

The Governor's Council for Judicial Appointments

State of Tennessee

Application for Nomination to Judicial Office

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INTRODUCTION

The State of Tennessee Executive Order No. 41 hereby charges the Governor's Council for Judicial Appointments with assisting the Governor and the people of Tennessee in finding and appointing the best and most qualified candidates for judicial offices in this State. Please consider the Council'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 Council needs information about the range of your experience, the depth and breadth of your legal knowledge, and your personal traits such as integrity, fairness, and work habits.

This document is available in word processing format from the Administrative Office of the Courts (telephone 800.448.7970 or 615.741.2687; website www.tncourts.gov). The Council 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 document.) Please read the separate instruction sheet prior to completing this document. Please submit original (unbound) completed application (*with ink signature*) and six (6) copies of the form and any attachments to the Administrative Office of the Courts. In addition, submit a digital copy with electronic or scanned signature via email to debra.hayes@tncourts.gov, or via another digital storage device such as flash drive or CD.

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

PROFESSIONAL BACKGROUND AND WORK EXPERIENCE

1. State your present employment.

Greene County General Sessions and Juvenile Court Judge (since 2006)

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

1995, BPR #017239

3. List all states in which you have been licensed to practice law and include your bar number or identifying number for each state of admission. Indicate the date of licensure and whether the license is currently active. If not active, explain.

Tennessee BPR#017239; I was admitted to practice in the U.S. District Court for the Eastern District of Tennessee on May 13, 1996; and I was admitted to practice in the U.S. Court of Appeals, Sixth Circuit on April 22, 1999.

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).

1995-2006 I was a practicing attorney with Rogers, Laughlin, Nunnally, Hood and Crum in Greeneville, TN. While engaged in the practice of law, my law practice was a general practice that included everything from drafting and preparing wills, representing individuals in divorce cases, criminal cases, Juvenile Court cases, personal injury cases, etc. Along with other attorneys in the firm, I handled cases in Federal Court in addition to State Court and General Sessions/Juvenile Court. I appeared in Courts all over Northeast Tennessee and in other parts of Tennessee.

2002-2006 I was the part-time Greene County Juvenile Court Referee/Magistrate. Originally I worked one day per week in this role, however the funding was eventually increased and I later

worked two days per week in addition to my job as a private attorney.

2006-present I am the Greene County General Sessions and Juvenile Court Judge. I hear all cases that are filed in Greene County General Sessions Court (civil & criminal), which also includes all traffic citations issued and judicial committals. In 2014, there were over 5,700 warrants filed in our criminal division; over 2000 cases filed in our civil division; over 8,300 citations issued; and 71 committals. These numbers DO NOT include any of the Juvenile Court cases which I hear. See the attachment for the breakdown of cases that have been filed since 2006, the year I became Judge.

I also preside over the Greene County Recovery Court, formerly known as the Greene County Drug Court. This program is for individuals who have drug and alcohol addictions and who have been referred to the program from the criminal division of the General Sessions Court. Additionally, I hear a majority of the delinquency cases filed in our Juvenile Court; all termination of parental rights cases filed in Juvenile Court; all Juvenile traffic/tobacco cases and some of the dependent/neglect cases filed in Juvenile Court. The Greene County Juvenile Court Magistrate hears a majority of the dependent/neglect cases during the two days he works each week. I am in Court every day Monday – Friday. I hear General Sessions criminal cases all day on Mondays and Wednesdays and half of the day on Friday; I hear Juvenile Cases on Tuesdays; and on Thursday I hear General Sessions civil cases and every other Thursday afternoon I have Recovery Court in the afternoon.

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.

Since I am a Judge, I do not currently practice law. However, as a practicing attorney from 1995-2006 I represented clients in a variety of cases. Being an attorney in a small town, one must be prepared to handle anything. I estimate the breakdown of my cases as a practicing attorney as follows:

Domestic/Family Law 55%

Personal Injury/Workers' Compensation 20%

Criminal Defense 15%

Probate/Wills/Drafting Contracts & Deeds 5%

Other types of Litigation 5%

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 Council 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 Council. Please provide detailed information that will allow the Council 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.

As a practicing attorney for 11 years, I was involved either individually or as an associate with one of the Firm's partners, in well over 1000 cases. One of the benefits of my working in a general practice law firm was that the firm handled a variety of matters and I was able to be associated on a number of cases which I would not have handled had I been a solo practitioner. I was involved in cases in Juvenile, General Sessions, Circuit, Chancery, Criminal, Federal and Administrative Courts all over East Tennessee. I have also been involved in cases in the Tennessee Court of Appeals, the Tennessee Supreme Court and the Sixth Circuit Court of Appeals.

I represented clients involved in all aspects of domestic relations, which often requires much patience and understanding. A divorce or child custody case can be one of the most stressful and life-changing events that someone experiences. In representing individuals in these types of cases, I was not only their legal advisor but I would often find myself offering comfort and

support to my clients and encouraging them and offering hope. In some custody cases, I was called during the holidays by my clients due to “emergency” custody issues. I once had a client call on Christmas morning because the other parent had not brought their children to her. I feel that I understand the toll that a divorce case can take on all involved – the parents and the children. I now have a unique perspective since I have been Juvenile Judge, and I have dealt with many families who have experienced a divorce and I have witnessed how devastating it can be to a Juvenile’s life. I believe I can share those observations with individuals in Circuit Court who will be involved in a divorce and stress how important it is that the child(ren) be the main focus of all involved.

In private practice, I took part in a variety of cases which involved litigation. Not only did I represent individuals involved in personal injury cases, but I also participated in civil litigation over contract disputes, will contests, personal property disputes, debtor/creditor issues, ERISA claims, termination of parental rights, landlord/tenant cases, real estate disputes, and malpractice actions. Additionally, I was involved in all aspects of criminal litigation. I represented defendants charged with first degree murder, vehicular homicide, DUI, forgery, theft, burglary, sale and delivery of drugs, and a variety of other criminal offenses.

As a Judge, I have worked extremely hard to conduct myself in public and on the bench in a manner which reflects positively upon the Judiciary. I try to be respectful of others’ time and with very few exceptions start court on time each day, and I do my best to keep cases moving. Additionally, I do my best to educate others about the biggest problem I see each day – drugs and alcohol. In trying to educate others, I have been creative. Due to budget constraints, I often “think outside the box” to try and make a positive impact without spending the taxpayers’ money. For the past several years, I have ordered free brochures, booklets, and pamphlets from governmental agencies regarding various topics such as alcohol/drugs; reading to your child; bullying; financial aid for college; planning for your future as a student; internet safety; parenting skills, and other topics. We have a display outside our office with over 35 various brochures/pamphlets, etc. which are free to the public. I also take many of these same items with me when I speak to groups and make them available to those in attendance.

Also, I have done my best as a Judge to recoup money for the taxpayers when I can. In 2011, Greene County returned over \$83,000 to the State as attorney fees paid by indigent defendants. A majority of that was paid by defendants in General Sessions court when the fee was assessed by me. Greene County returned more money that year than any other county.

Finally, I continually try and educate myself about issues which come before me. I regularly attend the General Sessions Judges’ Conference and Tennessee Council of Juvenile and Family Court Judges’ Conference each year. I have only missed a couple of these conferences in the past 9 years. Also, I have attended the Tennessee Association of Drug Court Professionals State Conference the past 2 years; the National Association of Drug Court Professionals Conference on 2 occasions and the National Council of Juvenile and Family Court Judges..

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

administrative bodies.

As a practicing attorney, I represented a 20 year old mentally challenged female and her grandparents in regard to a custody petition filed by the 20 year old female's biological mother. I successfully argued at the trial court level and to the Court of Appeals that the 20 year old, although mentally challenged and not competent to make her own legal decisions, was not subject to the child custody statute and that a conservatorship was the more proper legal action (which I had also filed on behalf of the grandparents) in regard to her "custody." The Court of Appeals upheld the Trial Court's granting of a conservatorship. See Scott v. Scott 1999 Tenn. App. Lexis 78.

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.

I have never served as a mediator or as an arbitrator.

I have served as a judicial officer since being appointed as Greene County Juvenile Court Referee in 2002. In 2006 and again in 2014, I was elected Greene County General Sessions and Juvenile Court Judge. On both occasions, I was unopposed in my election. In addition to the description in Answer 5, I offer a further description of my current position. As General Sessions and Juvenile Court Judge, I hear a variety of cases each week. To my knowledge Greene County (population of 70,000) is the largest county that has 1 General Sessions Judge with juvenile jurisdiction. A majority of the General Sessions Court cases I hear are criminal cases, both misdemeanors and felonies (preliminary hearings). I preside over hearings involving everything from First Degree Murder; Sell/Delivery of Drugs; Theft; Animals Running at Large, etc. in the Criminal Division of our Sessions court. In the Civil Division I hear almost every kind of Civil case that could be filed in General Sessions Court. A majority of those Civil cases are landlord/tenant disputes; credit card cases (Debtor/Creditor); orders of protections; and personal injury cases with damages less than \$25,000.

In my role as Juvenile Court Judge, I preside over a variety of juvenile delinquency cases. In the past year, I have presided over several very serious Juvenile delinquency cases involving charges such as First Degree Murder; Attempted First Degree Murder; and Aggravated Rape. Additionally, in the past 18 months, I have presided over 4 different cases in which the District Attorney has requested that a juvenile defendant be transferred to adult Criminal Court. I also hear cases in which the Department of Children's Services is seeking to terminate a parent's rights (TPR) to a child. The TPR cases are often complex and obviously involve very serious issues since the continuation of the "parent-child relationship" is at stake. I take great care in deciding these cases (as I do all cases) and to my knowledge, I have never been reversed by the Tennessee Court of Appeals or Supreme Court. The TPR cases are sometimes multi-day cases due to the number of witnesses and length of their testimony. I hear some of the dependent/neglect cases filed in our Juvenile court (the Magistrate hears most of these). These are cases filed primarily by the Tennessee Department of Children's Services when DCS has removed a child from a parent or custodian. I also hear some "private" custody cases/Petition to Legitimate a Child/Grandparent Visitation cases in Juvenile Court which are very similar to custody decisions that Circuit Court Judges must make in divorce cases.

In my role as Greene County Recovery Court Judge, I preside over the Recovery Court (formerly known as Drug Court) program which has been in existence in Greene County since 2004. This program is for individuals who have been charged with a criminal offense and who have an alcohol or drug addiction. This program is one of the most rewarding aspects of my job in that I am able to watch as the lives of individuals and families are transformed. In 2011, our Recovery Court program was selected as one of three programs in Tennessee for the Statewide Drug Court Evaluation and Training Project by the Tennessee Office of Criminal Justice Programs. This program is a "team" effort and I credit the success with the stability and experience of our team, which has 13 members, many of whom have served for at least 5 or more years.

As Judge, I have tried to be creative and establish "partnerships" with other organizations and/or entities. One of our most successful partnerships has been between our Recovery Court program and Greeneville Cumberland Presbyterian Church. Almost 5 years ago, a committee at the

Church approached me about starting a ministry in our detention center. I explained to the committee that we already had multiple ministries working at the detention center, however I felt that we could “partner” with them through our Recovery Court program. We brainstormed and decided that the Church would host a “life-skills” class once a month for our Recovery Court clients. The skills would cover various topics such as budgeting; interview and resume skills; parenting skills, etc. The partnership has been a tremendous success with various members of the Church taking a personal interest in the clients through the years helping them to obtain jobs; housing; clothing, etc. It has also been a wonderful opportunity for the Recovery Court clients to build positive relationships with individuals in our community whom they would have most likely never met. We are now working with the Adult Education program on a partnership involving individuals on Sessions Court probation and assisting them with work skills and job placement.

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.

None

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

In 2010, I was appointed to serve on a committee for the AOC regarding Tennessee’s Indigent Defense Fund. The committee issued a report on January 15, 2011 to the 107th Legislative session. Then Sen. Mike Faulk chaired our committee, which looked at all aspects of the Indigent Defense Fund for defendants. I believe I was asked to serve on that committee due to my continuous efforts to collect attorney fees which are assessed for indigent defendants (maximum of \$200) for the State of Tennessee.

I have participated as a volunteer on various occasions with the Mock Trial competition since 1995. When I was an attorney, I “coached” a high school team 3 or 4 different years. I have also previously served as a volunteer scorer and Judge for the competition on the local and state level.

In 2012 and 2013, I served as a volunteer Judge of the University of Tennessee first year law students “Advocacy Idol” competition. I, along, with other Judges would listen to opening statements prepared and delivered by the students in the competition. We would “score” the students on their performance and offer feedback in regard to their performance.

I also would like the Council to take note that although I am in Court 5 days a week, I do try and help my fellow General Sessions and Juvenile Judges when they have conflicts arise. It is not always easy to do so, however, because I have to work around my full schedule to hear cases for Judges in other counties.

I have heard cases in General Sessions Court in the following counties: Cocke County, Hamblen County, Jefferson County, Sevier County, and Washington County. I have heard cases in

Juvenile Court for the following Courts: Hamblen County, Hawkins County, Knox County, Sevier County, and Johnson City Juvenile Court.

Finally, I feel that a Judge has an obligation to help educate the public about the legal system and current issues in the law. I take that obligation very seriously and frequently speak to public groups and school groups about my role as a Judge, current laws, alcohol and drug issues, school attendance issues, etc. During my years on the bench, I have spoken to thousands of Greene Countians on various topics. I have spoken or made presentations to the following groups or organizations:

Greeneville Exchange Club

Greeneville Breakfast Exchange Club

Greeneville Kiwanis Club

Greene County Republican Party

Green County Republican Women's Club

Ottway Ruritan Club

Baileyton Ruritan Club

Afton Cub Scout/Boy Scout Pack

Baileyton Cub Scout/Boy Scout Pack

Greene County Ministerial Association

Ottway United Methodist Church Congregation

McMillian's Free Will Baptist Church Congregation

Baileyton First Baptist Church Graduation Banquet Speaker

Union Temple Free Will Baptist Church Graduation Banquet Speaker

Walters State Community College Law Enforcement Academy Graduation Speaker

Asbury United Methodist Church Confirmation Class Speaker

Volunteer Center Youth Summit Speaker

Mid-Atlantic Grange Leaders Conference Speaker

Presentation on "Kids Count: The State of The Child" Report to the Community of Promise Luncheon Meeting

Law Enforcement Memorial Service sponsored by Calvary Chapel during National Police Week – Keynote Speaker, May 2012

Hosted students from Tusculum College, Chuckey-Doak High School, and Heritage Home School Association in Court followed by a question/answer session

Hosted the Greene County Partnership’s Adult Leadership Program and Youth Leadership Program in Court on multiple occasions followed by a question/answer session

I have taken part in multiple activities/events at our local schools such as speaking to students; speaking at Parent meetings; reading on “Read Across America /Dr. Seuss Day”; and taking part in career days.

Greenville Middle School, McDonald Elementary School & South Greene High School – presentation to Parents, students and community members regarding Alcohol/Drug Education; Computer/Internet Safety and Parental involvement

Baileyton Elementary School, Camp Creek Elementary School, Chuckey Elementary School, Chuckey-Doak Middle School, DeBusk Elementary School, Doak Elementary School, East View Elementary School, Glenwood Elementary School, Greenville Middle School, Highland Elementary School, McDonald Elementary School, Mosheim Middle School, Nolachuckey Elementary School, Ottway Elementary School, West Pines Elementary School, Chuckey-Doak High School, and North Greene High School - Presentation to Students regarding School attendance; Juvenile Court issues; Alcohol/Drug issues; and/or Read on Dr. Seuss Day

I have hosted middle school and high school job shadows through the Greene County Partnership Job Shadowing program

I have hosted University of Tennessee “job shadows” through their career development office

I have hosted summer interns from East Tennessee State University and semester interns from the Greenville/Greene County Center for Technology

13. List all prior occasions on which you have submitted an application for judgeship to the Governor’s Council for Judicial Appointments 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.

None

EDUCATION

14. List each college, law school, and other graduate school that 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.

East Tennessee State University, 1988-1992, Bachelor of Science (Magna Cum Laude) with a major in Political Science. I was inducted into multiple honor societies and a member of several student organizations while attending ETSU. I was the Student Government Association President during the 1991-92 school year. Additionally, I was on the Dean's List each semester at ETSU while holding multiple leadership positions in various organizations. I was one of 3 students inducted into the Student Leader Hall of Fame during my Senior year.

University of Tennessee, College of Law, 1992-1995, Doctorate of Jurisprudence. While at the UT College of Law, I was active in the Student Bar Association and Moot Court Board. Additionally, I competed as a member of the Constitutional Law Appellate Advocacy Team in a regional competition at the College of William & Mary Law School.

PERSONAL INFORMATION

15. State your age and date of birth.

45 years old; June 19, 1969

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

Since my birth

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

I have lived in Greene County since 1975. During the years I attended ETSU and the UT College of Law, I resided in Johnson City and Knoxville for the purpose of attending school. From 1969-75 I lived in Hawkins County (which is also part of the Third Judicial District).

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

Greene County. I have been a registered voter since I turned 18 years old.

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.

None.

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. Please state and provide relevant details regarding any formal complaints 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.

I have never been disciplined in any way by the Board of Professional Responsibility or the Board of Judicial Conduct.

During my 11 years of practicing law, I believe I had 1 client file a complaint against me which was summarily dismissed by the Board of Professional Responsibility after I filed my response. I honestly cannot remember any details about the complaint.

As a Judge, to the best of my knowledge, only 1 complaint has been filed against me in my almost 13 years as a Referee/Judge. The complaint was filed in October of 2008. The complaint stated there was no audio recording or transcript in General Sessions Court. In General Sessions Court, we record every preliminary hearing and trial, however the complaint was because we didn't record "general discussion" by the DA and a lawyer regarding the continuance of a case, which is not required. The complaint was summarily dismissed by Disciplinary Counsel without me having to respond. Judges are notified of complaints filed even when they are dismissed and we are not asked to respond to them.

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.

No.

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 that you have held in such organizations.

Baileyton United Methodist Church – Chairman of the Administrative Board 2000 – 2014, Youth Leader, Sunday School Teacher

Greeneville/Greene County Center for Technology: Criminal Justice Program Advisory Committee – 2006 – present

Greeneville Parks and Recreation – Youth basketball, baseball and softball coach since 2006 (and for several years before 2006)

Greeneville Lady Marlins Travel Softball Organization – Assistant coach since 2011

Greene County Schools' Greene Leaf Foundation – Board Member 2014 – present

Greene County Partnership – Board of Directors mid 1990's – present; Emcee of Monthly Breakfast and various events throughout the year

Greene County Chapter of American Red Cross – 2000-2006 - Board of Directors

Nathanael Greene Museum – 2006 – 2010 Board of Directors

East Tennessee State University Foundation – 2004 – present

East Tennessee State University Committee for 125 – 2012 - Chairman of Athletics Task Force

Fellowship of Christian Athletes (Greene County) – Advisory Board member 2008 – present

Sigma Chi Fraternity – Volunteer Chapter Advisor for the chapter at East Tennessee State University 2007-2012; Member of the International Balfour Leadership Operating Board 2010-2013; Chairman of the Division responsible for training the undergraduate chapter Presidents of over 220 undergraduate chapters at the Summer Leadership Training Workshop 2010-2013; Planning committee member for various reunions and annual summer golf fundraiser.

27. Have you ever belonged to any organization, association, club or society that 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.

I am a member of the Sigma Chi social fraternity which restricts membership to males. To become a member, one must be initiated into a chapter as an undergraduate male student at a college or university. I do not feel that the organization is a discriminatory organization and do not intend to resign my membership.

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 that you have held in such groups. List memberships and responsibilities on any committee of professional associations that you consider significant.

Northeast Tennessee Federal Bar Association 2000 - 2006

Greene County Bar Association 1995 – present (Past President, Vice President and Treasurer)

Tennessee Bar Association 1996 - present

National Association of Drug Court Professionals 2006 (est.) - present

Tennessee Association of Drug Court Professionals 2012 (est.) – present

National Council of Juvenile and Family Court Judges 2006 – present

Tennessee General Sessions Judges Conference 2006 - present

Tennessee Council of Juvenile and Family Court Judges 2006 - present

29. List honors, prizes, awards or other forms of recognition which you have received since your graduation from law school that are directly related to professional accomplishments.

2012 **Moral Kombat** Ethical Visionary Leadership Award

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

None

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.

December 19, 2014 – Panelist for Northeast Tennessee Chapter of the Federal Bar Association Annual Ethics CLE Seminar. I took part in a Judicial Panel Discussion on “Ethics in the Courtroom” along with US Magistrate Dennis Inman and Third Judicial District Chancellor Doug Jenkins.

May 11, 2012 – I presented a Criminal Law update for the Greene County Bar Association CLE program.

I have also taken part in additional CLE programs sponsored by the Greene County Bar Association regarding Ethics/Preparedness/Courtroom Tips for Attorneys, however I cannot remember all the dates and other specific details.

I have been a presenter for the Greeneville Police Department during their Officer Training sessions which are required for officers to maintain their certification. I typically address topics such as search & seizure; probable cause issues; domestic relations issues, etc.

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.

I was appointed the Greene County Juvenile Court Referee in 2002. This was an appointed position, and I served in that position until 2006.

In 2006 and again in 2014, I ran unopposed for the position of Greene County General Sessions and Juvenile Court Judge.

Other than the dates and positions set forth above, I have not been appointed or taken part in any

other election for a public office.

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 that reflect your personal work. Indicate the degree to which each example reflects your own personal effort.

I have attached 2 Transfer Orders that I prepared and Entered in regard to Juvenile Court hearings in the past 18 months.

In General Sessions Civil Court, I do not get the opportunity to rule on Motions for Summary Judgment very often – I believe I have had 2 in 9 years – or other lengthy motions that would cause me to enter a lengthy order. In General Sessions Criminal Court, I typically rule orally from the Bench in regard to any Motions due to the sheer volume of cases heard in a typical day. Almost daily, however, I do find myself conducting legal research via Lexis on a variety of topics. Any Legal Briefs, Appeals, Motions, etc. written by me as an Attorney would be from almost 10 years ago, and I did not feel those writings would be appropriate given the amount of time that has passed since they were written.

ESSAYS/PERSONAL STATEMENTS

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

I am seeking this position because I feel that my background and experience have thoroughly prepared me for the Circuit Court bench. I enjoy helping people, and I believe I can make a difference in the lives of individuals who come before me. I recently dismissed a paternal grandparents' petition for custody against the biological mother after a complex trial. In ruling from the bench I strongly encouraged all involved to focus on the female teenager (who didn't want to see her grandparents), and I asked her to give her grandparents a second chance. The grandfather approached me in public about a month after my decision and thanked me for what I had done, which surprised me since I dismissed his petition. He told me that all the parties had

“started over” thanks to my comments in court and that they were all getting along wonderfully. That was rewarding to me.

36. State any achievements or activities in which you have been involved that 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)*

As a practicing attorney, I would give legal advice and provide legal services for free or at a reduced rate to those unable to afford my representation. I would take appointed cases to represent juveniles and adult criminal defendants.

As a Judge, I am very cognizant of and committed to making sure that everyone is treated fairly and justly without regard to race, gender, or socio-economic status.

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 seeking the seat of Circuit Court Judge for the Third Judicial District, which consists of Greene, Hamblen, Hancock and Hawkins Counties. There are 3 Circuit Judges and 1 Criminal Court Judge. I am very familiar with all the counties and I feel that I have strong ties across the entire District. Greene County has the largest population of the counties in the District and has the largest number of cases filed in Circuit Court among the counties. Additionally, the Drug Task Force main office and the District Attorney's main office are both in Greene County. The DTF agents and DA's office frequently need search warrants or judicial subpoenas signed by a Judge, and I believe that if I am selected that will be a benefit to those entities.

I have an excellent working relationship with the current Circuit Court Judges and Criminal Court Judge.

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)*

My parents instilled in me at an early age that one must give back and be a servant to others. My parents continue to set that example for me as they just stepped down as co-Treasurers at the church we attend. They served the church in that role for the past 25 plus years – and decided at the ages of 82 and 77 it was time to “retire” from that role. My father continues to serve the small town of Baileyton as a town Alderman and he serves on the Rural Health Consortium Board of Directors.

Being involved in community organizations and “giving back” is a part of who I am, and I cannot imagine NOT being involved. I feel that I am a better Judge because I interact with so many different people and families in community organizations, and I get to hear and see the struggles and successes of others with different life experiences and backgrounds. I have coached youth sports for over 10 years – I even coached before I had kids. I currently coach 3 basketball teams, 1 volleyball team and 1 fast pitch softball team. In the past year, I believe that I have coached over 150 games. There are days that I leave the courthouse, go to a 5pm practice for one child, then a 6:30 game for another child and eventually get home around 8 or 9pm. I would not change a thing, however.

I not only coach youth sports, but I am involved in many other activities and events in our

community. I have assisted organizations in various fundraisers such as “Dancing with the Stars – Greene County Style” to benefit the Volunteer Center of Greene County; I have served as a “Celebrity Waiter”; I emcee many community events; and I take part in many activities at my church. By being so involved, I am widely seen in the community and oftentimes approached by individuals with legal questions or questions about Court programs. I consider myself “on the clock” all the time and do my best to be a public servant in both my professional and personal life.

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

It sounds corny, but I love helping people and educating others. Had I not become a lawyer, I would have been in the classroom or on the court “teaching.” My father was a teacher/coach/principal for 40 years in the public schools of Hawkins and Greene Counties. My mother worked for almost 30 years as a bank teller in Hawkins County. I was raised in a home where I was inspired and taught that hard work and being loyal to others would pay off in life. I see so many juveniles who do not have the family structure that I had which enabled me to succeed. However, for each juvenile I try to find something or some way to “connect” with them to give them hope and to inspire them. I have shared my mother’s story with juveniles – a story of a father who left her and her siblings when she was 2 years old and malnourished – and that my mother was later shuffled from relative to relative during her childhood. My mom’s story and life experience has made me a better Judge in so many ways.

I love my job because I truly feel like I help people and I make a difference in the lives of others. My family’s roots in Greene County go back to the 1780’s – I am a 7th generation Greene Countian, which gives me a sense of pride and obligation in regard to the area, the people and helping others. I come to work each day with the optimism that I may inspire someone, say something that will give someone hope, or do something that will make a difference in someone’s life. At the end of the each day, I want to be able to look in the mirror and be able to say that I dispensed justice in a fair manner that day and that I made a positive impact on someone’s life that day.

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)*

As a Judge, there have been occasions wherein I have disagreed with a particular statute or law, however given my oath to uphold the law, I have applied the law as required. There have been criminal matters when I have had to suppress a stop of a vehicle or a search which resulted in the finding of drugs due to the fact an officer has not followed Constitutional or statutory guidelines.

As an attorney and as a Judge, I have always realized that the law and our system is bigger than my personal thoughts about a statute or law. If I believe that a law or statute is unjust, I must

still interpret it and apply it to the facts of the case I am hearing. I cannot and will not violate my oath to abide by the law as written.

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 Council or someone on its behalf may contact these persons regarding your application.

A. Hon. Thomas J. Wright, Third Judicial Dist. Circuit Court Judge, 101 South Main Street, Greeneville, TN 37743;

B. Hon. Dwight Stokes, Sevier County General Sessions and Juvenile Court Judge, 125 Court Ave., Sevierville, TN 37862;

C. Dr. Stephen Loyd, Chief, Medicine Service, Associate Chief of Staff for Education, Mountain Home VA Medical Center, Associate Professor of Medicine, Quillen College of Medicine, East Tennessee State University, Mountain Home, TN 37684;

D. Gail Davis Jeffers, Retired Circuit Court Clerk for Greene County,

E. Cecil Mills, Assistant District Attorney General, Third Judicial District, State of Tennessee, 124 Austin Street, Suite 3, Greeneville, TN 37745;

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] Circuit Court - Third Judicial District of Tennessee, and if appointed by the Governor and confirmed, if applicable, under Article VI, Section 3 of the Tennessee Constitution, 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 Council 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 Council may publicize the names of persons who apply for nomination and the names of those persons the Council nominates to the Governor for the judicial vacancy in question.

Dated: January 27, 2015.

Kennan Bailey
Signature

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



**THE GOVERNOR'S COUNCIL FOR JUDICIAL APPOINTMENTS
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 Governor's Council for Judicial Appointments to request and receive any such information and distribute it to the membership of the Governor's Council for Judicial Appointments and to the Office of the Governor.

Kenneth N. Bailey, Jr.
Type or Print Name

Kenneth Bailey, Jr.
Signature

January 27, 2015
Date

017239 (TN)
BPR #

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

GENERAL SESSIONS COURT
Cases Filed 2006 - 2014

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>TOTAL</u>
CRIMINAL	5,875	5,406	5,961	4,421	4,677	4,601	4,537	5,139	5,727	46,344
CIVIL	2,603	2,796	2,965	3,032	2,840	2,922	2,374	2,400	2,505	24,437
TRAFFIC	7,561	6,597	7,585	7,212	6,730	5,287	5,988	6,662	8,367	61,989
COMMITTALS	<u>54</u>	<u>37</u>	<u>56</u>	<u>68</u>	<u>44</u>	<u>49</u>	<u>56</u>	<u>59</u>	<u>71</u>	<u>494</u>
TOTAL	<u>16,093</u>	<u>14,836</u>	<u>16,567</u>	<u>14,733</u>	<u>14,291</u>	<u>12,859</u>	<u>12,955</u>	<u>14,260</u>	<u>16,670</u>	<u>133,264</u>

* Does not include Juvenile Court Cases

WRITING SAMPLES

IN THE JUVENILE COURT FOR GREENE COUNTY, TENNESSEE

**IN THE MATTER OF:
A CHILD UNDER THE AGE OF EIGHTEEN**

ID# :

DKT# JW :

ORDER

This matter came on to be heard before the Honorable Kenneth N. Bailey Jr., Judge of the Juvenile Court of Greene County, Tennessee, on the 23rd day of January, 2014, upon a petition alleging the Juvenile Defendant committed the offense of Attempted First Degree Murder, and upon a motion to Transfer the Juvenile Defendant to Criminal Court filed by the District Attorney.

Based upon the testimony from 14 witnesses, 15 exhibits, the video introduced, and the Court record, the Court FINDS that the Juvenile Defendant shall be transferred to Criminal Court pursuant to T.C.A. 37-1-134.

In regard to the first factor to be considered by the Court, T.C.A. 37-1-134 (b) (1) “the extent and nature of the child’s prior delinquency record”, the Court finds that the Juvenile Defendant’s prior record with this Court consists of a Criminal Trespassing charge that was eventually dismissed after the Juvenile Defendant complied with the agreement that he had

entered into with the State. However, the Court is troubled by the Juvenile Defendant's "talk" on Facebook about dealing marijuana, and not just dealing marijuana at South Greene High School but the Juvenile Defendant was trying to hire someone to "cover the Newport area". The Juvenile Defendant stated that he was making \$200 a week and that they, (the person he was trying to "hire"), should "hustle" like he does. This factor does not weigh in favor of Transfer.

Pursuant to T.C.A. 37-1-134 (b) (2), the second factor to be considered by the Court, "the nature of past treatment efforts and the nature of the child's response thereto", the Court finds that there had been past treatment efforts made but testimony was presented that the Juvenile Defendant ceased going to treatment, and he did not take his medication as he should have, so this factor weighs in the State's favor.

The third factor to be considered by the Court, T.C.A. 37-1-134 (b) (3), "whether the offense was against person or property, with greater weight in favor of transfer given to offenses against person", the Court finds in watching the video of the offense, the manner in which the Juvenile Defendant sat and stared at _____, the victim, greatly concerns the Court. The Juvenile Defendant looked around to double check, there were no adults, and that no one was around to stop him. The Juvenile

Defendant sat at a table, alone, in the cafeteria, and stared at the victim for 4-5 minutes. Earlier that morning, the Juvenile Defendant was texting a friend about “something’s going to happen”. The Juvenile Defendant had a lot of time to think about his actions, it was not a split decision for him.

The Court finds that this offense was committed in an aggressive manner against the victim. The Juvenile Defendant could have very easily killed the victim or paralyzed him for life. The Juvenile Defendant could have severed the victim’s spine stabbing the victim in the back as he did. The Court does take note that a female, sitting at the table with the victim, reacted instantly, without flinching and jumped on the Juvenile Defendant’s back in an attempt to stop the attack. The Court is very disturbed that the Juvenile Defendant continued to pursue the victim, even with this young lady on his back. As the victim staggered out of the school cafeteria, the Juvenile Defendant did not stop running after the victim. The anger and the aggressiveness that the Juvenile Defendant exhibited that day is a factor that weighs heavily in favor of transferring the Juvenile Defendant to Criminal Court.

T.C.A. 37-1-134 (b) (4), the fourth factor to be considered by the Court, “whether the offense was committed in an aggressive and premeditated manner”, the Court finds that this offense absolutely was aggressive and

premeditated based on the reasons set forth earlier. This factor weighs heavily in favor of Transfer of this Juvenile Defendant to Criminal Court.

T.C.A. 37-1-134 (b) (5), the 5th factor to be considered by the Court, “the possible rehabilitation of the child by use of procedures, services and facilities currently available to the Court in this state”, the Court finds that if the Juvenile Defendant remains in the Juvenile Justice system, the maximum sentence he could receive would be 2 years, since he could only be held until the age of 19. The Court has considered the question posed by the State on 1-21-14, “Is 2 years enough for this kind of crime?”, this weighs heavily on the Court because the Court is of the opinion that 2 years is not enough.

The sixth factor to be considered by the Court, T.C.A. 37-1-134 (b) (6), “whether the child’s conduct would be a criminal gang offense if committed by an adult”, the Court finds that this offense was not and as such this factor does not apply.

When the Court applies all these factors, each factor weighs heavily in favor of transferring the Juvenile Defendant to Criminal Court. The Court does not make this decision lightly. This case has been one of the toughest decisions that the Court has made in the 7 and one-half years on the bench. The Court has to weigh all the above factors and consider the safety of others. There has to be a consequence for the Juvenile Defendant’s actions

and the Court does not think the Juvenile Justice system is the appropriate system to deal with the Juvenile Defendant at this time.

The court recognizes that part of the Defense argument was that the child is committable to an institution for the mentally ill. That was also part of the report submitted by and testified to by the Defense expert, Dr. Tom Schacht. The Court has researched that issue and came up with a case that actually was a case originating in Greene County, *Karen Howell v. State of Tennessee*. That particular case was a post conviction hearing and the same argument was used in the Transfer Hearing. The Tennessee Supreme Court in 2005 issued an opinion that addressed “being committable to a mental health facility” and found that those factors did not apply. This Court does not believe that the Juvenile Defendant in this case is committable either. The Court does not feel that the Juvenile Defendant’s depression was such that he is committable to a mental health facility, he is not mentally challenged, nor is he mentally ill. Several factors have contributed to cause the Juvenile Defendant to be where he is today (tough upbringing, lack of an active involved father from an early age, he’s not been able to see how to effectively handle a crisis, and he has not learned how to appropriately handle rejection, conflict, the loss of a girlfriend, etc..) The Juvenile Defendant reacted to rejection in a way that is not acceptable in our society.

Rule 24 of the Rules of Juvenile Procedure requires the Court to set a bond once a child is transferred to Criminal Court. Considering the facts and circumstances of this case, the Court sets the Defendant's bond at \$80,000.

If bond is made for this child, the Court will have to personally review the bond arrangements with the bonding agency to ensure there is sufficient surety. The Court will have to review the paperwork and sign off on the bond.

If the Court approves a bond for the Defendant, he must abide by the bond monitoring conditions listed below:

- * Defendant must meet with an adult probation officer once every 3 weeks for alcohol and drug testing;
- * Defendant is restrained from being on any school property, not just in Greeneville and Greene County but anywhere;
- * Defendant shall enroll in a home school or other educational program;
- * Defendant shall abide by an 8:00 p.m. curfew;
- * Defendant is restrained from any and all contact with Daniel Birchfield, the victim in this case, or any other witnesses for the State;
- * Defendant is ordered to attend mental health counseling;
- * Defendant is ordered to reside with his mother and stepfather and he is not to change his residence;
- * Defendant is prohibited from staying overnight at any other location other than his mother's residence;
- * Defendant is to have no activity whatsoever on social media (no Facebook,

Twitter etc.);

As the Court has found grounds to Transfer this case to Criminal Court,
this Defendant is now in the custody of the Greene County Sheriff.

ENTER THIS THE _____ DAY OF JANUARY, 2014

**KENNETH N. BAILEY JR.
JUVENILE COURT JUDGE**

IN THE JUVENILE COURT FOR GREENE COUNTY, TENNESSEE

IN THE MATTER OF:

ID #

**DOCKET #'S JW 1 ; JW1 ;
JW 1**

ORDER

This matter came on to be heard before the Honorable Kenneth N. Bailey Jr., Juvenile Court Judge for Greene County, Tennessee, on the 8th day of October, 2013, upon petitions alleging the child committed the offenses of: Aggravated Rape, Burglary, and Theft Under \$500, and upon a motion filed by the State of Tennessee, on June 30th, 2013, to transfer

a juvenile, to the custody of the Sheriff of Greene County to be held according to law and to be dealt with as an adult in the Criminal Court for Greene County. After statements of counsel, evidence introduced, (including documents which filled a Banker's Box), testimony presented, and from the record as a whole, the Court makes the following findings, and so orders:

The Court finds that there are reasonable grounds to believe the following:

That _____ did commit the offenses of Aggravated Rape, Burglary, and Theft under \$500;

That _____ is not committable to an institution for the developmentally disabled or mentally ill. Testimony presented by Jill Stinson, PhD, indicated that she found **no evidence** of mental retardation, or mental illness exhibited by the child that would indicate the need for an involuntary commitment to a mental health facility;

That the interests of the community do require that
be put under legal restraint, due to the serious nature of the offense of
Aggravated Rape;

That the Court finds that _____ has an extensive prior
delinquency record, including past aggressive actions against persons;

That _____ has had various treatment efforts since the age
of 8 and his response to those treatment efforts has been unsuccessful;

That the Court finds that the Department of Children's Services, the
Treatment Providers, the Court System, and others failed to recognize the
numerous "red flags" in _____ case, and that he should have been
placed in a secure treatment facility as early as 2012. This juvenile's **many**
escape/absconding incidents were obvious signs that he was in need of a
higher level of care.

That the Court finds that the offense of Aggravated Rape, by its nature
being an offense against a person, is an offense that favors transfer of this
juvenile to Criminal Court;

That _____ did commit this offense in an aggressive and
pre-meditated manner. That the child sought out a place where a woman
may be working, that he did enter Glamour Tans, the victim's place of
employment, with the intent of doing "something sexual", that he did grab
the victim and force her into a room where a struggle ensued and the offense
occurred, that the victim did suffer bodily injury (bruises, abrasions, pain
and psychological trauma) as a result of this offense, and that the victim did
attempt to defend herself for the 15 – 16 minutes that it took for the offense
to take place.

The Court finds that _____ shall be transferred to Criminal Court, to be tried as an adult, for the charges of Aggravated Rape, Burglary, and Theft Under \$500.

The Court finds that pursuant to TCA 37-1-134 (c), it is in the child's best interest to remain in the legal custody of the Department of Children's Services, until such time as he appears in Criminal Court. The Court finds that is in the child's best interest for him to receive counseling/treatment while in custody of the Department of Children's Services.

That the Court recommends that _____ be placed at Mountain View Youth Development Center, to receive sex offender treatment while in custody of the Department of Children's Services awaiting disposition by the Criminal Court for Greene County.

ENTER THIS THE _____ DAY OF _____, 2013

**KENNETH N. BAILEY JR.
JUVENILE COURT JUDGE**