

**BEFORE THE TENNESSEE JUDICIAL NOMINATING
COMMISSION**

**Suite 600, Nashville City Center
511 Union Street
Nashville, Tennessee 37219**

**APPLICATION OF
GENE G. SCOTT, JR.**

FOR NOMINATION TO THE
1ST JUDICIAL DISTRICT CRIMINAL COURT

Gene G. Scott, Jr. #021681
1211 E. Jackson Blvd., Ste. 2
P. O. Box 575
Jonesborough, TN 37659
(423) 753-0460

Tennessee Judicial Nominating Commission
Application for Nomination to Judicial Office

Rev. 26 November 2012

Name: _____ Gene Gilmer Scott, Jr. _____

Office Address: _____ 1211 East Jackson Blvd., Suite 2, P. O. Box 575, _____
(including county) _____ Jonesborough, Washington County, TN 37659 _____

Office Phone: _____ 423-753-0460 _____ Facsimile: _____ 423-218-1221 _____

Email Address: _____ genescottjr1@gmail.com _____

Home Address: _____ [REDACTED] _____
(including county) _____ [REDACTED] Carter County, TN 37694 _____

Home Phone: _____ Not Applicable _____ 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 fourteen (14) 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.

Law Office of Gene G. Scott, Jr., 1211 East Jackson Blvd., Suite 2, P. O. Box 575, Jonesborough, TN 37659.

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

2001, Tennessee BPR #021681.

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

Tennessee, #021681, October 26, 2001, Active.

United States Supreme Court, 2005, Active.

United States Court, Eastern District of Tennessee, June 10, 2002, 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).

I have been self employed as a sole practitioner since becoming licensed and have maintained an office in Washington County, Tennessee. During my third year of law school I worked as a clerk at the firm of Kustoff & Strickland in Memphis, Tennessee. During college I worked from January to May of 1997 as an intern in the Tennessee General Assembly. Aside from summer jobs during high school and college, I have had no other occupations.

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 practice is almost exclusively devoted to criminal defense and has been so for several years. Currently, I do not solicit or accept work other than criminal work with the exception of clients whom I represent in criminal matters.

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.

As I stated in my answer to the previous question, my current practice is devoted almost entirely to criminal defense.

In the area of criminal law, I have handled virtually every type of matter that will come before the court. I have served as both lead counsel and as co-counsel in capital murder cases as well as trying numerous murder and other serious felony cases.

I have also handled many post conviction proceedings and appeals in front of the Court of Criminal Appeals.

On several occasions I have appeared in front of administrative law judges at the Tennessee Department of Safety in which I represented criminal defendants in forfeiture proceedings.

Earlier in my career my practice was a general practice of law. The matters that I handled included domestic relations, personal injuries, juvenile court matters (both delinquent matters and dependant and neglect), breach of contract and criminal defense. Because of my interest in

criminal defense, I began to limit my practice to criminal work. On rare occasions, I still assist my current clients with civil matters which relate to their criminal charges.

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

State v. Marsha Shelton, Ms. Shelton was charged with three counts each of first degree murder and felony murder along with one count each of conspiracy to commit aggravated robbery, aggravated robbery, aggravated kidnapping, aggravated child abuse, aggravated arson, theft of property over \$1,000.00 and theft of property over \$500.00. The state filed notice to seek the death penalty. I was appointed lead counsel. The case involved a triple homicide (two adults and one child). After many months of work and negotiation I was able to secure a negotiated plea in which my client avoided the death penalty by pleading guilty and received a sentenced of life with parole.

State v. Theodore Ratliff, Mr. Ratliff was charged with first degree murder, especially aggravated robbery and especially aggravated burglary. At the time of the homicide my client was on parole for a prior murder conviction. Along with two co-defendants, Mr. Ratliff was accused of the robbery and murder of an elderly woman in her home. Through negotiations which lasted several months, I was able to secure a negotiated plea that allowed Mr. Ratliff to plead guilty and receive a sentence of life without the possibility of parole, avoiding a death sentence.

State v. Howard Hawk Willis, I was appointed co-counsel in Washington County case number 28343 in which Mr. Willis was charged with two counts each of first degree murder and abuse of a corpse and one count of attempted kidnapping. Mr. Willis was accused of killing a young couple and dismembering one of their bodies and disposing of those body parts in Boone Lake. The remainder of their bodies was found in storage containers in a local storage building. Mr. Willis had several attorneys (both lead and co-counsel) and eventually was ordered by the court to represent himself in the matter. I believe that I served as his counsel the longest, from May 31, 2005 to May 16, 2008.

State v. Roger Dale Greenwell, Mr. Greenwell was charged in Washington County with first degree murder. This case involved the beating death of an elderly man. After several months of hearings and negotiations, my client entered an Alford plea to second degree murder.

State v. Terry McIntosh, Mr. McIntosh was charged in Washington County with first degree murder. This case involved the gruesome death of a homeless victim near the Veterans Administration Hospital in Johnson City. After several court appearances and lengthy negotiations, I convinced the District Attorney that my client was not guilty. The case against Mr. McIntosh was dismissed.

State v. Sherry Clawson, Ms. Clawson was charged in Washington County with second degree murder. Ms. Clawson was charged with the stabbing death of her husband following a period of drinking and camping along the Nolichucky river. There was a history of domestic abuse. After

a jury trial, my client was found guilty of the lesser offense of voluntary manslaughter.

State v. William Ned Snow, Mr. Snow was charged in Johnson County with growing approximately 800 mature marijuana plants on a remote section of his property. After numerous court appearances and the filing of a motion to suppress, which is submitted as one of my writing samples, the State of Tennessee moved to dismiss the charges prior to the hearing on the motion to suppress.

I also represented Mr. Snow in a forfeiture proceeding before the Department of Safety. At the time of his arrest officers seized and sought forfeiture of money, several guns, vehicles and motorcycles that belonged to Mr. Snow. The value of the property seized from Mr. Snow was valued in excess of \$100,000.00. After a trial before an administrative law judge, the court ordered that all money and property be returned to Mr. Snow.

State v. Jason Charles Austin, Mr. Austin was charged in Washington County with first degree murder. This case involved the shooting death of the son of a former Johnson City police officer. After a jury trial which spanned several days, my client was found guilty of the lesser offense of second degree murder.

State v. Brenda Bolton, Ms. Bolton was charged in Washington County with first degree murder. The case involved the shooting death of an alleged gang member in my client's home in rural Washington County. After lengthy negotiations, Ms. Bolton entered a guilty plea to the lesser offense of voluntary manslaughter.

State v. Steve Jones, Mr. Jones was charged with the first degree murder of his estranged girlfriend, at the McDonald's in Elizabethton, Tennessee, following a visit with the couple's children. The matter was twice tried before a jury. The first verdict was set aside by the trial judge due to newly discovered evidence. Following both trials my client was convicted of first degree murder.

State v. Loy Dale Lineweaver, Mr. Lineweaver was charged with second degree murder in the shooting death of the victim. The case was tried before a jury and Mr. Lineweaver was convicted of the lesser offense of voluntary manslaughter.

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 have served many times early in my career as a guardian ad litem for children in juvenile court and in at least one adoption in Chancery Court. I have also served on many occasions as guardian ad litem for disabled adults who suffered from mental illness and were subject to an involuntary commitment.

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.

Not Applicable.

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.

University of Memphis <i>Cecil C. Humphreys School of Law</i>	Juris Doctorate	5/4/2001
East Tennessee State University	B.A., Political Science	8/21/1998
Outstanding Student, Department of Political Science		1998
John W. Burgess Award		1998

PERSONAL INFORMATION

15. State your age and date of birth.

I am 37 years old, November 9, 1975.

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

37 years.

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

Nine years.

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

Carter County, Tennessee.

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.

None other than traffic citations.

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.

Not Applicable.

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.

Piney Flats United Methodist Church, Custodian of Deeds, Piney Flats, TN, 2009-2011

Rocky Mount Historical Association, Board of Trustees, Piney Flats, TN, 2009-2010

Piney Flats Ruritan, 1995-1998, Club President 1998

Boy Scouts of America, Assistant Scout Master – Scout Troop 4, Piney Flats, TN, 1995-2000

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.

I was a member of the Boy Scouts of America from the age of 11 to 18. I received the Eagle Scout award. I also served as an Assistant Scout Master from 1995 to 2000. Membership in the Boy Scouts, as the name implies, is limited to boys.

Although I am not actively involved with the Boy Scouts, with the exception of attending my son's Cub Scout meetings, I do from time to time assist my former troop as needed. Most recently, I sat on a board of review, relating to the award of the rank of Eagle Scout to a young man.

It would be my intention to continue supporting the Boy Scouts if I am selected because I feel it is an excellent program for young men that teaches leadership and citizenship.

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.

Washington County Bar Association

Tennessee Association of Criminal Defense Lawyers

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.

Not Applicable.

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.

Sullivan County Commission, 1994. The position was elective. My candidacy was unsuccessful.

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.

David L. Brummitt v. State Appellate brief that I wrote and argued before the Tennessee Court of Criminal Appeals. The document is 100% my work. The Court of Criminal Appeals reversed the decision of the trial court.

State v. William N. Snow Defendant's motion to suppress. Although the motion also contains the name of my co-counsel, D. R. Smith, the document is 100% my writing. Prior to a hearing in this matter the charges against my client were dismissed.

ESSAYS/PERSONAL STATEMENTS

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

My reason for seeking this appointment is to improve respect for and observance of the law in the community. I have learned through extensive trial experience the importance of a competent, experienced and courteous judge to the administration of justice and to the respect that the public must take away from the courtroom. The function of a judge is to administer justice in a way that creates and promotes respect not only in the courtroom participants but in the general populous. While it would be profitable for me to continue in my current law practice, I am dedicated to improving the judicial system in which I work. The position of judge would provide that opportunity.

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)*

I can not relate any activity in which I have been involved which demonstrates my commitment to equal justice under the law more than my willingness to accept extremely unpopular

defendants as court appointed clients. The most positive proof of a lawyers commitment to equal justice is his willingness to endure the criticism of the general public, to answer questions such as “how can you represent such a person”, and to dedicate himself to the proposition that regardless of the ostensible cruelty of their actions, that everyone is entitled to a competent, capable and dedicated defense.

Recently, at the request of Judge Ben Hooper, I accepted an appointment in a triple homicide. The State sought the death penalty. Two adult victims were stabbed while a two year old child died as the result of a fire. After months of preparation, the case was resolved by a negotiated plea for a sentence of life.

I have on numerous occasions represented clients on a pro bono basis.

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

I am applying to be appointed to the Criminal Court of the First Judicial District, which is currently comprised of Carter, Johnson, Unicoi and Washington County. The District has one other criminal court judge. This court has jurisdiction over felony and misdemeanor offenses, and post conviction proceedings. The court also hears misdemeanor appeals from General Sessions Courts de novo.

Because I have been involved with the litigation of almost every type of case the court will hear, I can seamlessly transition into the position as judge and administer the court’s business. I will improve the efficiency of the court by scheduling cases in a way that reduces the time spent waiting, by victims, police officers, attorneys, and litigants prior to their case being called. I will also work to reduce the amount of time between an indictment and trial.

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)*

Since my admission to the bar I have dedicated the majority of my time to my law practice, clients and family. However, I have also been active in my community. I am a member of Piney Flats Methodist Church and in the past have served as an assistant scout master and as president of the Ruritan Club. Also, I have volunteered my time to the moot court competition conducted by the Young Lawyers Division of the Tennessee Bar Association.

Additionally, I have had several opportunity’s to speak to school groups, at both the high school and college level, concerning the interaction between legal issues and society and how the law impacts each of our lives. I have found these experiences very rewarding and productive.

If I am appointed judge I would continue to be active in the community and I would use the position to better acquaint the community with the role of the judicial system.

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)*

I am a seventh generation east Tennessean and was raised on the farm that has been in my family since before the civil war. I have lived in this geographic area my entire life, with the exception of time in law school and a semester in college, when I served as an intern at the Tennessee General Assembly. My understanding of the community and its people will help me to preside over the court with an understanding of the people who appear before me, their history and way of life.

I am no stranger to hard work. I have worked on a farm my entire life and I routinely work 50-60 hours per week in my law practice. I can handle the heavy dockets involved in the criminal court and will spend the time necessary to keep the docket current and prevent unnecessary delays in bringing matters to a fair and just resolution. Because of my extensive trial and practice experience, in the criminal courts of this state, I am prepared to step into the job and handle the court's business on day one.

Also, I recognize that aside from having legal knowledge and experience, a judge must have an even temperament. It is imperative that a judge treat all parties involved in a matter with respect and dignity. I believe that anyone who has practiced with me over the years would agree that I have the right temperament to be judge.

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)*

A trial judge has the obligation to follow the laws as promulgated by the General Assembly and I would always follow and uphold the law, even if I have a personal disagreement with the statute or rule in question. In a representative democracy, it is not the function of the courts to make or expand laws or constitutional rights, but rather to interpret and apply the laws as written by the legislature. In enforcing and interpreting a statute, I feel that a judge should look to text of the statute, rule and constitutional provision being examined and construe that provision based upon the text of the provision in question and interpret those words by their plain and ordinary meaning. It is not for a judge to make law from the bench.

I cannot recall a situation as an attorney that I have been required to uphold a law that I do not agree with.

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. David Kustoff, Attorney, Kustoff & Strickland, PLLC, 22 North Front Street, Suite 660, Memphis, TN 38103, [REDACTED].

B. Honorable R. Jerry Beck, Criminal Court Judge for the Second Judicial District, Sullivan County Justice Center, P. O. Box 585, Blountville, TN 37617, [REDACTED]

C. R. Wayne Culbertson, Attorney, 119 West Market Street, Kingsport, TN 37660, [REDACTED]

D. Andrew Hare, Principal, David Crockett High School, 381 Piney Flats Road, Piney Flats, TN 37686, [REDACTED]

E. Frank Peters, Investigator, Johnson City Police Department, 601 East Main Street, Johnson City, TN 37601, [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 for the First 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: 1-10, 2013.



Signature

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



TENNESSEE JUDICIAL NOMINATING COMMISSION

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 which 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 Tennessee Judicial Nominating Commission to request and receive any such information and distribute it to the membership of the Judicial Nominating Commission.

Gene G. Scott, Jr.

Type or Printed Name



Signature

1-10-2013

Date

021681

BPR #

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