Tennessee Judicial Nominating Commission

Application for Nomination to Judicial Office

Rev. 22 December 2011

Name: Dean Thomas DeCandia

Office Address: (including county) 167 North Main St., 8th floor

Memphis, TN 38103 Shelby County

Office Phone: (901) 544-4231 (main) [redacted]

Facsimile: (901) 544-4230

Email Address: [redacted]

Home Address: (including county) [redacted]

Home Phone: [redacted] Cellular Phone: [redacted]

INTRODUCTION

Tennessee Code Annotated section 17-4-101 charges the Judicial Nominating Commission with assisting the Governor and the People of Tennessee in finding and appointing the best qualified candidates for judicial offices in this State. Please consider the Commission's responsibility in answering the questions in this application questionnaire. For example, when a question asks you to "describe" certain things, please provide a description that contains relevant information about the subject of the question, and, especially, that contains detailed information that demonstrates that you are qualified for the judicial office you seek. In order to properly evaluate your application, the Commission needs information about the range of your experience, the depth and breadth of your legal knowledge, and your personal traits such as integrity, fairness, and work habits.

This document is available in word processing format from the Administrative Office of the Courts (telephone 800.448.7970 or 615.741.2687; website http://www.tncourts.gov). The Commission requests that applicants obtain the word processing form and respond directly on the form. Please respond in the box provided below each question. (The box will expand as you type in the word processing document.) Please read the separate instruction sheet prior to completing this document. Please submit the completed form to the Administrative Office of the Courts in paper format (with ink signature) ***and*** electronic format (either as an image or a word processing file and with electronic or scanned signature). Please submit seventeen (17) paper copies to the Administrative Office of the Courts. Please e-mail a digital copy to

debra.hayes@tncourts.gov.

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

PROFESSIONAL BACKGROUND AND WORK EXPERIENCE

1. State your present employment.

Special Assistant United States Attorney at United States Attorney's Office, Western District of Tennessee

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

2001, BPR #021447

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.

TN, BPR No. 021447

Date of licensure was November, 2001. It is currently active.

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

No.

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

April 2012 to present: *Special Assistant United States Attorney, Western District of Tennessee*

January 2012 to March 2012: *Assistant District Attorney: Division Leader, Criminal Court Division IV, Hon. Carolyn Wade Blackett*

January 2011 to December 2011: *Assistant District Attorney: Division Leader, Criminal Court Division VII, Hon. Lee V. Coffee*

September 2010 to December 2010: *Assistant District Attorney: Special Victims Unit*

October 2008 to September 2010: *Assistant District Attorney: Major Violators Unit, assigned to Division VIII, Hon. Chris Craft*

November 2004 to October 2008: *Assistant District Attorney: Gang and Narcotics Prosecution Unit*

August 2003 to November 2004: *Assistant District Attorney: Criminal Court, Division VI Hon W. Fred Axley*

March 2002 to August 2003: *Assistant District Attorney: General Sessions Criminal Court*

May 2001 to January 2002: *Associate Attorney with Snider, Horner & New, PLLC (practicing under supervision for the first five months)*

Work outside the practice of law:

August 2009 to June 2010: Server *at Chez Philippe Restaurant at the Peabody Hotel*

November 2002 to September 2006: *Server at Ruth's Chris Steak House*

Both of the above are part-time jobs I undertook in addition my full-time job as an Assistant D.A. I usually worked Friday and Saturday nights, from 4 p.m. to midnight, and an occasional weekday when needed. The jobs are food service waiter positions at fine dining establishments. They are fast-paced jobs that involve tremendous ***concentration, patience, and quick prioritization***. Amid the continuous stress of a given night, the server must stay polished and poised in front of the guests. Those who do not possess these qualities will fade quickly, as the clientele are quite demanding. All of these qualities are essential for a server, although they often go unnoticed by a guest who has not had experience in the field.

I submit to the Commission that ***these qualities translate well to the bench***. Serving as a trial court judge is similar to customer service, as the respected judge stays ***mindful of his role as a servant***. S/he ***does not react impulsively*** to the daily frustrations. Rather, s/he maintains ***focus and efficiency*** with calmness and confidence.

Through this additional part-time work, I have also adapted to seven-day work weeks. I am prepared the long weeks that come with our lengthy dockets. I worked diligently as a prosecutor for several years with full weekends, in addition to a heavy trial schedule. The weekends almost always involved Sundays at the office after spending Friday and Saturday at the restaurant. I take pleasure in assuming many duties. If appointed, I will always attend to my role as a public servant, and put that role before my own convenience.

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.

One hundred percent of my practice for the last ten plus years has been prosecuting state crimes in Shelby County Criminal Court. Since April of this year, one hundred percent of my practice has been prosecuting federal crimes in district court, specifically violations of federal firearms laws.

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

April 2012 to present: Special Assistant United States Attorney, Western District of Tennessee: Presently, I am serving as a Special Assistant United States Attorney, or "SAUSA." I am still employed by the State of Tennessee under the District Attorney, but I am assigned to perform the duties of an Assistant U.S. Attorney for a two-year stint. The position is with the Project Safe Neighborhoods ("PSN") Firearms Unit of the U.S. Attorney's office, a specially funded program that focuses on the prosecution of gun crime. I am part of a five-person prosecution unit that handles violations of federal firearms laws. I handle my own caseload from the investigative stage through sentencing in the district court, ***all the way to the highest level of appeal***. The PSN unit handles ***more cases and trials than any other criminal or civil unit*** at the U.S. Attorney's Office.

In the investigative stage, I carefully assess the case by reviewing the entire police file. I then meet with all of the law enforcement officers critical in the arrest and investigation of the case. From the file and the interview, I evaluate the case for legal and factual strength, anticipating any procedural or substantive issues that may arise. I then submit a recommendation on whether or

not to submit the case to a Grand Jury for indictment. My recommendation is in the form of a lengthy memorandum, in which I give a detailed account of the facts and a ***complete legal analysis*** of pre-trial and trial issues. If my ***recommendation to prosecute*** is approved, the case continues to the Grand Jury stage. On the other hand, ***I may recommend declining prosecution*** because proof is too weak to sustain our burden of proof, or we are not likely to overcome a procedural hurdle (e.g., a motion to suppress evidence).

Grand Jury practice involves meeting with witnesses, whether laypeople or officers, and preparing them to testify before a Grand Jury. I question each witness in front of a body of citizens whose role it is to approve, or disapprove, of the legal sufficiency of the case. The Grand Jury process is interactive, as the Grand Jurors will often have questions for me or the witness. The Grand Jury's approval results in an indictment, or formal criminal accusation, against the defendant.

After an indictment is issued, I handle the case in court proceedings. The case is first assigned to a federal magistrate for hearings pertaining to ***pre-trial release***. I will take a position as to whether the defendant should be detained or released pending trial. My position will depend on ***a review of factors*** such as defendant's criminal history, social history, work history, and the facts of the case. From such information, I recommend to the magistrate whether the defendant can be trusted on bail, or else must be detained to ensure safety of the community or avoid a risk that the defendant will flee the jurisdiction.

In magistrate court, I will also handle ***pre-trial litigation*** such as motions to suppress. Such motions may be filed by the defense, alleging that some constitutional right of the defendant was violated. For example, the allegation may be that police conducted an illegal search or seizure or obtained a confession against the defendant's will. Upon receiving such a written motion from the defense, I must respond with a written ***brief, or memorandum of law***. The brief must be ***thorough in its analysis***, covering every issue the defense raises, and meeting each argument with support from statutory law and caselaw. These hearings are like mini-trials, for which I prepare by interviewing witnesses in detail. I then question these witnesses in front of the magistrate, make and respond to objections, and cross-examine any witnesses the defense may present. Finally, I will argue why the facts and law support the government's position.

If the case proceeds to trial in the district court, trial procedure is similar to state court, which is discussed below.

One of the greatest benefits of federal practice has been the ***focus on research and writing***. The daily writing has quickly conditioned me to organize my arguments more than ever before. This has been ***exceptional preparation for drafting judicial rulings***, any of which may be reviewed later on appeal.

January 2012 to March 2012: Assistant District Attorney: Division Leader, Criminal Court Division IV, Hon. Carolyn Wade Blackett

and

January 2011 to December 2011: Assistant District Attorney: Division Leader, Criminal Court Division VII, Hon. Lee V. Coffee

The above two assignments as a division leader are similar in their duties, although in different courtrooms. At the beginning of 2011, I was promoted to division leader, or ***chief prosecutor*** in

a division of court. This promotion came after having been a Criminal Court assistant for just over seven years, a ***speedy promotion*** when compared to past division leaders. I was told that my trial ***experience, temperament and overall competence*** led to this promotion.

As a division leader, I made sure to review all cases on the day prior to their court settings. I re-familiarized myself with each case before it was scheduled, whether or not I had assigned it to myself or to an assistant prosecutor. I wanted my colleagues to notice that I was ***always prepared,*** whether or not a case was in a trial posture.

Negotiating cases was a daily task as a division leader, even on the most serious of cases. However, not every lawyer negotiated in the same manner. Most lawyers negotiated in a highball/lowball fashion. In this strategy, each side begins with an unreasonable offer. Then each side will continue to compromise its original stance until one side reaches its breaking point. As a prosecutor, I avoided this tactic. When either party habitually extends offers it has no intention of maintaining, the other side will notice the pattern and never take the proponent seriously. The adversary will simply wait for a better offer. The case is unnecessarily delayed, and the proponent's integrity is compromised.

In contrast, my philosophy in negotiation involved a ***constant weighing of several factors***. First and foremost, I considered the strength of the State's case, including the likelihood that certain evidence would be admitted, and the plausibility of likely defenses. I also considered the defendant's criminal history, aggravating or mitigating nature of the defendant's conduct, the defendant's social history and work history, whether previous rehabilitative efforts had been successful, judicial economy, and even mercy. I was wisely critical of the State's cases, putting myself in the position of a juror and taking the burden of proof seriously. Most of this analysis could be accomplished by my own review of the police file and a proactive approach in interview witnesses. In addition, I would ***consider any proof that the defense presented*** in support of its position.

As a result, I made consistently fair offers of settlement that were well-informed and well-reasoned. I advanced the bottom line at the outset, and if questioned, I would explain reasons for the offer. Consequently, I received regular compliments from the bench and bar on my ***integrity and efficiency***.

September 2010 to December 2010: Assistant District Attorney: Special Victims Unit: In this unit, I prosecuted cases involving physical and sexual abuse to minors and forcible rapes against adult victims. (The only reason my time in this unit was five months was because of my promotion to Division Leader.)

The types of cases in the Special Victims Unit were among the most emotionally charged. However, some of these cases contained serious weaknesses in proof. The combination of emotional charge on the one hand, and dubious proof on the other, created compromising situations for me as an advocate. I continually kept in mind the importance of remaining ***objective*** and not allowing the nature of the allegations to cloud my judgment.

One place where this difficulty arose was in the Sex Crimes Bureau of the Memphis Police Department. There, I served as an advisor in deciding whether or not a suspect would be charged. I responded weekly to calls from the bureau, in which a Sex Crimes detective with would explain to me the nature of a victim's allegations and any other possible evidence

obtained. Although it was standard practice among prosecutors to make a charging decision based upon the detective's summary, I never relied on the summary alone. I routinely reviewed all statements and reports in a case file. Only then would I I comfortable in making a ***well-informed decision*** of whether or not to charge the suspect.

There were times when I refused to charge because of insufficient evidence. It was obviously unpleasant to tell a detective I was not charging a suspect, especially when the detective was emotionally invested n a case. On those occasions, it *would* have been easier to charge the suspect, so as to please the bureau. However, I was ever mindful of ***seeking fairness over popularity***.

For the cases I *pursued* in the Special Victims Unit, the jury trials were quite ***challenging***. They were also ***significant learning experiences in preparation for judgeship***, as they presented unique evidentiary issues. I had a trial involving a Rape of a Child and a trial involving 1st Degree Murder of an infant. Through diligent preparation and litigation, I became ***versed in the evidentiary issues*** that each type of case presents. The rape case involved multiple offenses over a period of several months. The murder case involved detailed expert testimony from two physicians as to the seriousness and timing of the fatal injuries. As to both cases, my pre-trial preparation was exhaustive and beyond the call of duty. For example, on the rape case, I found and interviewed critical witnesses who were previously unknown. My extra work paid off in convictions on both of those cases. Just as importantly, I gained knowledge of an area that many lawyers avoid because of its unpleasant subject matter.

October 2008 to September 2010: Assistant District Attorney: Major Violators Unit, assigned to Division VIII, Hon. Chris Craft: In this unit, I prosecuted high felonies committed by defendants with lengthy criminal histories. This assignment posed a ***challenge*** similar to those in the Special Victims Unit. Major Violator cases were emotionally charged because of the defendants' criminal records and the resulting pressure to secure stiff sentences. However, evidentiary rules would usually preclude a jury from knowing anything about the defendant's record. It was thus necessary to evaluate most cases based on the strength of the proof, without considering the defendant's record.

So in this unit as well, I ***tempered a passion for pursuing the guilty with an acknowledgment of legal and ethical limitations***. In order to properly evaluate the likelihood of conviction, I had to assess the proof as the jury would hear it. I ***avoided the temptation to react impulsively*** to a defendant's record and engage in overzealous prosecution. Rather, I evaluated facts objectively, distinguishing those that stood a reasonable chance of conviction from those that did not. Pursuing the latter would put our office's ***integrity***, and the system's integrity, at risk.

Resolving cases prior to trial was a regular practice in the Major Violators Unit. I prosecuted the Major Violator cases "vertically," or from the defendant's first appearance in General Sessions, all the way through to sentencing. As was my approach in all assignments, I made sure to resolve the cases that required resolution as ***expeditiously*** as possible. There were several cases I was able to resolve without the need for an indictment or even preliminary hearing. Rather than considering ***judicial economy*** to be the province of a judge alone, I fulfilled my own responsibility to reduce excessive backlog.

November 2004 to October 2008: Assistant District Attorney: Gang and Narcotics

Prosecution Unit:

As an assistant in the "Gang Unit," as it is commonly named, I was tasked with prosecuting some of the most violent criminals in Shelby County. Most of the crimes I handled were murders and armed robberies, usually committed in groups. I also handled some large-scale drug trafficking case, as well as drug cases generated by undercover police operations.

Having been assigned in Criminal Court just over a year, my acceptance into the Unit was relatively quick. I was told that my proven ***trial ability*** and ***overall work ethic***, earned me a spot in this flagship unit.

One of the challenges for me arose from a desire to handle more work than I was assigned. So in my first months in the unit, I developed my own system for accepting new cases. I screened dockets in General sessions on a daily basis, looking for armed robberies, homicides and other violent crimes, where a defendant had accomplices, and where one or more of those defendants were identifiable gang members. I was eager to accept all cases that fit such criteria, and I took pride in the task of researching which cases fit. My research included communicating with gang intelligence officers and reviewing past police reports to determine which offenders had gang affiliation.

In addition to these ***self-started projects***, I took on several "multi-clears" in the MPD Robbery bureau. In a multi-clear, police would investigate similar robberies or burglaries in a given geographical area. The investigation would usually pivot on the capture of a single suspect, who may confess to several robberies or burglaries, and name *other* accomplices. From this lead, the police could apprehend *those* additional accomplices. Then, from these subsequent arrests, police could solve *more* robberies or burglaries. The resulting group of charges was called a "multi-clear," or a clearing of multiple cases.

As a result of my initiative, my caseload grew tremendously. With each multi-defendant case that I accepted, one or more of those defendants often had *other cases* pending. And in those additional cases, one or more of those cases may have *also had co-defendants*, and so on. It was thus common that one of my cases would branch out into multiple cases and defendants.

Often, the tangential cases did not fit Gang Unit criteria. Because the additional cases did not fall under the purview of the Gang Unit, I *could* have left those additional cases for other prosecutors to handle. However, I always ***assumed responsibility*** for *all* tangential cases, no matter how much work resulted. Not only was I ***eager to gain as much experience as possible***, I also believed it to be more ***efficient*** when all related cases are handled by a single prosecutor.

Nor did I ever reject cases because of their relative weakness. Rather than "cherry pick" cases for a greater chance of conviction, I assumed any and all cases that fit Gang Unit criteria. The result was years of difficult negotiation with, and litigation against, all of the frequent practitioners of criminal defense in Shelby County. My ***reputation as both a worthy opponent and a reasonable negotiator*** took significant shape during my tenure in the Gang Unit.

In addition to the sheer volume I undertook, the Gang Unit also brought an ***ethical challenge*** similar to that posed in the Special Victims Unit. Violent gang cases are of the type that enrage the community. Many receive considerable media attention, especially just after the crime is committed. However, as any wise prosecutor learns, the brutality of senseless crimes, and the public reaction they evoke, do not lower the burden of proof for the government. I kept in mind

my ***responsibility to temper zeal with caution***.

August 2003 to November 2004: Assistant District Attorney: Criminal Court, Division VI, Hon. W. Fred Axley:

My first assignment in Criminal Court was to Division VI. It was here that I first became versed in procedures specific to the higher level of court, namely the discovery process and trial by jury. I was fortunate in this first assignment to have a division leader who trusted my judgment. With ***self-sufficiency***, I worked diligently to scrutinize the facts of every case and research the applicable law on every conceivable issue. I was grateful for the ample time that government work provided, which allowed me to exhaust available resources without the pressure of billable hours.

In this first assignment, I handled many matters raised by ***pro se defendants***. It is common for inmates serving time to file post-convictions motions and petitions, in an attempt to vacate their sentences. While some judges will address these filings themselves, I was fortunate to be assigned to a Judge who passed these on to the prosecutors to handle. I eagerly accepted these motions ***for the experience*** they would give me, whether as a future judge or career criminal lawyer.

The challenge in addressing these motions was deciphering the inmate's arguments, among countless pages of misplaced legal references. While many of these inmates were well-intentioned, they were often misled into filing these petitions based on misconceptions of the law. In some cases, the inmates were *barred* from relief because the statute of limitations had passed. In other cases, the petitioner *may have* relief available to him, yet he cited the incorrect remedy. In all such cases, I learned ***how to address these matters without denigrating*** the inmates. Although most petitions were meritless, I gained practice in ***explaining the applicable law*** in a thorough yet simple manner. It was in this early stage of criminal court that I sharpened my skill in explaining the law to those unfamiliar with it. I considered this skill necessary to gaining trust in the system, even by those serving substantial time.

In addition to my regular duties in Division VI, I seized opportunities to try cases in other divisions. I thus became ***versed in jury trial practice in many courtrooms***. While my experience up to that point had already involved trying cases, the trials had been in front of General Sessions Judges rather than juries. But in my new assignment in Criminal Court, I learned quickly how different of a skill is required to speak to jurors. I ***took lessons from judges and competent trial lawyers in addressing juries***. I noticed that they never assumed that laypeople knew basic aspects of the system. I also noted how mindful judges were of the inconvenience that jury service entails. With a future judgeship in mind, I continued to study colleagues who were exemplary for their demeanor and style.

March 2002 to August 2003: Assistant District Attorney: General Sessions Criminal Court:

Barely out of law school, and as a novice prosecutor, I was assigned to General Sessions Criminal Court. Prosecutors at this level are primarily responsible for litigating misdemeanor crimes. There, I learned basic elements of criminal practice such as issues of bail, guilty pleas, violations of probation and applying rules of evidence. I ***sought opportunities*** to try cases against the most experienced defense lawyers, knowing that the ***challenges would improve*** my trial skills.

It was also in General Sessions that I litigated preliminary hearings in felony cases. These hearings required me to present proof of probable cause on a variety of felonies. Through subpoenaing these cases, speaking to the witnesses and presenting the testimony, I learned how to build a case on virtually any type of crime in Tennessee.

Whether through misdemeanor trials or felony preliminary hearings, I gained valuable ***experience in speaking to ordinary citizens about the system***. Victims and witnesses came to court clueless about their role and frustrated to have become involved. In addition to discussing the facts with them, I always ***explained the multiple stages of the process***. I emphasized what would be asked of them at later stages, possible reasons for delay, and the range of likely outcomes. It was only through such a roadmap that I could allay their concerns and make them feel that they were ***treated with consideration***. The result was almost always that the witnesses became ***more willing to participate***.

May 2001 to January 2002: Associate Attorney with Snider, Horner & New, PLLC:

I started this first job immediately after graduating law school, and I ***worked there full time while studying for the bar exam***. I was responsible for drafting motions and responses of all types in General Sessions, Circuit and Chancery Court. I also wrote a lengthy appellate brief for the Tennessee Court of Appeals.

This job was an invaluable ***introduction to professional responsibility*** in action. In law school, issues in professional responsibility had been addressed only with intellectual exercises. But by accompanying the law partners to depositions and court appearances, I observed *firsthand* the varying adversarial approaches. On one hand, there were those who spoke candidly at all times to the court and to opposing counsel. On the other hand, there were those who did everything they could to mislead without lying. From the variety of ***positive and negative influences***, I first learned to find a moral compass and understand that ***reputation*** was the most important thing I could develop. I learned that no victory was worth compromising one's reputation. This lesson would serve me well in the criminal field I was about to enter, where I would be entrusted with safeguarding our most valued liberties.

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

A few murder trials of mine received ***substantial publicity***. The first of these was in my first year in Criminal Court, the trial of *State v. Mario Jefferson*. The case involved an 18 year old defendant, with no juvenile criminal history, who was charged with murdering his abusive stepfather. The trial received publicity in part because of the uniqueness of the murder weapon, a samurai sword. The daily coverage in the local newspaper contained daily sound bites from statements in court.

For the first time, I saw my words in print. I had no idea that the case would receive as much attention as it did. However, I soon realized that the media will give considerable attention to cases that practitioners find to be quite commonplace. Therefore, statements by lawyers and

judges are subject to ***public scrutiny*** at *any* time. This realization reinforced to me the ***need for responsible advocacy*** at all times. It is through these statements that the public will form a lasting impression.

Another surprise that came to me through publicity was the *scarcity* of facts in news coverage. In one article, an entire day's worth of testimony was reduced to a mere fraction of its content. This lack of detail was through no fault of the reporter, but only because of editorial limitations. After the trial of Mario Jefferson, I made it a habit to scan the local paper for stories about my colleagues' trials. The stories usually contained daily accounts of the "who," "what," "when" and "where," but little of the "why" and "how." This lack of explanation impressed upon me ***the need for more public education*** about the criminal justice system.

This need motivated me to speak on national television about subsequent murder trials of mine. One was the case of *State v. Monique Johnson*, in which a woman shot her boyfriend to death out of jealousy. In addition to extensive local coverage, the case was featured in an episode of *Snapped*, a national cable show profiling domestic homicides by women. The show was filmed approximately six months after the trial. The lapse in time made for a challenging interview. I had to prepare extensively, re-familiarizing myself with a banker's box of documents and photographs. I answered broad, open-ended questions about the entire investigation, arrest, trial and sentencing phases. Answering these questions on camera, without the benefit of pauses or corrections, was even more difficult than arguing before a jury. However, the efforts were fruitful because the final cut was just the ***kind of education I had hoped to bring to the public***. I was given significant face time in the one-hour episode, and I was pleased to represent the criminal justice system in Shelby County.

I was given this opportunity again last year, when one of my murder cases was covered by *After the First 48*. This national cable show covers the court proceedings of a homicide long after the initial investigation. The case of mine that was featured was *State v. Jeremy Young, et al.*. In this case, the defendants robbed the owners of a tattoo shop inside the business, killing one of the owners. The four defendants pled guilty without a trial, with some pleading to much greater sentences than others. The show allowed me to discuss reasons behind the settlements. Because such negotiation is behind-the-scenes, I was ***pleased to educate a national audience*** on an aspect of the system it would otherwise never see.

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.

I served as ***treasurer*** to Hon. Jim Lammey and Hon. Bobby Carter in their respective ***campaigns for Criminal Court Judge***. My roles as treasurer involved accounts exceeding 30,000 dollars. My duties included collecting, handling and accounting for, all of the deposits, withdrawals and spending of these funds.

Each of these judges *asked* me to serve as his treasurer. I was flattered and honored that they considered me ***worthy of such trust***.

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

Not applicable.

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

I have not previously applied.

EDUCATION

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

Cecil C. Humphreys School of Law at The University of Memphis. 1998-2001. J.D., 2001.

University of Memphis. 1993-1997. B.A., English 1997. *Summa Cum Laude*; *Dean's List every semester; Phi Kappa Phi* (academic honor society whose selection criteria is similar to Phi Beta Kappa); *President* of fraternity chapter of Sigma Alpha Epsilon; Fraternity's *national award* for most outstanding chapter president in the U.S., 1996., Special recognition for outstanding achievement at commencement ceremony, 1997.

PERSONAL INFORMATION

15. State your age and date of birth.

36 yoa

DOB: December 1, 1975

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

34 years

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

34 years

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

Shelby

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 you now on diversion for violation of any law, regulation or ordinance? Give date, court, charge and disposition.

No.

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

No.

22. If you have been disciplined or cited for breach of ethics or unprofessional conduct by

any court, administrative agency, bar association, disciplinary committee, or other professional group, give details.

No.

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 which you have held in such organizations.

Board of the Shelby County Drug Court Foundation: 2010 to present, *Secretary*, Jan 2012 to present

Board of Memphis and Shelby County Crime Stoppers: 2010 to Present, *Head of Nominating Committee*, Jan 2012 to present

Arts Memphis "Bravo" Member: 2009 to 2011. Social organization, attends art functions around the city on a monthly schedule, combined with social events

Parkway House Board of Directors: Board of Directors for condominium high rise where I reside.

University of Memphis Alumni Association: 1998 to present

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

   a. If so, list such organizations and describe the basis of the membership limitation.

   b. If it is not your intention to resign from such organization(s) and withdraw from any participation in their activities should you be nominated and selected for the position for which you are applying, state your reasons.

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

Memphis Bar Association: 2004 to present; *Board of Directors*: Jan 2012 to present

Government Lawyers Section of Memphis Bar Association: 2010 to present. *Co-founder*. *Secretary*: Oct 2011 to present

Publications Committee of Memphis Bar Association: 2006 to present. *Co-Chair*, 2011 to present

Young Lawyers Division of Memphis Bar Association: 2004 to 2010

American Inns of Court, Leo Bearman, Sr. Chapter: 2006-07 as *Associate Member*; 2011-12 as *Barrister Member*. In 2006-07, I served on the American Inns *National Awards Committee*, on which I reviewed and judged legal educational programs submitted by American Inn Chapters from across the U.S.

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

Not applicable.

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

The Scope of Tennessee Rule of Appellate Procedure 3(e): Reviewability and the Need for a New-Trial Motion, 3 Tenn. J. Prac. & Proc. 7 (2000).

Since January of 2006, I have authored **"The Court Report"** column for *Memphis Lawyer* magazine, the official publication of the Memphis Bar Association. For every issue of *Memphis Lawyer*, I compile and list information on every jury trial that has been conducted in Criminal Court, including the style of case, division of court, dates of trial, indicted charges, complete verdict (or other outcome), and lawyers on both sides.

"Meeting the Dragon: My Introduction to Dragon Naturally Speaking Speech Recognition Software"; *Memphis Lawyer*; May/June 2007; Volume 24; Issue 3; p. 20-21.

"Interview with Judge Lee V. Coffee, Division VII of Criminal Court"; *Memphis Lawyer*; May/June 2008; Volume 25; Issue 3; p. 14-15.

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.

Not applicable.

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.

Not applicable.

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

No.

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

Please see attached. Both samples reflect my own personal effort entirely.

ESSAYS/PERSONAL STATEMENTS

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

I am seeking this position because ***one of my greatest strengths as a prosecutor would be of even greater use as a Criminal Court Judge.***

One aspect of prosecution that has been most fulfilling to me is the ***neutral role*** that the prosecutor must assume through much of the criminal process. Nearly everyone feels contempt for certain offenders. The prosecutor may be tempted to place the goal of conviction over the fairness of the process. It is for this reason that I discipline myself into ***maintaining objectivity***. I bring an ***open mind*** to the initial review of the case, and I maintain this mindset as the case progresses through the system. I stay receptive to exculpatory facts that may arise, as well as to any constitutional violations that may have occurred. Rather than prosecute with only convictions in mind, I fulfill my duty to ***protect the integrity of the system***.

I am confident that this objectivity will be *even more valued* on the bench. First, the judge's thoughts and actions are under a larger microscope. Thus, the judge has a ***greater effect on public confidence and trust***. Second, because litigants settle many simple cases, the judge must make decisions on some of the most contested cases. Such intense factual and legal disputes require a well-conditioned sense of ***detachment***, so as to avoid being swayed by emotional factors such as public outrage or sympathy.

My practice of ***objectivity*** over the years has prepared me well for a judgeship. I am eager to ***apply this quality to higher level of public service***.

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

For the last few years, I have served on the ***Board of The Shelby County Drug Court Foundation***. The Drug Court, founded and led by Hon. Tim Dwyer, is a non-profit program that targets non-violent drug offenders and grants them an ***alternative to incarceration.*** The program includes assessments for chemical dependency, outpatient or inpatient treatment, drug testing, counseling sessions, 12-step meetings, and even job readiness and life-skills sessions.

The Drug Court program affords treatment ***to many clients who otherwise have no opportunity for treatment, usually because of indigency.*** It gives them the tools to ***avoid recidivism***, lead productive lives, and return to their loved ones. The Court has shown a 34 percent recidivism rate in contrast to the 80 percent recidivism rate of those who have not participated in the program.

A few years ago, I was honored when *asked* to join the Board of the Drug Court Foundation. As no other prosecutor has ever served on the Board, I was honored that the members reached out to me.

I take great pride in my service on the Drug Court Board. I hope to ***continue serving*** if appointed to Division VI, even if I must step down as an *official* board member. I remain

committed to ensuring that the poor and addicted have the ***same access to treatment*** as those who can afford it.

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)***

The judgeship I seek is for Criminal Court, Division VI, in the 30th Judicial District of Tennessee. This district has the ***highest number of criminal cases*** in the state. Approximately 22,000 cases are indicted per year. Those 22,000 cases are divided among only ten divisions of criminal court.

The tremendous volume at 201 Poplar requires a judge with a ***tireless work ethic and a commitment to judicial economy***. At the same time, however, a judge must remain tactful and courteous to lawyers who practice in his/her courtrooms. Crowded dockets likely indicate that lawyers too have crowded schedules. A judge must stay mindful of lawyers' needs for ample time to resolve thorny issues while juggling many other cases.

As a prosecutor, I have built a ***reputation*** of trying and resolving cases in a ***highly efficient*** manner, whether by plea or trial. I have striven to be ***thoroughly prepared*** each day to discuss any case on the docket with counsel. I have taken a ***proactive*** approach in anticipating disputed ahead of time and offering immediate, reasonable suggestions for resolution. But never have I used aggressive tactics or unreasonable demands. Colleagues will attest to my patience in seeing cases to conclusion.

I will bring this combination of ***efficiency and patience*** to the bench in Division VI. For the last ten years, I have regarded ***judicial economy*** as a prime responsibility. At the same time, to expect the same attentiveness from others requires ***tact and courtesy***. I consider anything less to compromise my reputation for cooperation and hinder communication.

I have spent thousands of hours in front of judges who consistently keep an orderly docket without badgering lawyers. These judges remind me on a daily basis that respect is earned. Once a judge shows that s/he is respectful of the lawyers' caseload, then the lawyers are, in turn, respectful of the court's caseload. As Judge Fowlkes has stated, this ***mutual respect*** has made him feel as though the bench and bar in the 30th district is a "family." ***I will carry on this tradition for as long as I am fortunate enough to stay on the bench.***

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)***

Over the last several years, I have volunteered to ***speak to various types of community organizations*** about the criminal justice system at 201 Poplar and the stages of the criminal process. My audiences have varied from political groups, to job readiness programs, to public access television. I believe that this service is the one in which I have been most useful to the

community.

I have felt compelled to speak about the system because citizens are fascinated with crime and criminal justice. However, there is a gap in the information they receive from the media. The news will report on the who, what, when and where of cases, yet there is little education as to the why and how. Reporters will inform their audiences about facts regarding crimes, and the results of trials. However, the public is left clueless about legal terms of art and matters such as the differing burdens of proof and the sentencing scheme. I have been surprised to find that many well-informed citizens do not have a basic understanding of the process. Most lack such understanding because the media informs, but it does not educate.

I have enjoyed educating groups about the mechanics of the process, and ***I will continue to*** do so if appointed. It is common for citizens attending my speeches to come with complaints and perceived injustices. Yet these same citizens will leave my presentations with ***satisfaction***. They no longer see the law as a hidden maze of rules that lawyers and judges manipulate to suit their own ends. ***They begin to recognize our efforts*** toward fairness and efficiency amid economic limitations. Such an understanding can only come about when lawyers ***share knowledge with the public in an accessible manner***. This sharing ***instills trust*** in the system and those that work within it. ***I will eagerly use the position of Criminal Court Judge to further that objective***.

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

My entire experience at the Criminal Justice Complex has been a continual undertaking of challenges.

One such challenge I have pursued is to continually vary ***the subject matter of cases*** I handle. I have always seen this variety as crucial to my ***professional growth***. After my first year and a half in Criminal Court, I volunteered to serve in the Gang and Narcotics Prosecution Unit. This specialization involved mostly violent crimes and Fourth Amendment issues. After several years there, I asked to return to a division with a more varied practice. Although I would be leaving some high profile cases, I believed that ***expanding my knowledge*** was far more important than status.

After a more varied practice in the Major Violators Unit, I gladly accepted the assignment in the Special Victims Unit. This was an attractive assignment to me because of the complex evidentiary issues in sex crimes. Most recently, I asked to serve as a Special Assistant U.S. Attorney, where I have immersed myself in an *entirely different* set of laws and procedures.

Another set of challenges I have continually embraced are ***interpersonal challenges***. When I volunteered for the Gang Unit, I knew that obstacles in ***interpersonal communication*** were ahead of me. In gang cases, victims and witnesses often lead the same criminal lifestyles as the offenders. As a result, they may be uneducated and distrustful of the system. I always seized opportunities to meet with such witnesses about my cases. Not only were such discussions important to building my cases, but they were valuable exercises in ***overcoming obstacles in***

communication. The reward was often convincing witnesses to be more willing participants in the trial process.

In the Special Victims Unit, discussing abuse with young children was a painfully difficult task in eliciting vital information. I accepted this challenge not only because of its importance to prosecution, but also because it honed my skill in ***guiding people, of any age or background, through the process***.

Finally, I have always sought to embrace ***challenges in decision-making***. As I have advanced into positions of higher responsibility, I have had to make countless decisions as to which cases go to trial, which cases settle, and which cases should be dismissed. I have made many of these decisions on cases that were extremely serious in nature. It is easy to avoid making decisions on these cases, and instead, leave the decision to a jury. However, such an approach is irresponsible. Compelling juries to accept dubious cases puts the integrity of the system at risk.

Throughout my career, I have sought out cases with difficult dilemmas. I have done so because ***I find making difficult decisions to be the most fulfilling part of practicing law***. I take pleasure in seeing the toughest conflicts to resolution, whether by agreement or contest. Moreover, I take pride in doing my part to ensure that the system is worthy of trust.

I am determined to ***pursue all of these challenges at the higher level*** of a Criminal Court judgeship. As a Criminal Court Judge, I can bring the acquired skills of varied knowledge, interpersonal communication, and decision-making to a position where it is valued the most.

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 will ***always uphold the law*** even if I disagree with its substance. I will do so not only because of the oath, but also because I seek to ***understand the underlying policies***.

As a prosecutor, there have times when I have wished the law were different. For example, when a probationer is arrested for a new criminal charge while on probation, his suspended sentence is subject to revocation. If a preliminary hearing has already been conducted on the new criminal charge, the criminal court that oversees his probation must have *another* evidentiary hearing for proof to be presented on the new arrest. This proof would be the *same* that was presented at the preliminary hearing, which means that the *same* witnesses must be subpoenaed to testify regarding the *same* facts. This repeated proof carries a doubled expense of witnesses' time and taxpayer funds.

I have seen judges bypass the violation of probation hearing because they consider it to have been already conducted at the preliminary hearing. However, as a Criminal Court Judge, I would never shortcut the process simply because it *seems* inefficient. I recognize that this procedure is in place to protect the rights of the defendant. The procedure allows the Criminal Court Judge to make his/her own determination as to whether such a ground for revocation has been proven. To simply adopt the finding of the preliminary hearing's judge would, in effect put the power of revocation in the hands of a judge other than the one overseeing the probation.

Of course, as a lawyer, I *could* follow such a rule simply *because* it is the law. However, I have always ***sought to understand the purpose behind the law*** rather than merely adhere to it with blindness. It is through such an understanding that I ***gain respect*** for the law, regardless of any disagreement I have with it. As a judge, this understanding can be shared with disgruntled defendants and victims alike. When those who are most affected by the law feel as though it works against them, I will use my training and experience to shed light on the element of fairness behind any given statute or rule.

REFERENCES

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

A. Hon. Chris Craft, Judge Criminal Court, Division VIII, 30th Judicial District

[redacted]

B. Hon. Lee V. Coffee, Judge Criminal Court, Division VII, 30th Judicial District

[redacted]

C. Hon. John T. Fowlkes, Jr.

[redacted]

D. Lt. Michael Shearin, Memphis Police Department

[redacted]

E. Deborah Taylor, President: Probation Management Group

[redacted]

[redacted]

AFFIRMATION CONCERNING APPLICATION

Read, and if you agree to the provisions, sign the following:

I have read the foregoing questions and have answered them in good faith and as completely as my records and recollections permit. I hereby agree to be considered for nomination to the Governor for the office of Judge of the Criminal Court of Tennessee, and if appointed by the Governor, agree to serve that office. In the event any changes occur between the time this application is filed and the public hearing, I hereby agree to file an amended questionnaire with the Administrative Office of the Courts for distribution to the Commission members.

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

Dated: July 31, 2012.

_/s/ Dean DeCandia_____
Signature

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