judge Advocate.

As a Reserve Officer, I was not discharged and given a DD Form 214 but instead given an order relieving me from my current assignment and placing me on the USAF Retired List (Reserve Order EK-9151, 25 Sep 2007, HQ ARPC, Denver, Colorado, a copy of which is attached). I retired as a Lieutenant Colonel.

20. Have you ever pled guilty or been convicted or are you now on diversion for violation of any law, regulation or ordinance? Give date, court, charge and disposition.

No

21. 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

22. If you have been disciplined or cited for breach of ethics or unprofessional conduct by any court, administrative agency, bar association, disciplinary committee, or other professional group, give details.

In 1995, I left the Chancery Court after prevailing in a post-divorce matter. This hotly contested case had already been to the Tennessee Court of Appeals and my client had been successful. At the hearing the adversarial party did not have his support obligations reduced and was ordered incarcerated for his contemptuous behavior. While out in the hallway, the adversarial party came up to me and threatened me. I made a statement to the effect that if he threw a punch, he would not get up. Said response was said in anger and not appropriate although I was not the one who began the threats. I accepted a private reprimand and learned that the best approach is to control my anger.

23. 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

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

No

25. 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.

1988 - Served as executor of the estate of Vida Hornsby in Davidson County, Tennessee. Case was promptly closed with no issues.

1992 – Served as executor of the estate of Arlene Kampe in St. Louis, Missouri. Case was promptly closed with no issues.

2004 – I filed a Title IX complaint with the United States Department of Education as a parent of a female student, volunteer soccer coach for the Central Middle School, and as citizen complaining that there was a violation of Federal law within the Rutherford County School system. An investigation revealed that there were four paid coaches for male students at the middle school level in Rutherford County and only one paid coach for female students at the middle school level. Rutherford County provided support for male

basketball and football teams and only one female basketball team. The complaint also alleged disparate treatment and facilities in favor of male students at the middle school level. A finding was made of discrimination by the Rutherford County School system and additional coaches and funding was provided for female athletes in Rutherford County. I never sought, nor did I receive compensation for this action. I simply believe that students who participate in sports learn discipline and with the limitation on their free time are less likely to get into trouble.

1990 to 2004 – Filed collection actions in the General Sessions Court for Rutherford County, Tennessee for collection of attorney fees against the following clients: Tim Ray, Randal Howard, Bobbie Jones, Keith and Beverly Brown, Kim Baker, Stuart Carmack, Franklin Gregory, Johnnie Stone, Teresa Caudill, Johnny Lane, Ronald Coleman, Roger Alsup, Michael Rifkin, Beth George, Bobby Gaines, Tina Powers, Daniel Longaberger, Brenda Powell, Randy Collins, Christopher Smith, Michael Weatherford, Jason Leathers, Jannette Wade, Kevin Barrett, Jimmy Gunter, Michael Mayes, Christine Taber, Jincy Boone, Phyllis Moddy, Dawn White, and Rhonda Merriman. A print out from the General Sessions Court of Rutherford County, Tennessee is attached. After 2004, I decided suing past clients was generally not worth the effort (collection efforts were not that fruitful, my time was better spent in representing my current clients, and the negative effects of bad-mouthing by a former client being sued more than offset any compensation obtained).

2002 – Sued as Third Party Defendant in Rutherford County Chancery Case, Cumberland Title Company v. Darla Quinn, 2002 CV-583. I simply held money in my escrow account and Cumberland Title brought me into the suit in an attempt to claim an interest in said funds. An agreed order was promptly entered and I disbursed the funds to Darla Quinn and Cumberland Title as set forth in the agreed order entered between the other parties.

2006 to 2008. Sued in Middle District of Tennessee by Frank Luna along with the attorney on other side, R. Whitney Stevens, Jr. of Fayetteville, and the Circuit Court Clerk of Lincoln County, Tennessee, alleging a conspiracy by both attorneys and the clerk to violate the civil rights of Frank Luna (Case No 4:06-CV-38). The case was dismissed on a motion for summary judgment by the Federal Judge. Frank Luna's appeal to the Sixth Circuit Court of Appeals was denied. Frank Luna's subsequent application to the United States Supreme Court was denied in 2008, 555 U.S. 1082, 129 S.Ct. 761 (Mem), 172 L.Ed.2d 752, 77 USLW 3345, U.S., December 08, 2008 (NO. 08-5915). There was absolutely no merit to the complaint of Frank Luna who simply lost a suit in the Chancery Court of Lincoln County, Tennessee and filed a pro se suit against any and all individuals involved in the original lawsuit.

26. 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.

Oakland High School Boys Soccer Boosters – School support organization formed to support the Oakland High School Boys Soccer team. Served as President from 2006 to 2008.

Oakland High School Endzone Club - School support organization organized to support the Oakland High School Football team. Served as President from 2008 to 2010. Currently serve as Registered Agent.

Middle Tennessee USAFA Parents Club - School support organization organized to support parents of students at the United States Air Force Academy. Also raises money for the Wounded Warrior Project. Served as Vice President from 2011 to 2012. Currently serve as President and Registered Agent.

Belle Aire Baptist Church – member for entire twenty-five years.

Blue Raider Athletic Association – member for entire twenty-five years.

Reserve Officers Association and American Legion – was a member shortly after my retirement in 1987 for a couple of years.

27. 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.

Yes. From 1974 to 1978 I was a member of Sigma Alpha Epsilon, a social fraternity at Middle Tennessee State University. The social fraternity was, and still is recognized by Middle Tennessee State University. The fraternity limits its membership to males. I have donated money to said fraternity over the years. I do not, and have not held any officer positions with said fraternity after my graduation from Middle Tennessee State University in 1978.

ACHIEVEMENTS

28. 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.

Rutherford/Cannon County Bar Association – 2002-2012. I have served as vice chair of the Rutherford/Cannon County Bar/Bench Committee for the past five years (committee composed of select members of the bar and the judges in the 16th Judicial District to address concerns of the judges and the bar.

Tennessee Bar Association – 2002-2012.

American Inns of Court – 2009-2012.

29. 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.

1996 - Reginald C. Harmon Award, Outstanding Reserve Judge Advocate, Air Force Legal Services Agency.

2000 - Richard F. LaRoche Sr. Pro Bono Award for service to the community for 2000 from the Rutherford/Cannon County Bar Association.

30. List the citations of any legal articles or books you have published.

An Analysis of Tennessee Code Annotated Sections 33-609 and 33-604(h), Tennessee Judicial Newsletter, Spring 1982 (analysis of the release provisions of Tennessee's mental health laws.

31. List law school courses, CLE seminars, or other law related courses for which credit is given that you have taught within the last five (5) years.

I taught the following CLE courses within the past 5 years.

February 2009 – I presented a seminar on behalf of the Andrew Jackson American Inns of Court to attorneys and advised them on the protections afforded military members under the Servicemembers' Civil Relief Act. I also addressed the Former Spouses's Protection Act and the ability of state courts to divide a military retirement. I advised them of the different types of discharges and the difference between courts-martials and civilian trials. I concluded with a discussion of characterization of veterans' reemployment rights.

April 2009 – I presented a seminar on behalf of the Rutherford/Cannon County Legal Professionals to attorneys and paralegals and focused on protections afforded military members under the Servicemembers' Civil Relief Act and ability to divide retirement

under the Former Spouses' Protection Act. I further went into the specifics of the documentation needed by DFAS (Defense Finance and Accounting Service) to pay benefits directly to a non-military member.

April 2012 – I presented a seminar presented on behalf of the Andrew Jackson American Inns of Court to attorneys and focused on changes and problems found in domestic relations law. I covered recent changes in the law of alimony (Gonsewski); parenting factors (a custody arrangement that permits both parents to enjoy the maximum participation possible in the life of the child consistent with the factors set out in subdivisions (a)(1)-(10) pursuant to TCA 36-6-101); and grandparent visitation. Among other topics discussed was a local change permitting the appointment of a Special Master in Cannon County for temporary hearings in domestic cases. Changes in Orders of Protection were discussed along with the long term ramifications of an Order of Protection. The AOC form bank was discussed (i.e., parenting plans are available in multiple languages). Problems found in calculation of child support were analyzed as well as the effects of a military person being involved in the litigation.

32. 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

33. Have you ever been a registered lobbyist? If yes, please describe your service fully.

No

34. Attach to this questionnaire at least two examples of legal articles, books, briefs, or other legal writings which reflect your personal work. Indicate the degree to which each example reflects your own personal effort.

Attached are four documents which reflect different types of legal writing. The first is a complicated complaint recently filed in the Circuit Court of Wilson County, Tennessee involving nuisance, malicious prosecution , harassment and outrageous conduct. When my partner had a minor stroke, I stepped in and prepared this complaint. I did all of the work on this pleading. The second document is a Power Point Presentation I prepared for the last seminar I gave in paragraph 31 above. The third document is a brief recently filed in the Court of Appeals. I was primarily responsible for said brief that was signed and filed by my associate as I was in trial on the date it was filed. The final writing is the article addressed in paragraph 30 above. I wrote approximately 50 percent of said article.

ESSAYS/PERSONAL STATEMENTS

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

Initially, I did not consider applying for this judgeship. As a partner in a successful law firm, I enjoy what I do and earn a salary that is significantly more than what the judicial position will pay. I reconsidered when numerous attorneys called and asked me to apply. It is only after much reflection that I do so. With 30 years of litigation experience in civil, criminal, and appellate courts, I have more courtroom experience than most attorneys in this jurisdiction. I have been lead counsel in over 100 civil and criminal jury trials. I have represented clients in virtually every type of case. Dealing with a broad variety of problems that have presented over the years, I have also gained patience and compassion for people and their unique needs. I hope this will make me a judge who is respectful and compassionate, but fair.

36. State any achievements or activities in which you have been involved which demonstrate your commitment to equal justice under the law; include here a discussion of your pro bono service throughout your time as a licensed attorney. ***(150 words or less)***

I volunteered for the local pro bono program in 1987 and have continually represented pro bono individuals. My cases involve time-consuming litigation and family law. I typically have two or more pro bono cases open. In 2000 I received the Richard F. LaRoche Sr. Pro Bono Award for service to the community. Within the last year I also incorporated three nonprofit organizations without any compensation. Project Ice was organized to help tutor underprivileged students after school. Solutions Education Center was formed to provide counseling services for indigent juveniles. Broken Rail was incorporated to help troubled youth by providing them work rehabilitating homes of indigent residents. I also complained and threated suit 10 years ago when the City of Murfreesboro built new baseball fields with lights and relegated the female athletes to the older, unlit fields. Lights were immediately installed and the female athletes were subsequently moved to the new fields.

37. 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 the Circuit Judge position in the 16th Judicial District of Tennessee. This District has a Chancellor and four Circuit Court Judges that serve both Rutherford and Cannon Counties. The five judges share the civil and criminal cases. While there is a general assignment of cases, the current practice is to require all of the judges to handle every type of case (the two judges hearing mostly criminal cases are also expected to help handle civil matters). With my diversity of experience, I feel I would be the most qualified to immediately step in and be able to handle either civil or criminal matters with equal ability. Likewise, having practiced as long as I have, I am very empathetic with the

demands made upon attorneys. Finally, having been involved in contentious litigation, I have learned patience and the ability to not take things personally.

38. Describe your participation in community services or organizations, and what community involvement you intend to have if you are appointed judge? ***(250 words or less)***

For 18 consecutive years, I have coached youth sports. I have coached recreational, school, and select/traveling teams in soccer, baseball and softball. When Central Middle School was contemplating dropping its female soccer program, I left work early for two years to coach said team. When Campus School wanted to implement a soccer program, I once again volunteered and left work early for a year to coach said team. I have also served as President of booster clubs and helped raise money for the teams so less affluent students could participate. When the Rutherford County Board of Education implemented a rule that all booster clubs are required to be incorporated as a School Support Organization, I prepared charters and by-laws and filed the appropriate documentation with the Tennessee Secretary of State for cross-country, male soccer, female soccer, football, dance, band, and female basketball clubs at Oakland, Siegel, and Riverdale High Schools. I have never received any payment for these services. I have limited my coaching but intend on continuing to help Rutherford County youth through my efforts.

With a son at the United States Air Force Academy, I am President of the Middle Tennessee USAFA Parents Club. I intend on continuing to work with this nonprofit organization and help raise money for the Wounded Warrior Project.

I have participated in nondenominational Bible Study groups to include Bible Study Fellowship (BSF) and Community Bible Study (CBS) over the past few years. I intend to continue participating in this study.

39. Describe life experiences, personal involvements, or talents that you have that you feel will be of assistance to the Commission in evaluating and understanding your candidacy for this judicial position. ***(250 words or less)***

I am most proud of my contributions to my family. I have been married for 31+ years to Karen Hornsby, a staff attorney with the Tennessee Supreme Court. I have four children, two of whom have graduated from college and are gainfully employed with my twin boys currently in college (one at the United States Air Force Academy and one at Middle Tennessee State University).

I have also served in the United States Air Force and Reserves for 24 years. During this time sacrifices were made by my family and practice of law as I was often called onto active and sent outside Tennessee. These 24 years instilled a deep sense of patriotism and duty.

I have personally been involved as a defender of the downtrodden and of women's rights. I have been blessed and can give my time and efforts for those less fortunate. Growing up in the 1970's, I was somewhat oblivious to discrimination of women until I had two young girls. Wanting to give them the same opportunity as males, I have actively and successfully championed for equality for female athletes in Rutherford County.

I am not applying for this position to increase my earnings. I am a partner in the largest firm in Murfreesboro and was asked by others to submit my application. I believe I can make a contribution to the administration of justice in Rutherford and Cannon Counties with my vast experience.

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

Yes. As set forth herein, I was a military officer for over 24 years. I had often been given orders. I had to follow the dictate even if I did not agree with the order. Upholding the law is similar to my history of following orders in the military. During my career, it was a crime under Article 88 of the UCMJ for an officer to use contemptuous words against the President. During my 24 years there have been both Republican and Democratic Presidents. There were times I personally disagreed with the actions and policies of our President. However, as an officer, my free speech rights were subjected to my obligation to not criticize the President. While I could vote my conscience at the ballot box, my duty outside the voting booth was to follow said policies and refrain from criticizing said policies. While I personally could never understand the rationale for the "Don't Ask, Don't Tell" policy, I had to follow the law and advise my clients accordingly.

REFERENCES

41. 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 (Bill) Edwin Young, Solicitor General for the State of Tennessee,** [redacted]

B. **John A.W. Bratcher, Clerk and Master of Rutherford County,** [redacted]

C. **William B. Bullock,** [redacted]

[redacted]
D. **Judy Reed, Divorce Coordinator** [redacted]
E. **Gordon Ferguson, CEO, Middle Tennessee Medical Center,** [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 for the 16th Judicial District of Tennessee, and if appointed by the Governor, agree to serve that office. In the event any changes occur between the time this application is filed and the public hearing, I hereby agree to file an amended questionnaire with the Administrative Office of the Courts for distribution to the Commission members.

I understand that the information provided in this questionnaire shall be open to public inspection upon filing with the Administrative Office of the Courts and that the Commission may publicize the names of persons who apply for nomination and the names of those persons the Commission nominates to the Governor for the judicial vacancy in question.

Dated: July 31, 2012.

Signature

When completed, return this questionnaire to Debbie Hayes, Administrative Office of the Courts, 511 Union Street, Suite 600, Nashville, TN 37219.