

Tennessee Trial Court Vacancy Commission
Application for Nomination to Judicial Office

04/15/16

Name: _____ Robert Allen Dalton, Jr. _____

Office Address: _____ 535 Second Avenue North, Suite One _____
(including county)

_____ Lewisburg, Marshall County, Tennessee 37091 _____

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INTRODUCTION

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

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

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

PROFESSIONAL BACKGROUND AND WORK EXPERIENCE

1. State your present employment.

I am currently an attorney in private practice in Marshall County, Tennessee.

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

I was licensed to practice law in Tennessee in 2011.

My Tennessee Board of Professional Responsibility number is 029791.

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.

I was licensed to practice law in the State of Tennessee in April 2011.

My license is currently Active.

My bar number is 029791.

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).

2011-Present: Managing Partner, Ouroboros Legal Services, PLLC

2012-2014: Supervising Attorney, Pan American Center

2015-2016: General Counsel and Chief Legal Officer, Pan American Center

2012-2013: Executive Director, Quality Time Project

2001-2007: Actuarial Analyst, New England Financial / MetLife. As an actuarial analyst, I managed a multi-million dollar block of small group life and health insurance. I was responsible for experience analysis, rate setting, regulatory compliance, and financial reporting. Prior to my tenure in the management of the block, much of the process was still conducted with paper and pencil. A significant portion of my experience during these years encompassed modernization and automation of the management infrastructure. As a result of the modernization projects, the block experienced greatly improved performance with much less staff time.

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

I am currently an attorney in private practice. My office is located in Marshall County, Tennessee.

The majority of my current practice (>50%) is Corporate and Business Law. This consists primarily of corporate contracts, licensing, credentialing, regulatory compliance, and business litigation. The issues in these cases are quite diverse, ranging from purely contractual relationships between two private entities to complex, multi-party corporate litigation involving governmental and regulatory authorities.

The remainder of my practice is currently focused on Public Interest Litigation. Many of these cases are undertaken on a *pro bono publico* basis. These cases are predominantly composed of governmental torts, access to public records, and civil rights actions in pursuit of individual rights to equal protection, due process, and equal access to justice.

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

Upon obtaining my law license, I established a practice in the 17th Judicial District.

Taken in aggregate, my career as an attorney has contained a large amount of Criminal Law cases. During the first few years of my practice, for example, nearly all of my clients were involved in criminal cases. I represented criminal defendants in the Municipal, General Sessions, and Circuit Courts, as well as the Court of Criminal Appeals.

As my early practice grew, it contained increasing amounts of family law practice. I represented clients in cases involving divorce, parentage, visitation, and child support in Juvenile, Chancery, and Circuit Courts, as well as the Court of Appeals.

I have always had a calling to public service and the work to make the world a better place. In my legal practice, I have handled many Public Interest cases of various sorts, including asset forfeiture, zoning, free expression, equal protection, civil rights, and equal access to the courts by poor and indigent litigants.

I have represented both individuals and corporations in Property and Zoning cases. These representations have included the entire process of adjudication from administrative hearings before local government boards to the Chancery courts and the Court of Appeals. These cases are usually centered on the right of people and corporations to use their property and other assets in constitutionally-protected ways without unduly burdensome government intervention. A substantial number of these cases are primarily concerned with free expression and due process, two issues that are central to the vitality of our constitutional republic.

My commitment to public service has also been reflected in my Civil Rights litigation. These cases are often undertaken on a *pro bono publico* basis with the goal of addressing constitutional deprivations and violations. The general focus of these cases is usually guaranteeing an individual's rights to equal protection, due process, and equal access to justice. These cases have included public records, First Amendment litigation, whistleblower protection, government employment, bail bonds, and many other types of governmental torts involving the deprivation of constitutional and statutory rights. I have litigated or am currently litigating these cases through many different venues, including Sessions, Circuit, Chancery, and Federal courts.

Over the years, I have also been involved in a substantial number of Immigration cases with Human Rights and Public Interest components. Many of these cases involved very young children who were orphaned and fleeing horrifying abuse and civil war in their home countries. These cases usually took place within administrative settings (such as proceedings before the United States Citizenship and Immigration Services) or trial-like settings (such as federal Immigration Court or state Juvenile Court). For several years, I provided legal services on a *pro bono publico* basis as a volunteer Supervising Attorney with the Pan American Center, a rural human rights non-profit. After several years of *pro bono* work at the Center, I took a paid position there in 2015 as General Counsel and Chief Legal Officer.

More recently, my practice has become increasingly focused on Corporate and Business Law, with much of that being trial-level litigation. I have always loved being a litigator and the practice of trial law, especially on the level of Circuit Court. After years of establishing my reputation as a litigator, my corporate and business clients have sought my help in very complex and potentially expensive cases. I understand that this is somewhat rare for solo attorneys in rural areas, and I am deeply honored to have been recognized and embraced by the business community in this way.

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

State of Tennessee v. Clint Marlow, (Lewisburg Municipal, Marshall County Circuit). This was a poverty-related case under *Bearden v. Georgia*. My client, Clint Marlow, was an indigent defendant who was found by the Sessions-level court to have violated his probation by failing to pay fines and court costs. The facts of Mr. Marlow's case were typical in that it was a common and long-standing practice at that time and in that venue for indigent probationers to have their probation violated for inability to pay money. My successful appeal of this case to Circuit Court ended this illegal policy in Marshall County.

State of Tennessee v. Holly Hunter (Marshall County General Sessions, Marshall County Circuit). My client, Holly Hunter, was an indigent defendant in a drug case in which she was charged with very serious felonies. Ms. Hunter was a tenant whose property was posted with No Trespassing signs. After a successful Motion to Suppress for violation of the constitutional rights of my client, the case and the felony charges were Dismissed.

State of Tennessee v. Tavarus Greer (Lewisburg Municipal, Marshall County Circuit). This was a "mockingbird" case in which my client, Tavarus Greer, was falsely accused of Aggravated Rape after a consensual sexual encounter. After an extended and complex period of litigation and investigation that encompassed Sessions-level and Circuit-level proceedings, I was able to establish through voluminous documentation and collected witness testimony that the allegations against Mr. Greer were false. The charges against Mr. Greer were Dismissed.

State of Tennessee v. Adrian Hill, M2011-02233-CCA-R3-CD (Tenn. Crim. App. Sep. 5, 2012) (case originated in Marshall County Circuit). My client, Adrian Hill, was an indigent defendant in a Child Support enforcement case. Mr. Hill lived with all of the children for whom he was order to pay support and, indeed, was their sole source of financial support. Mr. Hill was, however, denied his constitutional rights and wrongfully convicted. I took the case on a *pro bono publico* basis and won the appeal. The Tennessee Court of Criminal Appeals held that Mr. Hill's constitutional right to bail had been denied. Subsequently, the Tennessee Court of Criminal Appeals held that Mr. Hill had been denied his constitutional rights, vacated the convictions, and dismissed the case. This case also established – as an issue of first impression – that the Tennessee Constitution guarantees the right to Grand Jury action in certain types of child support enforcement actions.

Jonathan Tears v. State of Tennessee, M2012-01080-CCA-R3-PC (Tenn. Crim. App. Dec. 6, 2013)(case originated in Marshall County Circuit). My client, Jonathan Tears, was an indigent criminal defendant to whom I was appointed in a post-conviction proceeding. Prior to my appointment, Mr. Tears had been wrongfully convicted of Attempted Murder and sentenced to twenty-five years in prison. The Tennessee Court of Criminal Appeals reversed the convictions, and Mr. Tears was freed from prison. (See Q26 for citations to media coverage of this case.)

Alex Friedmann v. Marshall County, 471 S.W.3d 427 (Tenn. Ct. App. 2015)(case originated in Marshall County Chancery). My client, Alex Friedmann, editor of Prison Legal News, was wrongfully denied access to the public records of the Marshall County Sheriff's Department. Mr. Friedmann was subjected to extraordinary harassment and intimidation as a result of his attempt to gain access to the records. The Tennessee Court of Appeals ordered that Mr. Friedmann and Prison Legal News be awarded their reasonable attorney fees incurred as a result of the wrongful denial of access to the records. (See Q26 for citations to media coverage of this case.)

Taylor v. Town of Lynnville, No. M2016-01393-COA-R3-CV (Tenn. Ct. App. July 13, 2017) (case originated in Giles County Chancery). My client, Ricky Joe Taylor, operated a commercial business in Lynnville, Tennessee. Mr. Taylor was wrongfully denied access to the Town's public records. I gained access to the records by bringing suit against the Town on behalf of Mr. Taylor. The Court of Appeals ruled in favor of Mr. Taylor, ordering the government to compensate him for his fees and expenses.

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

In 2012, I led the effort to secure funding from the Tennessee Administrative Office of the Courts (AOC) to increase access to justice for indigent citizens of southern middle Tennessee. I saw a need to assist indigent parents who are required to pay child support but have no visitation rights with their children. Through the AOC's Access and Visitation Grant program, I applied for and secured funding to found a non-profit organization, the Quality Time Project. In conjunction with the Marshall County Juvenile Court, the Quality Time Project provided resources to educate parents regarding their rights to visitation and how to request the establishment and enforcement of those rights. The Project conducted monthly clinics during which participants were given detailed instruction by volunteer attorneys on how to complete the necessary documentation and file it with the courts. The Project also offered a telephonic hotline to which clinic attendees could call for instant help with any emergent issues related to the process of filing or docketing their cases.

I am a 2012 Graduate of the Tennessee Trial College sponsored by the Tennessee Association of Criminal Defense Lawyers. This is an intensive and extensive program focused on advanced litigation skills in Circuit-level courts in Tennessee.

I was honored to be recognized for my legal knowledge and expertise by Lorman Education Services. I was selected to serve as member of the Lorman Faculty in the area of Public Records Law.

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

Not applicable

EDUCATION

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

University of Tennessee, Knoxville: 1995-2001, Bachelor of Arts. Honors Program. College Scholars Program (Math, Physics, and Philosophy). Putnam Mathematics Competition Team. Recipient of an internship at the Institute for Advanced Study at Princeton. Recipient of an internship at Fermi National Accelerator Lab.

Nashville School of Law: 2007-2010, Juris Doctor. Member of Cooper's Inn. Recipient of the Founder's Medal. Valedictorian.

PERSONAL INFORMATION

12. State your date of birth.

November 4, 1976

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

I am a native Tennessean. After university, I moved to Massachusetts and pursued a career as an actuary. I returned to Tennessee in 2006. I have now lived continuously in the State of Tennessee for eleven years.

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

Ten years.

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

Marshall County.

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

Not applicable.

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

No.

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

No.

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

Two. Both complaints were dismissed by the relevant professional authority.

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

No.

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

No.

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

No.

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

First Unitarian Universalist Church of Nashville

Marshall County Republican Party. Member of the Executive Committee of the Marshall County Republican Party (2015-Present). Chaplain of the Marshall County Republican Party (2017-Present).

National Association for the Advancement of Colored People

Republican Liberty Caucus of Tennessee

American Civil Liberties Union

Electronic Frontier Foundation

Tennessee Firearms Association

Free Software Foundation

Pan American Center

Tennessee Coalition for Open Government

Friends of the Marshall County Library

24. Have you ever belonged to any organization, association, club or society which limits its membership to those of any particular race, religion, or gender? Do not include in your answer those organizations specifically formed for a religious purpose, such as churches or synagogues.
- a. If so, list such organizations and describe the basis of the membership limitation.
 - b. If it is not your intention to resign from such organization(s) and withdraw from any participation in their activities should you be nominated and selected for the position for which you are applying, state your reasons.

No.

ACHIEVEMENTS

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

American Bar Association

Tennessee Bar Association

Marshall County Bar Association

American Immigration Lawyers Association

National Association of Criminal Defense Lawyers

Tennessee Association of Criminal Defense Lawyers

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

Quality Time Project: Awarded a federally-funded grant by the Tennessee Administrative Office of the Courts to operate a non-profit organization whose purpose was to increase access to the courts for indigent parents seeking visitation with their children.

Nashville School of Law: Invited to serve as a Mentor in the “Innovative Writing Mentor Program”

Lorman Education Services: Selected to serve as a member of the Faculty in the field of Public Records Law.

American Bar Association Journal: Recognized for expertise in Public Records Law. *Private Notes, Public Scrutiny: Public officials can't evade public records laws through personal email accounts*. 103 A.B.A.J. 18.

Coverage of the *Tears* case: Recognized for post-conviction success at Court of Criminal Appeals for securing an order to vacate and the wrongful conviction of defendant Jonathan Tears for Attempted Murder.

Karen Hall, *Tears Could Have New Trial*, Marshall County Tribune (Dec. 11, 2013), at A1.

Alanna Autler, *Marshall Co. Man Released from Jail After Getting Conviction Reversed*, WSMV-Nashville (June 25, 2014), <http://www.wsmv.com/story/25873507/marshall-co-man-who-had-attempted-murder-conviction-reversed-getting-second-chance>

Coverage of the *Friedmann* case: Recognized for success in the Marshall County Chancery Court and the Tennessee Court of Appeals in Public Records Law.

Dave Maas, *The Foilies Round 4: Retaliation and Consequences*, EFF's Deeplinks, May 20, 2015.

Hayley Mason, *Sheriff calls Homeland Security on man requesting public records*, WSMV-Nashville (June 4, 2014), <http://www.wsmv.com/story/25698437/man-says-sheriff-searched-his-house-after-jail-records-request#ixzz3Tcg4GsO9>

Eric Owens, *Local Sheriff Calls Homeland Security On Man Seeking Public Prison Records*, Daily Caller (June 7, 2014), <http://dailycaller.com/2014/06/07/local-sheriff-calls-homeland-security-on-man-seeking-public-prison-records/>

Staff, *Prison Legal News Prevails in Tennessee Public Records Suit in Spite of Sheriff's Antics*, Prison Legal News (January 2015), at 32.

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

I was a candidate for the elected office of the Public Defender of the Seventeenth Judicial District in 2014.

ESSAYS/PERSONAL STATEMENTS

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

I have spent a substantial portion of my life and had some success within the rough-and-tumble of political processes associated with the Legislative and Executive Branches. Always, though, my heart, my home, and my deepest resonant values have been in the Judicial Branch.

The Judiciary is tasked with preserving the societal values that represent the highest aspirations of consistency, impartiality, and integrity within our constitutional republic. I am steadfastly committed to safeguarding the constitution and the constitutional rights of all people. The judicial principles of equity, equality, and due process must be embodied by our trial judges and manifested in our trial courts. I consider the role of embodying and manifesting these values and principles to be one of the highest professional callings within our modern world. I would be honored to serve my fellow Tennesseans in that capacity.

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

I seek a Circuit-level judgeship in Tennessee's Seventeenth Judicial District.

The Seventeenth Judicial District consists of the counties of Bedford, Lincoln, Marshall, and Moore. Currently there are three judges in this district: Judge Forest A. Durard, Jr., of Bedford County; Judge Franklin Lee Russell of Bedford County; and Chancellor James B. Cox of Lincoln County. At present, Chancellor Cox primarily handles civil matters, Judge Durard primarily handles criminal matters, and Judge Russell handles a mix of both civil and criminal matters.

My extensive trial experience in both civil and criminal settings would allow me to more easily transition into the current mix of cases that Judge Russell handles within the present division of labor within the district. The diversity of my previous litigation experience would also allow me to move more fluidly between different potential mixes of cases.

As discussed above, there is currently no Circuit-level judge from Marshall County. As a Marshall County resident, my selection for this judgeship would increase the geographic penetration of the District's judiciary. This would have the potential salutary effects of increasing public confidence in the District's judiciary, decreasing necessary travel time and expense, and increasing overall judicial economy.

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

Consistency, impartiality, and equal application of law are vitally important to both the public perception of the Judicial Branch and the coherent development of Tennessee law as an embodiment of public policy. Or, more directly, the result of litigation should ideally not change merely because the case is heard in a different county or in front of a different judge.

I am personally and deeply committed to safeguarding the principle of equal application and nurturing the development of Tennessee law as a coherent body. As judge, I will unerringly uphold the law, even if I personally disagree with it.

In my practice, I have encountered many laws with which I personally disagree. One such example is the rule prohibiting retroactive modification of certain aspects of domestic support orders. I have represented both clients who benefited from this rule and clients who were harmed by this rule. Many of these clients (or the opposing party) sincerely feel that this rule is extremely unfair as applied to the very specific facts in their specific case. I generally attempt – with gentleness and compassion – to use these moments as opportunities to stress the importance of the equal and consistent application of law. I often explain the situation along the following lines, “I understand your feelings. And, I share some of those feelings. And there is a good chance that the Judge shares some of our feelings about this situation. But the law is bigger than all of us ... even bigger than the Judge.”

REFERENCES

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

A. Scottie Poarch

B. William Spivey

C. Toby Adams

D. Victor Ashe

E. Chandler Anderson

AFFIRMATION CONCERNING APPLICATION

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

I have read the foregoing questions and have answered them in good faith and as completely as my records and recollections permit. I hereby agree to be considered for nomination to the Governor for the office of Judge of the Circuit Court in the 17th Judicial District of Tennessee, and if appointed by the Governor, agree to serve that office. In the event any changes occur between the time this application is filed and the public hearing, I hereby agree to file an amended questionnaire with the Administrative Office of the Courts for distribution to the Commission members.

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

Dated: September 6, 2017.



Signature

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



TENNESSEE TRIAL COURT VACANCY COMMISSION
ADMINISTRATIVE OFFICE OF THE COURTS
511 UNION STREET, SUITE 600
NASHVILLE CITY CENTER
NASHVILLE, TN 37219

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

WAIVER OF CONFIDENTIALITY

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

ROBERT Da Hon

Type or Print Name

Robert Da Hon

Signature

September 6, 2017

Date

029791

BPR #

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

United States District Court
for the Middle District
of Tennessee

Memphis Immigration
Court