The Governor's Council for Judicial Appointments

State of Tennessee

Application for Nomination to Judicial Office

Name: Bruce Irwin Griffey

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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 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.

I am an Assistant District Attorney General for the 24th Judicial District assigned to Benton County, Tennessee responsible for prosecuting all felonies and misdemeanor criminal cases as well as providing legal counsel and advice to designated government officials per statute.

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

1990, BPR #14329

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.

Mississippi (1992) #9360; Florida (1996) #89540

My licenses in Mississippi and Florida are no longer active. I stopped paying the fees required to maintain the active status of these licenses inasmuch as I no longer practice law in these jurisdictions, and do not foresee doing so in the future.

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).

I have never been denied admission to the Bar of any state. Prior to allowing my Mississippi license to lapse due to nonpayment of fees, in or around 2009, I requested that my license be placed on inactive status inasmuch as I was not practicing law in the State of Mississippi. As indicated above, my Florida license is suspended for nonpayment of bar fees, which I have elected not to continue to pay inasmuch as I no longer practice in Florida and do not foresee doing so in the future. During the time period that I resided and practiced in Florida, I believe my Tennessee license was suspended for nonpayment of fees and/or CLE reporting; however, upon returning to Tennessee, I completed all necessary steps to reinstate my Tennessee license to active status.

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).

Federal Judicial Law Clerk for the Honorable Aaron Brown, Jr., United States Magistrate Judge for the United States District Court for the Western District of Tennessee (Ret.), 1990 to 1991 (Memphis, Tennessee)

In this capacity, I conducted extensive legal research and assisted in the preparation of legal memoranda and decisions on both criminal and civil matters before the magistrate judge. The matters came before the Magistrate-Judge on original jurisdiction as well as civil and criminal pretrial motions and matters referred to the magistrate judge from the district court judge.

Federal Judicial Law Clerk for the Honorable Odell Horton, Chief United States District Judge for the United States District Court for the Western District of Tennessee (Dec.), 1991 to 1992 (Memphis, Tennessee)

In this capacity, I assisted the chief federal district court judge in case management and scheduling. Additionally, I conducted extensive legal research and drafted legal memoranda, orders and opinions for the judge's review, execution and entry. Moreover, I was fortunate to be able to meet with the attorneys handling civil cases in chambers to discuss discovery and other pretrial issues. The purpose of this scheduling conference was to allow the attorneys meet and discuss the case and bring any significant issues to the court's attention for consideration. Once the attorneys agreed upon pretrial scheduling dates, I would draft the order for submission to the Chief Judge Horton. Furthermore, U.S. District Court Judges in the Sixth Circuit typically sit by designation on Court of Appeals appellate panel cases upon the invitation and determination of the Chief Judge of the Sixth Circuit Court of Appeals. Accordingly, I obtained limited U.S. Court of Appeals law clerk experience. This unique opportunity consisted of reviewing all pleadings, motions, briefs, joint appendices, transcripts, exhibits and any other matter a part of the record on appeal. This case review applied to all cases - whether set for oral argument or to be decided on the briefs. Prior to oral argument, I would undertake extensive legal research on all issues in a case and draft a pre-hearing memorandum. This memorandum would point out the critical issues to be determined in order to properly resolve a case. I would also review all trial transcript testimony and highlight parts of the records. Following oral arguments, the panel would meet, discuss and decide the case. The law clerk handling that case for the judge asked to write the opinion would often prepare a draft written opinion unless the case involved significant legal issues.

Associate Attorney for William L. Bambach, Esq., 1992 (Columbus, Mississippi)

In this capacity, I was responsible for handling all aspects of civil and criminal cases in Mississippi state and federal courts for a small solo practitioner firm.

Assistant Attorney General for the State of Tennessee, Civil Rights and Claims Division, 1993 – 1994 (Nashville, Tennessee)

In this capacity, I represented the State of Tennessee and its officials in federal and state court in a number of different types of proceedings. I also represented the State of Tennessee before the Tennessee Claims Commission, and in state court in declaratory judgment actions involving interpretation and application of state law or administrative rules.

Federal Judicial Law Clerk for the Honorable Odell Horton, Chief United States District Judge for the United States District Court for the Western District of Tennessee (Dec.), 1994 to 1996 (Memphis, Tennessee)

I returned to clerk for Judge Horton.

Assistant Federal Public Defender for the Western District of Tennessee, 1996 to 2002 (Memphis, Tennessee)

In this capacity, I served as appointed counsel for criminal defendants in over 300 matters before the United States District Court for the Western District of Tennessee. I was responsible for all aspects of criminal litigation from indictment through appeal as well as supervision of investigators, paralegals and support staff. During this period, I gained substantial federal jury trial experience, serving as first chair or solo trial counsel in at least twenty (20) different federal jury trials. I also gained substantial federal appellate experience, appearing before the United States Court of Appeals for the Sixth Circuit on at least forty (40) different occasions.

Solo Practitioner, Griffey Law Office, 2002 to 2005 (Memphis, Tennessee)

I developed a private practice consisting of both general state civil litigation as well as federal criminal defense work at both the district court and appellate level. I performed all aspects of litigation, including preparing pleadings, completing discovery, participating in settlement negotiations, conducting trials, preparing appellate briefs and presenting oral arguments before the United States Court of Appeals for the Sixth Circuit. Additionally, I operated business functions of the law office and managed support staff.

Associate Attorney, The Hardison Law Firm, 2005 to 2007 (Memphis, Tennessee)

In this capacity, my practice focused on defending: (a) physicians in medical malpractice cases through physician owned mutual insurance companies, (b) large area hospitals in medical malpractice cases and related litigation and (c) nursing homes via insurance companies for wrongful death/medical malpractice/decubitus cases. I was responsible for performing all aspects of litigation.

Assistant Public Defender for the Ninth Judicial Circuit in and for Orange and Osceola Counties, Florida, 2007 (Kissimmee, Florida)

I relocated from Memphis, Tennessee to Central Florida in the Spring of 2007 with my wife and children due to my wife's transfer to the Tampa office of her law firm of Tate Lazarini. I worked for Public Defender Robert Wesley, and was assigned to the Major Crimes Unit for Osceola County, Florida. I was responsible for all phases of development of defense strategies and management of second chair attorneys, investigators and support staff in representing individuals charged with major felonies often with the possibility of mandatory life sentences.

Associate Attorney/Of Counsel, Wean & Malchow, P.A., 2008 – 2010 (Orlando, Florida)

In this capacity, I represented Condominium Associations and Homeowner Associations, providing legal advice to their governing boards as to Florida's statutory and regulatory law and representing them in construction defect litigation. A representative case was *The Forrest Club Homeowners Association vs. Roofing, Inc.*, a construction defects roofing case resulting in a

successful award for the Homeowners Association following a five day jury trial. In addition to state court litigation, I also appeared before the City of Orlando's Administrative Appeals Hearing Board, representing Condominium and Homeowner Associations regarding alleged fire code violations and modifications sought by various government officials to association property to meet alleged evolving standards.

Member Attorney, Davis & Griffey, 2010 to 2011 (Celebration, Florida)

I joined my wife in her growing law practice, which specialized in representing plaintiffs in securities arbitration cases as well as state and federal court securities litigation.

Co-Founder & COO, FLECC, LLC, 2008 – November 2013

My wife and I founded and I served in the capacity as the Chief Operating Officer of a company, which operated as the Foreign Language Immersion School – a private preschool and elementary school in Celebration, Florida. We took the company from a start-up idea, which derived from our desire to provide a better educational opportunity to our own children and other children in our community, to a thriving, seven-figure business operation. In my capacity as COO, I engaged in (1) all aspects of planning, budgeting, management and oversight of general operations and physical facilities; (2) resolution of human resource issues including worker's compensation and unemployment claims and management of a staff of 22 employees; (3) oversight of compliance with employer/employee wage, labor and safety statutes, agency regulations, and board decisions; (4) oversight of compliance with licensing regulations; (5) review of all vendor contracts; (6) development, implementation, and maintenance of all IT functions, including closed circuit camera system, networking of all computers and SmartBoard technology; and (7) billing and collections.

Assistant District Attorney General for the 24th Judicial District of Tennessee, December 2013 to present

In this capacity, I am responsible for representing the State of Tennessee and handling all aspects of the prosecution of cases involving crimes committed in Benton County, Tennessee.

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.

My present law practice is exclusively focused in the area of criminal law with 100% of my time dedicated to representing the State of Tennessee in criminal prosecutions.

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.

Over 16 years of my nearly 26 year law career have been focused on criminal law. Over this time period, I have been afforded the opportunity to experience the criminal justice system at both the state and federal level from multiple different perspectives in multiple different capacities. I was granted the opportunity to experience the criminal justice system from the vantage point of the trial court, serving in the capacity of a Federal Judicial Law Clerk to both Federal Magistrate Judge Aaron Brown and Chief District Judge Odell Horton for the United States District Court for the Western District of Tennessee. I served in this capacity collectively for a four (4) year period, and in this capacity, I assisted with case management and scheduling, legal research and the drafting of memoranda, orders and opinions. I also had the unique opportunity to observe and participate in the Sixth Circuit Court of Appeals appellate process as a visiting District Judge judicial law clerk. The experience was extraordinary.

I have also been afforded the opportunity to participate in the criminal justice system in the position of defense counsel for collectively ten (10) years, representing criminal defendants at both the state and federal level and at the trial and appellate level as both a private attorney and in the capacity of both a state and federal government official. I served as an Assistant Federal Defender for the United States District Court for the Western District of Tennessee for approximately five (5) years, handling at least twenty (20) federal jury trials and appearing before the United State Court of Appeals for the Sixth Circuit on at least forty (40) occasions. I served as an Assistant Public Defender for the State of Florida assigned to the Major Crimes Unit for Osceola County for a year, serving as first chair trial attorney and handling all phases of development of defense strategies and management of second chair attorneys, investigators and support staff in representing individuals charged with major felonies often with the possibility of mandatory life sentences. In private practice, I devoted collectively at least four (4) years to primarily representing criminal defendants at both the state and federal level, handling all aspects

of their cases from initial appearance or indictment through appeal.

I have also experienced the criminal justice system from the vantage point of a state prosecutor, having served for over 2 years as an Assistant District Attorney General for the 24th Judicial District, handling all aspects of all criminal cases in Benton County before the Juvenile Court and General Sessions Court of Benton County and before the Circuit Court for the 24th Judicial District, including, but not limited to handling arraignments, preliminary hearings, grand jury indictments, plea agreements, discovery, bench and jury trials and sentencing hearings.

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

I have appeared in at least forty (40) appellate cases before the United States Court of Appeals for the Sixth Circuit, resulting in ten (10) reported decisions:

United States v. Cole, 359 F.3d 420 (6th Cir. 2004)
United States v. Williams, 355 F.3d 893 (6th Cir. 2003)
United States v. Lineback, 330 F.3d 441 (6th Cir. 2003)
United States v. Sandlin, 291 F.3d 875 (6th Cir. 2002)
United States v. Sandlin 285 F.3d 407 (6th Cir. 2002)(opin. withdrawn, vactd w/o opin.)
United States v. Carter, 283 F. 3d 755 (6th Cir 2002)
United States v. Wright, 260 F.3d 568 (6th Cir. 2001)
United States v. Champion, 248 F.3d 502 (6th Cir. 2001)
United States v. Bahhur, 200 F.3d 917 (6th Cir. 2000)
United States v. Smith, 196 F.3d 676 (6th Cir. 1999)

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.

Not applicable

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.

Not applicable

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

None other than described above.

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.

Not applicable

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.

I attended the University of Mississippi for the 1981-1982 school year, and then transferred to the University of Tennessee at Knoxville where I studied for a semester (roughly Aug. to Dec. 1982). I left the University of Tennessee to pursue employment for approximately nine (9) months. Thereafter, beginning roughly August 1983, I attended Murray State University in Murray, Kentucky, and thereafter transferred back to the University of Mississippi where I graduated in the Spring semester of 1987 with a Bachelor of Arts degree, majoring in Political Science with a minor in English. I, then, attended the University of Mississippi School of Law beginning in the Fall of 1987 and graduated in the Spring of 1990 with a Juris Doctorate degree. While attending the University of Mississippi School of Law, I served as Chief Counsel of the Honor Council and President of the Lamar Society of International Law.

PERSONAL INFORMATION

15. State your age and date of birth.

53; 1963

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

I lived continuously in the State of Tennessee from 1964 through the Spring of 2007 (43 years) and from the Spring of 2013 through present day.

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

I lived in Henry County continuously from 1964 through the Fall of 1981 and from the Spring of 2013 through present day.

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

Henry 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.

Not applicable

20. 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

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 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.

Two. One in Florida - dismissed by investigation and prior to any hearing or action by the Board. And one in Tennessee – also dismissed by investigations prior to any hearing or action take by the Board. It is my best recollection the complaint in Tennessee is based on the same complaint in Florida due to my dual licenses. I reported the Florida complaint filed against me with the Tennessee Board of Professional Responsibility. The Florida complaint involved a fee dispute with a former client wherein the client recovered monies from his former Securities firm

after a representation agreement had been signed with my law partner and measures taken by her to seek recovery. The firm disbursed funds directly to the former client. Our firm did not recover any money.

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.

The IRS filed a tax lien relating to tax years dating back to 2008 relating to the operation of FLECC, LLC; the foreign language preschool we started, however, an installment agreement was reached with the IRS to pay the disputed taxes at issue.

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.

To the best my knowledge, I have been a party in only two (2) legal proceedings. Specifically, David Alsup v. Bruce and Rebecca Griffey before the General Sessions Court of Henry County, Dckt. No. 40GS1-2015-CV-97. Filed in January 2015. Construction/Contractor – Employment contract dispute. David Alsup was hired for the construction of a horse barn on our property. A dispute arose over the amount of time to do the work and amount of money claimed by Alsup for work completed prior to termination by us. Settlement was attempted but rejected by Alsup. At first court appearance, $2,500 settlement offer made by us and rejected by Alsup. A bench trial before Judge Jimmy Smith in the Fall of 2015, ended with judgment for Alsup in the amount of $2,750 that included all court costs and interest to date. Payment in full tendered to Henry County General Sessions Court Clerk Mike Wilson. Time to appeal expired with no appeal.

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.

I am a member of the Henry County GOP and served as Secretary of this organization in 2015,

and I have also been a member of the NRA. I have also been a member of hunt clubs, including Misty Morning Hounds and South Creek Foxhounds. I am in the process of organizing a foxhunting club with friends living in Henry County.

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.

    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

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.

I was a member of the Memphis Bar Association up until the Spring of 2007. Thereafter, I was a member of the Florida Bar Association until relocating back to Tennessee in the Spring of 2013 at which time I became a member of the Henry County Bar Association.

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.

I was appointed to serve on the Special Committee on Local Rules of Federal Court in 2006, which drafted standardized local rules for implementation by the federal district courts in Tennessee.

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.

None.

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 one of three applicants selected as a finalist for the United State District Court Magistrate Judge position for the Western District of Tennessee in 2003.

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.

Attached are two writing samples both of which were written solely by me.

ESSAYS/PERSONAL STATEMENTS

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

I am seeking appointment to the Tennessee Court of Criminal Appeals inasmuch as I view it as an opportunity to work on important cutting edge legal issues, improve the administration of justice and ensure that the U.S. and state constitutions are upheld and properly applied along with statutory law enacted by our legislature, case opinion precedent and canons of ethics. I also view it as an opportunity to further my professional career with greater intellectual challenge while also continuing to engage in work that is beneficial to society and personally satisfying, particularly in light of the variety and challenge of new legal issues that confront someone serving on the appellate bench and the opportunity to decide issues of first impression that have broad impact on the lives of people in our community.

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)***

My varied professional background as both a public defender and as a prosecutor demonstrates

my commitment to equal justice under the law. It also makes me particularly well suited for this position, having focused 16 years of my 26 year legal career in the area of criminal law with significant trial and appellate experience. Having served in multiple different roles within the criminal justice system at both the state and federal level and at the trial and appellate level – serving as a federal judicial law clerk, a public defender at the state and federal level, private defense counsel in state and federal criminal jury trials and appeals and a state prosecutor – I bring multiple different perspectives to the table and have a unique ability to more fully understand and appreciate the positions of different parties to a case to ensure equal justice under the law. I have consistently provided free legal advice and assistance when and where feasible although I have never sought to document these efforts. I did provide pro bono services for pro se litigants in general sessions in Shelby County as part of the Hardison Law Firm's community out-reach.

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 seek appointment to the Western Section of the Tennessee Court of Criminal Appeals to hear intermediate trial court appeals in felony and misdemeanor cases as well as post-conviction petitions. My selection would provide for a more balanced court with respect to the geographical regions and population served. Presently, two of the four available positions on the Western Section are held by individuals in Southwest Tennessee, specifically Memphis – a large urban, metropolitan area. While I resided and practiced in Memphis for roughly 15 years, I presently reside in my childhood home of Paris (Henry County) and my appointment would provide representation to Northwest Tennessee, which primarily consists of rural communities.

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)***

I have been very active in the Republican Party and most of my community involvement has been through the County GOP as well as organizations involving my children such as sports teams and youth orchestras. If appointed to the Court of Criminal Appeals, I would like to assist with and participate in programs to increase public outreach, particularly in the area of providing students and teachers with unique, hands-on experience in how the judicial system works. For example, I would like to assist in expanding the CASES program to a greater number of college and high school student bodies. I would also like to develop a program to bring U.S. Supreme Court Justice Sandra Day O'Connor's iCivics program into middle school classrooms to teach students about the rights and responsibilities of citizenship and the judicial branch of government. I would like to see activities targeted to younger students such as sponsoring a "Justice for All" Art Contest in connection with annual Law Day activities. I also intend to become active as a judicial speaker with the GAVELS program.

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)***

I feel that my personality and temperament is well suited for this position. I am very passionate about our justice system and how the public is served by our courts; however, I can be neutral -- not dogmatic in terms of being state or defense focused – and can resolve issues fairly and justly not only for the parties involved but also for the law of the state. I have the ability to accept constructive criticism balanced against the ability to stand up for my positions when discussing a case, and I feel that this lends itself to professional collaboration with colleagues, some of whom may have different points of view, to reach a decision. Due to the number of years and areas of law I have practiced I fully appreciate, and always make it a point, to indicate to any opposing attorney, that heated arguments and passion about legal issues is beneficial, but all of us as professionals must put aside any acrimony once we leave the court room or law office and treat each other with respect, kindness and common courtesy each and all of us deserve.

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)***

I am committed to upholding the law even in the face of disagreeing with the substance of it. In the words of Justice Scalia, "If you are going to be a good and faithful judge, you have to resign yourself to the fact that you're not always going to like the conclusions you reach. If you like them all the time, you're probably doing something wrong."

Public confidence in our justice system is intimately tied to respect for the rule of law, which is our ultimate safeguard against anarchy. Indeed, Scottish philosopher David Hume aptly described two conflicting, yet complementary principles: "Liberty, which preserves individuals; and authority which preserves society." Hume went on to state that "A great sacrifice of liberty has to be made to authority which must be acknowledged essential to its very existence." While I may have personal feelings or opinions as part of my individual liberty and free thought, those personal feelings or opinions must succumb to authority – the rule of law. Otherwise, uncontrolled liberty will destroy society.

An example of my own personal experience with the conflicting principles of liberty and authority relates to my ability to carry a firearm into court for my own personal protection. Local judges interpret statutory law and regulations as prohibiting assistant district attorneys from carrying a gun into court. I firmly disagree and believe this infringes on my constitutional 2nd Amendment rights. Nevertheless, I cede my own personal liberty at the risk of my own personal safety to that of authority and comply.

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. Matthew Stowe, District Attorney General for the 24th Judicial District,
B. Christi Cross, Secretary of the TN GOP,
C. Gary Kee, State Executive Committeeman for the 24th Senate District,
D. Barry McIntosh, Jr., CEO of Security Bank & Trust,
E. Dr. Jimmie Mancell, M.D. Team Physician for the Memphis Grizzlies,

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 Western Section of the Court of Criminal Appeals 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: February 25, 2016.

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.

Bruce Irwin Griffey

Type or Print Name

Signature

February 25, 2016

Date

14329

BPR #

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

Mississippi (1992) #9360

Florida (1996) #89540

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs. **Cr. No. 2:05 CR 20128 - 01**

DEBORAH McGINNIS,

Defendant.

DEFENDANT DEBORAH McGINNIS' POSITION PAPER
WITH RESPECT TO SENTENCING

Comes now the defendant, Deborah McGinnis-Ely, through appointed counsel, pursuant to Rule 32(c) of the Federal Rules of Criminal Procedure and Local Criminal Rule 32.1, and submits the following pleading with respect to sentencing in this case.

The Sentencing Hearing

Defense counsel does not anticipate presenting evidence through more than one witness or that the hearing will last longer than thirty minutes.

Defense Counsel Certification

Defense counsel has forwarded any objections to the pre-sentence investigation report to both the Probation Officer and Assistant United States Attorney assigned to this case.

Sentencing Factors in Dispute

None.

Defendant's Position as to Sentencing

Ms. McGinnis-Ely deeply regrets her actions in this case and takes responsibility for her conduct. Although Ms. McGinnis broke the law and must answer for her actions, there are factors that mitigate in her favor in this case. First, the offense Ms. McGinnis committed serves as a tool to detect and circumvent other more serious illegal activity such drug distribution and the money laundering associated with it. Ms. McGinnis was not concealing the money for purposes of illegal drug distribution activities or money laundering activities associated with it.

Following her arrest, Ms. McGinnis explained she thought she would get taxed on the money if she declared it. Whether Ms. McGinnis was concerned about having to pay more taxes that she would be legally required to pay or whether she intended to conceal the money to try to intentionally avoid paying taxes on money she would be required to pay is an issue that cannot be proven one way or the other. Because the most fundamental principle in our legal system is that you are innocent until proven guilty, counsel submits Ms. McGinnis must be given the benefit of any doubt as to why she chose not to declare the money. Therefore, in order to remain truly faithful to what we hold dear in our system of justice, we must accept Ms. McGinnis' position that she was simply trying to avoid having to pay more taxes than required when she entered the U.S.- and not for any other illegal purpose.

Second, in accordance with the Supreme Court's decision in United States v. Booker, 543 U.S. 220, 125 S.Ct. 738, 160 L.Ed.2d 621 (2005), the Federal Sentencing Guidelines are advisory and the sentence range is just one of the numerous factors that a district court must consider when sentencing a defendant. Pursuant to 18 U.S.C. § 3553(a) the district court is required to consider the sentencing factors set out in that section and impose a sentence that is "sufficient, but not greater than necessary," to advance the factors reflected in the statute. United States v. McBride, 434 F.3d 470, 476 (6th Cir.2006); United States v. Ely, 468 F.3d 399 (6th Cir. 2006).

In the present case, the sentencing guidelines recommend a maximum guideline range of twelve (12) months that falls within "Zone B." A "Zone B" sentence may be satisfied with a sentence of probation that substitutes home detention for imprisonment. Accordingly, a six (6) month probationary sentence that included home confinement as a part of the conditions would fall within the recommended guideline range - if the Court determined such sentence to be reasonable.

In the present case, Ms. McGinnis has been on pre-trial release for over three (3) years since her arrest - without incident. Due to Ms. McGinnis' marriage to her co-defendant, Michael Ely, her job and family responsibilities and scheduling of those activities, in addition to the pretrial release conditions she has been under, counsel respectfully submits that for all practical purposes Ms. McGinnis-Ely has been under "house arrest / home confinement" for this three year time period. Although a house arrest sentence might include an ankle bracelet for monitoring purposes, the minimum sentence under the guidelines would be satisfied by only six (6) months. Due to the history of proceedings in this case, Ms. McGinnis has been on pre-trial release for over three (3)

years. Counsel respectfully submit no other purpose would be met should the Court decide to impose further supervision or release conditions in this case. Counsel respectfully wants to emphasize the requirement is "sufficient, but not greater than necessary."

Third, Ms. McGinnis does not have any significant criminal history. Ms. McGinnis does have some minor events that she regrets today. Those indiscretions took place over twenty years ago before Ms. McGinnis was twenty-one (21) years old.

Fourth, Ms. McGinnis is facing a substantial financial penalty in this case. The forfeiture count, count III, 31 U.S.C. § 5332, Bulk Cash Smuggling Into or Out of the United States, provides as follows:

> (a) Criminal Offense. —
>
> (1) In general. — Whoever, with the intent to evade a currency reporting requirement under section 5316, **knowingly conceals more than $10,000** in currency or other monetary instruments on the person of such individual or in any conveyance, article of luggage, merchandise, or other container, and transports or transfers or attempts to transport or transfer such currency or monetary instruments from a place within the United States to a place outside of the United States, or from a place outside the United States to a place within the United States, **shall be guilty of a currency smuggling offense** and subject to punishment pursuant to subsection (b).
>
> (2) Concealment on person. — For purposes of this section, the concealment of currency on the person of any individual includes concealment in any article of clothing worn by the individual or in any luggage, backpack, or other container worn or carried by such individual.
>
> (b) Penalty. —
>
> (1) Term of imprisonment. — A person convicted

of a currency smuggling offense under subsection (a), or a conspiracy to commit such offense, shall be imprisoned for not more than 5 years.

(2) **Forfeiture**. — In addition, the court, in imposing sentence under paragraph **(1), shall order that the defendant forfeit to the United States, any property, real or personal, involved in the offense, and any property traceable to such property.**

(3) Procedure. — The seizure, restraint, and forfeiture of property under this section shall be governed by section 413 of the Controlled Substances Act.

(4) Personal money judgment. — If the property subject to forfeiture under paragraph (2) is unavailable, and the defendant has insufficient substitute property that may be forfeited pursuant to section 413(p) of the Controlled Substances Act, the court shall enter a personal money judgment against the defendant for the amount that would be subject to forfeiture.

(c) Civil Forfeiture. —

(1) In general. — **Any property involved** in a **violation of subsection (a)**, or a conspiracy to commit such violation, **and any property traceable to such violation** or conspiracy, may be seized and forfeited to the United States.

(2) Procedure. — The seizure and forfeiture shall be governed by the procedures governing civil forfeitures in money laundering cases pursuant to section 981(a)(1)(A) of title 18, United States Code.

(3) **Treatment of certain property as involved in the offense**. — For purposes of this subsection and subsection (b), **any currency or other monetary instrument that is concealed**

> **or intended to be concealed in violation of subsection** (a) or a conspiracy to commit such violation, any article, container, or conveyance used, or intended to be used, to conceal or transport the currency or other monetary instrument, **and any other property used, or intended to be used, to facilitate the offense,** shall be considered property involved in the offense.

(Emphasis added).

The recommended fine range under the guidelines is $2,000 to 20,000. The total amount of funds found on Ms. McGinnis and/or her luggage at the time of her arrest was $17,358 ($16,396 in U. S. currency and $281 in Kuwaiti Dinars). When she initially went through custom inspection station, Ms. McGinnis declared she was carrying $3,000.00. Therefore, in light of the above statutory language, and Ms. McGinnis' statement when initially passed through customs, counsel submits on behalf of his client, that the $3,000.00 she did declare should not be counted as not part of the property involved in this offense as defined by the statute. Counsel seeks return of this amount of funds to his client. Further, due to the amount of funds involved in the offence, $14,358, that will have to be forfeited (assuming the Court may agree with counsel's argument) ($17,358- $ 3,000); counsel submits the forfeiture amount of $14,358 is more than sufficient to satisfy the financial penalty that should be imposed upon Ms. McGinnis when the severity of her conduct and the events of this case are weighed.

In sum, counsel seeks a time served sentence for his client and forfeiture of amount of $14,358 with no other penalties assessed against her other than the special assessment of $200.00.

Respectfully submitted,

/s/ Bruce I. Griffey
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the forgoing pleading has been forwarded via email and the Court's electronic filing/notification system this date to:

Fred Godwin, Esq.
Assistant U. S. Attorney
167 N. Main, Suite 800
Memphis, TN 38103

Mr. Andy Granberry
U.S. Probation Officer
167 N. Main, Rm 200
Memphis, TN 38103

This 2 day of June, 2008.

/s/ Bruce I. Griffey
BRUCE I. GRIFFEY

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs. **Cr. Nos. 05-20147 - MI**
06-20081 - MI

KERRI PEEPLES,

Defendant.

POSITION PAPER OF THE DEFENDANT WITH RESPECT TO SENTENCING

Comes now the defendant, Kerri Peeples, through appointed counsel, pursuant to Rule 32(c) of the Federal Rules of Criminal Procedure and Local Criminal Rule 32.1, and submits the following pleading with respect to sentencing in this case.

The Sentencing Hearing

Defense counsel does not anticipate presenting evidence through more than one witness or that the hearing will last longer than thirty minutes.

Defense Counsel Certification

Defense counsel has forwarded any objections to the presentence investigation report to both the Probation Officer and Assistant United States Attorney assigned to this case.

Sentencing Factors in Dispute

1. Page 7, paragraphs 15, 16, 21. Defendant submits the drug comparison calculation should be based on methamphetamine rather than "Ice." Section 2K1.1, Note (C) states that for guideline purposes "Ice" means a mixture or substance containing d-methamphetamine hydrochloride of at least 80% purity. Counsel is unaware that any of the substance tested to that level of purity. Further, it was apparent during defendant's communications with law enforcement that the defendant used the word "Ice" interchangeable with "crystal" "meth" and other slang terms for methamphetamine. Although, defendant was aware the methamphetamine she was getting from Los Angeles was of better/greater purity than drugs obtained in Memphis, counsel understands Ms. Peeples was never under the illusion her suppliers were providing methamphetamine of at least 80%. It is well understood, and, in fact, expected, by those engaged in distributing drugs that the persons they obtain the drugs from has in all likelihood "cut" or mixed the drugs with a benign substance to reduce the purity but increase the weight of the drug in order the maximize profits. Accordingly, defendant submits the drug conversion should be based on methamphetamine to marijuana rather than "Ice" to marijuana thereby reducing the offense level to level 36 rather than 38. This would therefore reduce the total offense level with acceptance to Level 33, criminal history category III. This would result in a guideline sentence range of 168-210 months to be followed by 60 months consecutive for defendant's 924(c) conviction.

2. Defendant would like for the Court to be aware that while she has been detained at

Mason for over two years, in order to assist the government further, if necessary, she has used her time to obtain certificates of completion through the facility's education program in theology, life skills, and alcohol and drug rehabilitation programs.

Defendant's Position as to Sentencing

Now that Ms. Peeples is drug free and thinking clearly, she recognizes how destructive she became towards herself, her family, and those she supplied drugs to and the community. She regrets her conduct and wants to put this chapter in her life behind her. Ms. Peeples would ask the Court to take into consideration that while she was under the influence of methamphetamine, her thought process was essentially goal oriented to obtain more methamphetamine and nothing else. She was incapable of breaking the thought process alone and her arrest was the best thing that happened to her. Ms. Peeples recognizes that she will have to fight her drug dependant urges for the rest of her life, just as ex-smokers, reformed alcoholics and other drug addicted individuals. However, as Ms. Peeples hopes the presentence report reflects, she is intelligent and has always worked hard and been generally successful at what ever she chose to do. Accordingly, Ms. Peeples asks for this Court mercy to give her a chance to get back to her family and her two kids as she now wants to focus on her kids and family and try to make up for lost time. Counsel will address the court as to other sentencing consideration at the hearing.

/s/ Bruce I. Griffey
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the forgoing pleading has been forwarded this date by the Court's electronic filing system to:

Mr. David Henry
Assistant U. S. Attorney
167 N. Main, Suite 800
Memphis, TN 38103

This 21st day of May, 2006.

/s/ Bruce I. Griffey
BRUCE I. GRIFFEY