

Tennessee Trial Court Vacancy Commission
Application for Nomination to Judicial Office

04/15/16

Name: Barry Ross Tidwell

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(including county)

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INTRODUCTION

Tennessee Code Annotated section 17-4-301 et seq. charges the Trial Court Vacancy Commission with assisting the Governor and the People of Tennessee in finding and appointing the best qualified candidates for judicial offices in this State. Please consider the Commission's responsibility in answering the questions in this application questionnaire. For example, when a question asks you to "describe" certain things, please provide a description that contains relevant information about the subject of the question and, especially, that contains detailed information that demonstrates that you are qualified for the judicial office you seek. In order to properly evaluate your application, the Commission needs information about the range of your experience, the depth and breadth of your legal knowledge, and your personal traits such as integrity, fairness, and work habits.

This document is available in word processing format from the Administrative Office of the Courts (telephone 800.448.7970 or 615.741.2687; website www.tncourts.gov). The Commission requests that applicants obtain the word processing form and respond directly on the form. Respond in the box provided below each question. (The box will expand as you type in the document.) **Review the separate instruction sheet prior to completing this document. Submit by the noon deadline date an original (unbound) completed application (with ink signature) to the Administrative Office of the Courts.** In addition, submit a digital copy with electronic or scanned signature via email to 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.

Rutherford County General Sessions Judge, Part II

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 Tennessee in 2000 and my Board of Professional Responsibility number is 0020544

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

Tennessee is the only state in which I am licensed to practice law.

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).

I completed my legal education in 1998 at the Nashville School of Law

May 1, 1997 - September 1, 2000

Law Clerk for the Honorable Cheryl Blackburn, 20th Judicial District.

September 1, 2000 - April, 2003

Sole practitioner, Law Office of Barry Tidwell - Nashville, Tennessee

April 2003 - February 2006

Partner - Tidwell Cartee, PC - Nashville, Tennessee

February 2006 - December 2012

Partner - Price & Tidwell - Murfreesboro, Tennessee

January 2013 - August 31, 2014

Associate Attorney - Bulloch, Fly, Hornsby & Evans - Murfreesboro, Tennessee

September 1, 2014 - Present

Rutherford County General Sessions Judge, Part II - Murfreesboro, Tennessee

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

I am currently a General Sessions Judge in Rutherford County, Tennessee. My dockets consist of approximately 80% criminal cases, 5% civil assets forfeiture, 5% mental health court, 5% suspended license docket, 4% Citation docket, and 1% civil cases.

7. Describe generally your experience (over your entire time as a licensed attorney) in trial courts, appellate courts, administrative bodies, legislative or regulatory bodies, other forums, and/or transactional matters.

During my first through third year of law school (1993-1997) I worked at the Metro Nashville Legal Department in Nashville, Tennessee. While my general duties were as a runner for the department, I would, on occasion, be called upon to do legal research for the staff attorneys. The research included issues involving one or more of the departments within the Metro Nashville Government and was supervised by one of the staff attorneys. The experience I gained was invaluable and touched on a wide array of areas of the law including civil rights violations, contract negotiations and disputes, delinquent property tax enforcement, and issues with legislation before the Metropolitan Counsel.

In May of 1997, at the end of my third year of law school, I was hired by the Honorable Cheryl Blackburn, Criminal Court Judge of Division III, 20th Judicial District, as her law clerk. During my three and one half years with Judge Blackburn my legal experience was solely in the areas of substantive criminal law and criminal procedure.

As Judge Blackburn's law clerk I assisted her in drafting memoranda of law; performing legal research; compiling jury charges; taking notes during motion hearings and trials; and any number of other related judicial tasks. My primary areas included assisting in the drafting of memoranda of law in the areas of post-conviction relief, writs of *habeas corpus*, and motions to suppress evidence.

The experience of being closely involved in the day-to-day operation of a judicial office was very rewarding. Likewise, the opportunity to watch up-close the process that Judge Blackburn took in deciding important issues, many of which affected lives for years to come, gave me the basis for the approach that I now take everyday in my General Sessions courtroom. This approach affects my preparation, discretion, and interaction with members of the bar and litigants.

On September 1, 2000, I opened a solo law practice in Nashville, The Law Office of Barry Tidwell, in a suite of offices that had a mix of both new and experienced lawyers. In the beginning I took appointed cases in the Davidson County General Sessions Court. I also took guardian *ad litem* appointments for conservatorship cases out of the Probate Court of the 20th Judicial District. My practice quickly evolved into a general practice where I took cases involving domestic relations, criminal defense, basic estate planning, personal injury, and workers compensation.

In April of 2003 I took on a partner, Eric Cartee, and we opened an office in Nashville under the business name of Tidwell Cartee. We practiced a true partnership where we both focused on criminal defense and personal injury cases. We often assisted each other on the firms cases and all cases were interchangeable among each partner.

In 2003 two events occurred that changed my law practice:

1. I was admitted to the Criminal Justice Act (CJA) panel of lawyers for the Middle District of Tennessee

This panel of lawyers is limited to lawyers who have been chosen due to experience and skill to take appointed criminal cases in federal court. No lawyer but those on the panel of lawyers

are permitted to accept appointments in the Middle District of Tennessee. From 2003 until September 1, 2014 I represented fifty-six (56) clients through the criminal justice act panel.

In addition to this number, I represented clients in regards to federal civil rights violations, petitions for *habeas corpus* relief, and other general civil matters.

2. In 2003 I was hired by a client to defend him in a civil case in which he was accused of surreptitiously stealing DirecTV satellite signals. One client led to another and within a few years I had represented well over one hundred (100) individuals who had either been sued in the Western, Middle, or Eastern District of Tennessee or who had been threatened to be sued by DirecTV.

The volume of these lawsuits required focused organization because at any given time the cases would be in different stages of litigation. The experience I gained in the area of civil litigation for the duration of these cases was invaluable. The issues presented were complex and at one point resulted in my assisting other lawyers from the Eleventh Circuit prepare for oral argument before the Eleventh Circuit Court of Appeals sitting in Miami, Florida. After a couple of years DirecTV discovered that the cost of prosecuting these cases far outweighed any return and they stopped filing lawsuits.

In April of 2006 I moved my practice to Murfreesboro and formed the firm of Price & Tidwell with my former law partner John Price. Our practice involved the general practice of law, in both state and federal courts, and specifically included the areas of personal injury cases, domestic relation cases, criminal defense matters, and estate planning/probate cases.

In January 2013 I joined the Murfreesboro law firm of Bulloch, Fly, Hornsby & Evans. While at the firm I continued to handle personal injury cases, domestic relation cases, criminal defense matters, and estate planning/probate cases.

In August of 2014 I won a county-wide contested election and on September 1, 2014 took the bench on the Rutherford County General Sessions Court, Part II. This experience has included holding court five (5) days a week. My schedule includes the following: Monday - Violation of Probation and criminal docket; Tuesday - Special set hearings and assist fellow judge with his docket; Wednesday - Suspended License docket and Mental Health Court; Thursday - Criminal Docket; Friday - Tennessee Highway Patrol docket, violation docket, and criminal docket. My time on the bench has given me perspective from the bench on how to run docket, how to properly treat both lawyers and litigants, and how to adjust from the world of private practice to life as a judge.

While in the private practice of law I appeared in every court in the 16th judicial district; the United States District Courts for the Western, Middle, and Eastern Districts of Tennessee; the Sixth Circuit Court of Appeals; and the Tennessee Court of Criminal Appeals.

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

State v. Eric D. White, CCA No. M2001-02731-CCA-R3-CD - After a jury trial conviction I represented Mr. White on his appeal. The Court of Criminal Appeals reversed the conviction based upon insufficiency of the evidence. The case was reversed and dismissed.

State v. Paul Dennis Reid, Davidson County Case Nos. 97-C-1834 and 97-C-1836 - I was a law clerk for Judge Blackburn during the Davidson County death penalty trials of Paul Dennis Reid. Although Judge Blackburn was assisted by a capital case attorney from the Administrative Office of the Courts, I was involved in most discussions concerning rulings in the case and became very well versed in the case law concerning the evidentiary issues that arose during the two capital murder trials.

DirecTV v. Multiple clients - At one point I was the only attorney in Tennessee taking multiple clients in this multi-state litigation involving the surreptitious interception of the satellite signals of DirecTV. The litigation lasted for approximately two years and was virtually the only area of my practice during this time frame except for my federal criminal practice.

State v. Antonio Alexander Rutherford County Case No. F-64676 - I was lead counsel in this death penalty case tried in June of 2010. Mr. Alexander was ultimately convicted and sentenced to Life Without Parole instead of Death.

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

Although stated above, I would like to bring specific attention to my involvement in the Rutherford County Mental Health Court. After being elected in August 2014 I immediately began the process of starting a Mental Health Court in Rutherford County. With the aid of a talented committee, the least of which was myself, we met for approximately a year to discuss the mechanism and procedures that needed to be in place before we could start the court. In February of 2017, after much planning, we opened court for the first time. I now have close to 20 participants who are required to follow the rules and regulations of the court, comply with mental health providers, and, if they can, become employed.

The Mental Health Court has been a success in giving the participants the tools needed to avoid new arrests, to take and remain on mental health medications, and to become productive members of the community. Mental Health Court has become the highlight of my week due to the weekly feedback I receive from each participant regarding their successes, and, when there is a failure, the ways that the individuals now know how to get back to where they need to be.

Without being presumptuous, it would be my desire to keep the Mental Health Court under my jurisdiction should I be appointed to the Circuit Court bench.

Additionally, I have presented, or will present at General Sessions Judges fall conference, the following Continuing Legal Education programs:

Case Law Update - Barristers Lions Club - October 2014

Legislative Update - Barristers Lions Club - July 2015

Legislative and Case Law Update - Judicial Commissioners Conference - July 2015

General Sessions Court Overview - Murfreesboro Citizens Police Academy - May 2016

SCOTUS Justices from Tennessee - Rutherford/Cannon County Bar Assoc. - August 2016

Recovery Court Overview - Smyrna Rotary Club - June 2016

Mental Health Court Overview - Smyrna Lions Club - April 2017

Mental Health Court Overview - Judicial Commissioners Conference - July 2017

Reel Ethics - Barristers Lions Club - August 2017

The Use of Rule 41 Electronic Search Warrants: Lessons Learned and Practical Tips -

(Scheduled for September 21, 2017 - General Sessions Judges Conference)

Finally, I have in the past been involved in the Christian Legal Clinic in Rutherford County. As a part of this group I would go from time to time to the Salvation Army building, or, later to the Law Office of John Blankenship, to give legal advice to those who otherwise may not be able to afford to seek legal counsel.

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

I submitted an application in 2012 for the 16th Judicial District Third Circuit Court. I was not selected as one of the three names sent to the Governor. This is the same seat that I am applying for now.

EDUCATION

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

Middle Tennessee State University - August 1988 - August 1992 - Bachelor of Science
Criminal Justice Major and Psychology Minor
Nashville School of Law - August 1993 - May 1998 - Doctor of Jurisprudence

PERSONAL INFORMATION

12. State your date of birth.

January 8, 1970

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

47 years

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

14 years

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

Rutherford County

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

I have not served in the military.

17. Have you ever pled guilty or been convicted or are now on diversion for violation of any law, regulation or ordinance other than minor traffic offenses? If so, state the approximate date, charge and disposition of the case.

No

18. To your knowledge, are you now under federal, state or local investigation for possible violation of a criminal statute or disciplinary rule? If so, give details.

No

19. Please identify the number of formal complaints you have responded to that were filed against you with any supervisory authority, including but not limited to a court, a board of professional responsibility, or a board of judicial conduct, alleging any breach of ethics or unprofessional conduct by you. Please provide any relevant details on any such complaint if the complaint was not dismissed by the court or board receiving the complaint.

I have had two (2) formal complaints filed against me with the Board of Professional Responsibility to which I have had to respond. Both complaints were dismissed after the investigations.

20. Has a tax lien or other collection procedure been instituted against you by federal, state, or local authorities or creditors within the last five (5) years? If so, give details.

No

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

No

22. Have you ever been a party in any legal proceedings (including divorces, domestic proceedings, and other types of proceedings)? If so, give details including the date, court and docket number and disposition. Provide a brief description of the case. This question does not seek, and you may exclude from your response, any matter where you were involved only as a nominal party, such as if you were the trustee under a deed of trust in a foreclosure proceeding.

Jason L. Holley v. Price & Tidwell, John Price, Barry Tidwell, Rutherford County Chancery Court, No. 09-1731MI. In this case a former client sued my firm, my partner, and myself for the return of a \$750.00 fee. Our position was that the fee had been earned. The case was dismissed on August 10, 2011. Mr. Holley filed a notice of appeal but never filed a brief. The appeal was dismissed and Mr. Holley was taxed with all costs on June 4, 2012. (See Court of Appeals No. M2011-02010-COA-R3-CV)

State of Tennessee, Plaintiff-in-error v. Spencer Shulke, Aggrieved Defendant; General Sessions Court, hereinafter I.C.- Inferior Court Counter defendants - This lawsuit was filed on April 20, 2015, against the General Sessions Judges by a sovereign citizen alleging various Constitutional violations. The case was dismissed on June 26, 2015.

23. List all organizations other than professional associations to which you have belonged within the last five (5) years, including civic, charitable, religious, educational, social and fraternal organizations. Give the titles and dates of any offices which you have held in such organizations.

Rutherford County Habitat for Humanity

Board Member 2005-2008

Middle Tennessee Christian Student Center

Board Member - 2004 - 2016

Board Chairman - 2009 - 2012

Habitat for Humanity of Tennessee

Board Member - 2013 - Present

Board Chairman - 2017 - Present

Rural Hill Church of Christ

Deacon - 2003 - Present

Lions Club - Murfreesboro Downtown Barristers Chapter

2014 - Present

Club President - 2015 - 2016

Ezell-Harding Christian School

Board Member - 2014 - Present

24. Have you ever belonged to any organization, association, club or society which limits its

membership to those of any particular race, religion, or gender? Do not include in your answer those organizations specifically formed for a religious purpose, such as churches or synagogues.

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

No

ACHIEVEMENTS

25. List all bar associations and professional societies of which you have been a member within the last ten years, including dates. Give the titles and dates of any offices which you have held in such groups. List memberships and responsibilities on any committee of professional associations which you consider significant.

American Bar Association - August 8, 2008 - August 31, 2009

Tennessee Bar Association - January 2009 - March 2009; January 2012 - March 2012; August 2014 - Present

Nashville Bar Association - July 2001 - October 2001; April 2003 - October 2003

Rutherford/Cannon County Bar Association - 2006 - Present

Tennessee Association of Criminal Defense Attorneys - I am not a current member and do not have the dates of my membership.

Criminal Justice Act Panel (Middle District of Tennessee) - 2004 - 2014

Tennessee General Sessions Judges Conference - 2014 - Present

Murfreesboro Downtown Barristers Lions Club - 2014 - Present

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

Criminal Justice Act 10 year service award - November 14, 2014

Tennessee Judicial Academy - August 18-22, 2014

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

Rutherford County General Sessions Court, Part II - Elected

Contested primary winner - May 2014

Contested general election winner - August 2014

Took office September 1, 2014

ESSAYS/PERSONAL STATEMENTS

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

Since clerking for Judge Cheryl Blackburn in the 20th Judicial District back in the late 1990's I have desired to one day have the honor of sitting as a trial court judge. Judge Blackburn provided a wonderful example of how a judge should sit with grace and dignity, treat everyone fairly, and follow the law in all circumstances. I have tried every day that I have been a sitting judge to follow her example and the example of all of the other trial judges that I have appeared before who have attributes I consider worthy of replication. Judge Todd Campbell of the Middle District of Tennessee, as well as the trial judges of the 16th judicial district are also judges after which I have tried to pattern my judicial demeanor. While I absolutely love sitting on the General Sessions bench, it would be the honor of my professional life to move to Circuit Court.

29. Describe the judgeship you seek (i.e. geographic area, types of cases, number of judges, etc. and explain how your selection would impact the court. *(150 words or less)*

I am seeking the position of Third Circuit Court Judge for the 16th Judicial District. The 16th Judicial District covers Rutherford and Cannon Counties. The impact would be felt immediately. Due to the untimely death of Hon. M. Keith Siskin the other trial court judges have been dividing and hearing the dockets for Third Circuit in addition to their regular duties. My appointment would allow for the immediate operation of Third Circuit and the alleviation of the extra work the other trial courts have been experiencing. This would also ensure that litigants are heard in a timely manner.

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

Yes, I would uphold the law even if I disagreed with the substance of the law. To some degree I encounter these situations often as a General Sessions Judge. My philosophy is that a Judge's job is to apply the law as it is written by the General Assembly and avoid at all costs making law from the bench.

An example from when I was in private practice was an instance where I received approximately 5000 documents delivered pursuant to a 17(c) subpoena to a co-counsel office in a complex Medicare case. After a review of the documents it became clear that the documents contained email correspondence that could be considered work product of opposing counsel, and thus non-discoverable.

In this particular case it certainly could have been advantageous to my client to read the emails in that they could have provided insight into the strategy and mindset of my opponent. While I would have liked to read the emails, the ethical, legal, and moral answer was to alert opposing counsel and turn the documents over to them. That is exactly what I did.

REFERENCES

31. List five (5) persons, and their current positions and contact information, who would recommend you for the judicial position for which you are applying. Please list at least two persons who are not lawyers. Please note that the Commission or someone on its behalf may contact these persons regarding your application.

A. **Senator Jim Tracy**

B. **Jeff Davidson**

C. Luke Evans
D. Colleen Dudley
E. Ben Hall McFarlin

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 **Third Circuit Court, 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: August 17, 2017.



 Signature

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



**TENNESSEE TRIAL COURT VACANCY COMMISSION
ADMINISTRATIVE OFFICE OF THE COURTS**

511 UNION STREET, SUITE 600
NASHVILLE CITY CENTER
NASHVILLE, TN 37219

**TENNESSEE BOARD OF PROFESSIONAL RESPONSIBILITY
TENNESSEE BOARD OF JUDICIAL CONDUCT
AND OTHER LICENSING BOARDS**

WAIVER OF CONFIDENTIALITY

I hereby waive the privilege of confidentiality with respect to any information that concerns me, including public discipline, private discipline, deferred discipline agreements, diversions, dismissed complaints and any complaints erased by law, and is known to, recorded with, on file with the Board of Professional Responsibility of the Supreme Court of Tennessee, the Tennessee Board of Judicial Conduct (previously known as the Court of the Judiciary) and any other licensing board, whether within or outside the State of Tennessee, from which I have been issued a license that is currently active, inactive or other status. I hereby authorize a representative of the Trial Court Vacancy Commission to request and receive any such information and distribute it to the membership of the Commission and to the Office of the Governor.

Barry R. Tidwell

Type or Print Name

Barry R. Tidwell

Signature

August 17, 2017

Date

0020544

BPR #

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