

Tennessee Trial Court Vacancy Commission
Application for Nomination to Judicial Office

04/15/16

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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.

Owner and sole practitioner of Pierchoski Law Firm

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

2002 BPR# 022235

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 BPR # 022235 Oct 29, 2002, **Active**

United States Patent and Trademark Office, Patent Attorney # 55535, Oct 31, 2003, **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).

Since the completion of my legal education in October 2002, I have been a practicing attorney and the owner of the Pierchoski Law Firm until the present.

Prior to attending law school from 1/93 to 9/98, I retired to private life for approximately 5½ years to single-handedly design and build my 5,000 square foot home located at the above Giles County address.

Prior to building my home, I was employed as a Nuclear Engineer with the following

organizations:

From 12/90 to 12/92

General Physics Corporation, 6700 Alexander Bell Drive, Columbia, MD 21046

Supervisor: Jack Millspaugh

Position: Senior Nuclear Engineer, Operations Simulator Training

Location: Browns Ferry Nuclear Power Plant, Tennessee Valley Authority, Decatur, AL

From 8/89 to 8/90

FRG Corporation, 1017 N. Telegraph Road, Monroe, MI 48162

Supervisor: Ricky D. Goodrick

Position: Contract Senior Nuclear Engineer, Operations Training Department

Location: LaSalle Nuclear Power Plant, Commonwealth Edison, Ottawa, IL

From 5/85 to 8/89

Nuclear Energy Consultants, Inc., 15713 Crabbs Branch Way, Rockville, MD 20855

Supervisor: Bill Mills

Position: Contract Senior Nuclear Engineer, Nuclear Operations

Location: Browns Ferry Nuclear Power Plant, Tennessee Valley Authority, Decatur, AL

From 7/75 to 5/85

General Electric Company, 175 Curtner Ave, San Jose, CA 95125

Supervisor: Paul Zimmerman

Position: Nuclear Engineer, Startup Operations

From 4/76 to 9/78

D'Appolonia Engineers, 10 Duff Road, Pittsburgh, PA 15146

Supervisor: Tom Hill

Position: Part time during college – Soil and Water Lab Technician

From 4/75 to 9/75

Nash Masonry, 14300 Artic Ave, Rockville, MD 20051

Supervisor: Bernard Nash

Position: Summer job during college – Laborer/brick and block

From 4/74 to 9/74

Van Sumner Corporation, 5192 West Military Hwy, Chesapeake, VA 23321

Supervisor: Lawrence Price

Position: Summer job during college – Laborer/tennis court construction

From 4/73 to 9/73

Van Sumner Corporation, 5192 West Military Hwy, Chesapeake, VA 23321

Supervisor: Lawrence Price

Position: Summer job during college – Laborer/tennis court construction

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.

At present my law practice consists of approximately 30% criminal defense trial work in both General Sessions and Circuit Court, 50% Trust writing, estate planning and wealth preservation and 20% civil cases in Chancery Court.

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.

My legal career actually began prior to my graduating law school and passing the bar. During law school I participated in an internship with the 22nd Judicial District Public Defender's Office. During that internship I was involved in three criminal jury trials under the supervision of Assistant Public Defenders Beverly White, Ship Weems and Robert Stovall. I assisted in preparing the questions for direct and cross examination, witness preparation and jury selection. After that internship I knew that my passion was to be in the courtroom as a trial attorney.

After passing the bar and being admitted to the practice of law in October 2002, I established the Pierchoski Law Firm, which consisted of just myself. My office was based in Lawrence County, but I practiced in Giles, Maury and Wayne as well. For the first couple of years I would take every case that walked into my office. There were lots of deeds, divorces, custody, probate, contracts and collections, but the majority of my practice was court-appointed criminal work. My courtroom experience began almost immediately, and I conducted my first jury trial just four months after passing the bar. I had a passion for legal research and soon developed a reputation for extensively briefing my legal issues. I was always one to conduct preliminary hearings in General Sessions Court rather than waive them, and I soon gained a reputation for zealously representing my clients. In 2003 I was appointed to represent the defendant in *State v. Cayle Wayne Harris* at the Motion for New Trial level. This was a highly-publicized, egregious child rape case. The public defender was the trial attorney, but I was appointed after the jury trial when a conflict developed. After thorough investigation of the record, I identified several issues to argue at Motion for New Trial, all of which were exhaustively briefed to the court prior to the hearing. After reading my brief, and before the hearing, Circuit Court Judge Robert L. Jones stated I had made him dig into old leather bound volumes of the law. Although the Motion for New Trial was denied at the trial court level, my severance of offenses issue was persuasive, and I successfully convinced the Court of Criminal Appeals to grant the defendant a new trial.

As a result of having a large number of criminal appointed cases I gained a reputation with the courts as being able to handle "difficult" clients. The only way I can explain how I was referred to as such is that there were several criminal defendants who would cycle through two or three attorneys by creating attorney-client conflicts. The conflicted attorneys would withdraw, and I was appointed. It seemed as if I was always able to get along and proceed the case to disposition. Many commented in open court that my zealous representation showed, and they just wanted

someone to fight for them. Many of the hearings and trials resulted in an adverse outcome for my client, but it always amazed me how appreciative they were for my trying. In 2004 I was appointed to represent the most difficult client of my legal career in *State v. Hugh Peter Bondurant*. This was a high-profile, first-degree murder case in which the State had sought the death penalty that ultimately resulted in a second-degree murder conviction. Dennis Stack was appointed to represent my client's twin brother. This case was recently aired as an episode of "Evil Twins" on national television. The brothers had filed for post-conviction relief under the (then) recently enacted Post-Conviction DNA Analysis Act of 2001. My client had created a conflict with four appointed attorneys before me, yet I was able to pursue his case through to completion without having conflicting out.

Because of my reputation for being through, in 2005 Judge Jones appointed me to my first murder case, *State v. Damien Tolson*, in Lawrence County. This case was complex and was fiercely fought in pre-trial motions with the late General Doug Dicus and myself briefing the court on multiple legal issues. Prior to trial the parties identified 41 witnesses for both sides. I was unable to make a case for a "particularized need" and therefore was unable to secure funding for private investigator services, so I personally tracked down and questioned all 41 witnesses throughout five separate counties. After a four-day jury trial the defendant was convicted of first-degree murder. During the preparation for Motion for New Trial I became aware of knowledge that a third party had admitted to the killing. Prior to hearing the Motion for New Trial the Court heard a lengthy Writ of Error Corum Nobis on the newly discovered evidence of the third party confession. Ultimately the writ and Motion for New Trial were denied. However, the Honorable Robert L. Jones, presiding, placed on the record the following remark, "I am pleased with the performance of Mr. Pierchoski before, during and after trial. It just shows how zealous Mr. Tolson was represented."

Not all my trials were murder trials. Throughout 2006 I tried criminal cases of every flavor, including high-profile, highly-publicized cases. In 2005 I represented two codefendants charged with the B misdemeanor of Disrupting Meeting or Procession. This case involved the alleged disruption of a school board meeting, which became so publicized and popular that it dominated the local newspaper for months. The two-day jury trial was standing-room-only and resulted in an acquittal for both defendants on all charges.

Because I had gained experience in homicide cases as well as high profile cases, in 2007 I was appointed to *State v. Jeffery Dwight Rodgers*, an attempted first-degree murder case that was later labeled by the media as the E.B.G.B. shooting – so named for the club in which it took place, the Eternal Brotherhood of Gentleman Bikers. This was a four-day jury trial prosecuted by the elected DA and heavily covered by the press.

During this time I had taken several civil cases that also went to jury or bench trial. The civil cases were land disputes, personal injury, contract disputes, etc. Nothing remarkable with the exception of a one-day bench trial of an adverse possession land case. This case involved considerable research of historic law dealing with this rare topic.

Recently I have been retained by a large corporate client engaged in the solar energy business. This representation has allowed me to get heavily involved in the Federal legislation of the Public Utilities Regulatory Policies Act of 1978 (PURPA).

Since I began the practice of law I have either been appointed or hired to represent criminal clients in numerous Post-Conviction Relief cases. One of the most challenging PCRs I have encountered was *Jeffery Wayne Robertson v. State*. I was not the trial attorney. The defendant was largely convicted on Comparative Bullet Lead Analysis (CBLA) evidence. This was a form of unique testing performed by the FBI where crime scene bullets along with bullets from source boxes are analyzed for several trace element impurities to determine if the bullets were manufactured from the same lead ingot batch. It is a highly technical and scientific process that employs complicated chemical separation analysis. In late 2005 the FBI essentially abandoned the CBLA testing. At the PCR hearing I essentially had to conduct a *Daubert* hearing to show the court that the scientific evidence used to convict the defendant did not pass muster under Tennessee's *McDaniel v. CSX Transportation* test. After months of research a two-day PCR hearing was conducted for which I had written, submitted and argued a voluminous brief to the court about the manufacturing process of lead bullets and the statistical determination involving the CBLA testing. At the conclusion of this hearing, the Honorable Jim T. Hamilton, presiding, began referring to me as a "bona fide rocket scientist." Although the Court denied Post-Conviction Relief, the case took on a unique and interesting posture on direct appeal, which is further discussed in Question 8 below of this application.

In 2005 I became death-penalty defense qualified, and in 2008 I was court appointed to my first death penalty case. In *State v. Kenneth Patterson Bondurant*, the defendant was awarded a new trial at the trial court level. The new trial granted would have been the defendant's third death-penalty trial. Supreme Court Rule 13 requires defendants in capital cases be appointed both a lead attorney and a second chair attorney. After this defendant's second jury trial and prior to the Motion for New Trial, the second chair attorney suffered health concerns that necessitated his withdrawal. I was court appointed in his place as second chair attorney. The day I was appointed, the Honorable Jim T. Hamilton presiding, told the defendant "I am appointing you a bona fide rocket scientist for your second chair attorney." This case consumed approximately 70% of my time for the next nine months. The two prior trials were each two weeks long. The transcripts of pre-trial motions, voir dire and trial were voluminous, and the amount of physical evidence was staggering. During this case I was able to secure ex parte funding for private investigation services and expert forensic services. As second chair I worked mostly with the investigators and experts grooming their work and reports into admissible evidence. I was tasked with the issues for change of venue, spousal privilege, statement suppression and serology testing. One of my many duties was to attack the state's forensic evidence. As a result of my research, I was able to discredit the state's forensic anthropologist at a pre-trial evidentiary hearing in a manner that was never attempted in either prior trials. As a result I was successful in persuading the trial court to rule on the inadmissibility of some of the State's bone fragment evidence. Because this was a death-penalty case we were awarded funds for the mitigation team to mitigate the death penalty at the sentencing phase of the trial should the defendant suffer a conviction. As second chair I had a great deal of exposure to the organization and duties of this team. One of my duties with the mitigation team was to develop a jury questionnaire. One month prior to trial the State's main witnesses died and both sides participated in a flurry of pre-trial motions dealing with former testimony. One day prior to jury selection the case was settled with a second-degree murder plea.

Since then I continued to practice with approximately 70% of my cases criminal and 30% civil. I conducted criminal trials of all persuasion as a private attorney, but my court appointed caseload was dominated by the more egregious offenses such as homicide, rape, rape of a child, arson, etc.

In 2010 I was court appointed to represent the defendant in *State v. Brian Dodson* – a brutal stabbing in a first-degree murder and an attempted first-degree murder case resulting in a seven-day trial.

In 2011 I was court appointed to represent the defendant in *State v. Robert Wayne Garner* – an egregious first-degree murder/arson case resulting in an eight-day jury trial with 45 witnesses and 65 exhibits.

In 2012 I was court appointed to represent the defendant in *State v. Julie Bunch Bauer* – a mercury chloride based double poisoning case. This case lasted more than a year and Assistant District Attorney Dan Runde announced on the record that this case had more discovery than any case he had seen in his 30 plus years of experience.

In 2013 and 2014 I was court appointed to *State v. Jerrell Sizemore*, *State v. Ricky Lee Houser*, *State v. Jason McCollum*, *State v. Jimmy Dale Hogan* and *State v. Megan Forsythe*. All were first-degree murder cases and all were pending at the same time. All the while I conducted my normal caseload of lesser crimes and civil cases. Throughout the above were several homicide cases that were settled without going to trial.

In April 2016 I was court appointed *State v. Kimberly Miller*, a 25 year old cold first-degree murder case. This case went to trial approximately 2 years later in March 2018 for a week long jury trial. The discovery in this case was staggering and at times overwhelming consisting of over 14 GB of data.

I have argued approximately 35 cases on direct appeal to either the Court of Appeals or the Court of Criminal Appeals. I have written as many Rule 11 Application for Permission to Appeal to the Tennessee Supreme Court but have not yet been granted permission.

Since July of 2015 I have shifted my practice from mostly criminal defense to mostly estate planning and trust writing as well trust administration and probate. My criminal defense case load has been significantly lightened.

The reason I emphasize my experience with first-degree murder and homicide related cases is important. Such cases are distinctive in that they cover the entire gambit of criminal trial and procedure. These types of cases almost always go to trial, and as a result I have been exposed to every aspect of our trial court system of jurisprudence. I have become fluent in criminal procedure, the Rules of Evidence, pre-trial motion writing and arguing, discovery practice, jail, penitentiary and Tennessee Department of Correction procedure, ex parte hearings, document filing under seal, settlement negotiations, guilty pleas, jury selection, direct examination and cross-examination of witnesses, exhibit admissibility, trial objections, Jencks Act material, sentencing, motions for new trial, interlocutory appeal and direct appeal. As a result of these

criminal trials and my civil cases, I have been exposed to, and am familiar with, 100% of what transpires in circuit court many times over. If there is anything to which I have not been exposed, I have demonstrated my ability to learn it rapidly and thoroughly.

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

As discussed in Answer #7 above the first-degree murder Petition for Post-Conviction Relief case in *Jeffery Wayne Robertson v. State* took on an unusual posture after the trial court hearing and while on direct appeal. After the defendant suffered an adverse decision in the trial court, the decision was appealed to the Court of Criminal Appeals. While it was pending in the Court of Criminal Appeals but before the Appellant and Appellee Briefs were submitted, the Federal Bureau of Investigation requested the District Attorney allow them to inspect the record to ascertain the extent that Comparative Bullet Lead Analysis was used to gain the conviction. After review the FBI opined that the FBI examiner who testified at trial overstated the importance of the results possibly misleading the jury. I immediately tried to have the case remanded back to the trial court for review of this new evidence but no procedural vehicle to do so existed. After considerable research I filed a Motion to Hear Post-Judgment Facts with the Court of Criminal Appeals in an effort to bring this new evidence before the court. Sometime afterwards I was notified by the court's staff attorney that my Motion to Hear Post-Judgment facts was granted. The staff attorney indicated he could not shed any light on the court's granting my motion because he had never seen it done before. He also indicated he would be in attendance in order to observe how the court would handle it. I had argued approximately 12 cases with the Court of Criminal Appeals by this time and was uncertain how to proceed. Further inquiry determined that the Court would allow me to argue my motion without any time limit and then hear from the State without any time limit. I was to then immediately proceed with my argument of the direct appeal within the normally allotted 20-minute time limit. My argument for the motion was approximately an hour long as it was very technical and encompassed the reasons the FBI was abandoning the analysis under the *Daubert* test. After several months the Court denied the petitioner post-conviction relief. Since this was a court-appointed case I was required to submit a billing after the Court's decision. Such cases have a monetary cap on compensation and because of all the extensive research and technical nature of the appeal my claim for attorney's fees was just under twice the monetary cap. I did not submit a Certificate for Extended and/or Complex Representation because it has been my experience and the experience of others that the granting of such at the appellate level was rare, especially if one was not successful. It is interesting to note that I was contacted by the Court and instructed that if I would file a Certificate for Extended and/or Complex Representation, the Court would entertain it. Therefore, I submitted one, and it was granted. This was the only time I ever received such a request from any court.

Due to the denial of Post-Conviction Relief, this case continued in the trial court with the filing of a Writ of Error Corum Nobis. The newly discovered evidence was the FBI notifying the District Attorney that CBLA was discontinued by the agency and that the FBI examiner who testified at trial had overstated the importance of the results possibly misleading the jury. In order to admit the FBI letters at the trial court hearing it was necessary to subpoena the FBI agents who

made the determination. This process is very difficult, cumbersome and time consuming. The process for a State to subpoena a Federal employee is by permission of the United States only. The ability to do so is within the Code of Federal regulations but any ascertainable procedure is not. I again embarked on extensive research on how to subpoena an FBI agent into State court. Several attempts were made, each successive attempt was researched and refined and made slightly different from the one before. After approximately one calendar year I was finally successful, and the United States Attorney produced the necessary FBI agent who testified in the Lawrence County Circuit Court on Aug. 6, 2013. It was a personally satisfying moment.

As discussed in the Answer #7 above, in 2010 I was court appointed to represent the defendant in *State v. Brian Dodson*. This case involved Columbia, Tenn., gang members with a brutal stabbing in a first-degree murder and an attempted first-degree murder case resulting in a seven-day trial. I had prepared and worked on this case from the preliminary hearing in General Sessions Court through Circuit Court jury trial for a period of 16 months. In 2012 the defendant filed for post-conviction relief alleging some 75 grounds of violation of due process and ineffective assistance of counsel. After a two day post-conviction relief hearing, where I was testifying for a little more than a day, the Honorable Judge Stella L. Hargrove presiding, denied the petitioner relief. In her written opinion she stated the following, "Mr. Pierchoski is a very good defense lawyer; indeed, one of the best in our district. He is meticulous; he knows every minute detail of the case, and he leaves no stone uncovered."

As discussed in Answer #8 above, in 2012 I was court appointed to represent the defendant in *State v. Julie Bunch Bauer*, a mercury chloride based double poisoning case. This case was so involved and so complex that it lasted more than a year and included more than 7,000 pages of discovery. The sheer volume of this case was overwhelming. I was able to secure some meager ex parte funding for private investigator services, but the vast majority of work was squarely on my shoulders. As trial loomed closer I contacted the local Martin Methodist College and announced my interest in any criminal justice students who wanted to work an internship with me. The effort was a success, and I eventually was assigned three interns who each offered 100 hours in exchange for college credit. It was a perfect symbiotic relationship. I was relieved of much of the busy work while I concentrated on the witnesses and evidence admissibility. The students enjoyed a healthy dose of real-world criminal justice, and we were able to be prepared for trial.

I would like to express to this Commission that the *State v. Bondurant* death penalty case, *State v. Bauer* double poisoning case and *State v. Kimberly Miller* 25 year old cold murder case I defended were the most work intensive and legally challenging cases I have had. When an attorney is appointed by the court to defend someone who is facing the death penalty or life in prison, it is a staggering responsibility. There is no situation an attorney can be involved in where the stakes are higher. These cases generated significant media attention along with crowds of people attending every motion hearing and court date. Being under heightened scrutiny from the media, enduring intense hostility from victims' families and always performing outnumbered by the vast resources of the State is not for the faint-hearted. I believe being able to handle such workload and stress makes me a prime candidate for the bench.

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

attention of the Commission.

Because of my engineering and technical background I took and passed the patent bar exam in October 2003. Over my 16 years of law practice I have been involved in the prosecution of more than 50 patents. Said prosecution was by provisional patent application, non-provisional patent application and limited patent infringement litigation, most of which were done in my first eight years. Due to the increased volume of criminal work described in Answer #7 above, I have done little to no patent work over the last eight years.

It is important to note that I passed the patent bar on my first attempt. Statistically, only 25% of all patent bar applicants are successful on their first attempt. Indeed, when I took the exam there were 35 applicants and I was one of 4 who were taking it for the first time.

Although my patent experience will have no application in the Circuit Court Judge position I am seeking, the practice of patent law is complex, meticulous and riddled with deadlines and time requirements. Even though I have not done any patent prosecution work for four years, my ability to be successful in those in which I did participate demonstrates my proven ability to learn and accomplish extended and complex tasks.

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

I submitted an application for the vacancy in the 22 Judicial District for Circuit Judge created when the Honorable Robert L. Holloway was appointed the Court of Criminal Appeals in October 2014 and when the Honorable Jim T. Hamilton retired in April 2015.

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.

Nashville School of Law, Nashville, TN

From 9/98 to 6/02

Received J.D. in 6/02

Received the Cooper's Inn Society Award for 2nd highest GPA in class

Received the Moot Court Award

University of California, Berkeley, CA

From 9/81 to 12/82

M.S. Nuclear Engineering in 12/82

Author of "Design and Nuclear Characteristics of the Hafnium-Hybrid Control Blade", 12/82

University of Pittsburgh, Pittsburgh, PA

From 8/77 to 5/79

B.S. Chemical Engineering in 5/79

University of Pittsburgh, Pittsburgh, PA

From 9/72 to 8/77

B.S. Chemistry in 8/77

PERSONAL INFORMATION

12. State your date of birth.

1955

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

28 years

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

28 years

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

Giles 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.

N/A

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

No

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

No

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

I can only recall a single complaint to the Board of Professional Responsibility. A Memorandum of Complaint File No. 31959-6-KS dated March 17, 2009, was filed by Barbara Swafford, mother of Bryan Milam. Mr. Milam was convicted of first-degree murder in Wayne County.

In late 2006, Darren Cole, an Indiana licensed attorney approached me and requested that I be his supervising attorney under Supreme Court Rule 19 so he could practice *pro hac vice*. Attorney Cole satisfied me that his application was pending before the Tennessee Bar and would take from 3 to 6 months for approval. Said Rule 19 requires the supervising attorney to be present during any court appearances. To my knowledge attorney Cole did not take any cases that required my supervising capacity until late in 2007 when he was retained by Barbara Swafford to represent her son, Bryon Milam, for a Motion for New Trial of Mr. Milam's murder conviction. Late in 2007 Attorney Cole scheduled an ex parte hearing in the Circuit Court of Wayne County to approve indigent funding for Mr. Milam. That ex parte hearing was the first and only court appearance I participated in. On or about Jan. 18, 2008, Attorney Cole informed me that he had gained admission to the Tennessee Bar, and I terminated my supervising attorney responsibilities that day. I sent Attorney Cole an invoice for that single appearance which was approximately \$250- 350. To my knowledge Attorney Cole passed the invoice to Barbara Swafford who at some time paid it. I never involved myself with the merits of the case and never spent any time

on it since said termination.

Ms. Swafford states in her complaint that at some subsequent date she called me and inquired about the appeal and that I made some statement concerning a conflict of interest. I do remember such a call but informed Ms. Swafford that I had not been on the case since prior to the Motion for New Trial and had no personal knowledge of anything that had transpired since. Attorney Cole was the attorney of record for the Motion for New Trial and portions of the direct appeal as of right. Her Complaint was in the most part concerning Attorney Daren Cole and Attorney Hershel Koger. In fact, Ms. Swafford inquired if I would take over the appeal, and I declined the representation. That is the extent of my involvement in *State v. Milam*.

In Ms. Sawford's complaint she does not state that I engaged in any misconduct or impropriety. She simply states that I appeared with Attorney Cole once in court and that she called me once to inquire about the appeal. I promptly responded to the Board of Professional Responsibility and no action was taken.

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.

Stanley Pierchoski v. Robert Harris, June 30, 2008, Giles County General Sessions Civil Court, # CV-18056. In 2007 I represented Mr. Robert Harris in a DUI case. After a jury trial he was acquitted. Mr. Harris defaulted on his attorney fee contract. I sued him for nonpayment of debt and received a judgment. The debt has never been collected.

Stanley Pierchoski v. Paul Sherrill, April 20, 2007, Lawrence County General Sessions Civil Court, #28763 . In 2004 I represented Mr. Paul Sherrill in a heavily disputed adverse possession case. After weeks of preparation and a lengthy civil trial, Mr. Sherrill defaulted on his attorney

fee contract. I sued him for nonpayment of debt and received a judgment. The debt was eventually collected.

JLM Energy, Inc. v. ACE LLC SOLAR, June 14, 2016, I was counsel for ACE LLC, Solar and filed a Breach of Contract action lawsuit in Tennessee against JLM Energy, Inc alleging their micro grid product did not work and the batteries supplied with it would not charge as promised. The product manufacturer could not be successful in making the product perform and insisted it was the buyers fault. Since I was the attorney representing the buyer and also had a strong engineering background with extensive knowledge in the solar alternative power industry, I was very effective in holding the buyer to the terms and conditions of the sale as well as being able to analyze any testing performed during the settlement negotiation process. During the pendency of this Tennessee cause of action, the buyer initiated a breach of contract action, arising out of the identical circumstances, against the buyer in a California cause of action. The California lawsuit named me, the buyer's attorney as a party to the action. Since the Tennessee cause of action was still pending, I had to withdraw as counsel of record due to an actual conflict of interest. Because of my extensive legal and technical background, my withdraw left my client at a great disadvantage of not being able to find a substitute attorney with my technical background. My client had to dismiss the Tennessee cause of action as the Plaintiff and take up as the Defendant in the California cause of action. Judge David Allen, who granted my withdraw due to conflict, stated naming the Plaintiff's attorney as a party in the California cause of action was an act to have me removed as the Plaintiff's attorney. I intended to represent my client in California after being admitted pro hac vice. Once the conflict existed, I was ethically unable to represent my client in any forum. Shortly after the California cause of action began and before any discovery was made and prior to any hearing or finding of facts, the Plaintiff voluntarily dismissed me from the lawsuit with prejudice.

The State of Tennessee on the Relation of Stanley Pierchoski v. Robert D. Lawson, Commissioner of Department of Safety June 1992, Fifth Circuit Court for Davidson County, Tennessee, 91C-3451. This was a Petition for a Writ of Mandamus. I filed this writ as a good faith challenge to the legislation that required Tennessee driver's license applicants to supply a social security number on the application. The law on driver's license renewal in 1992 clearly provided that disclosure of the applicant's social security number was optional. In the process of renewing my TN driver's license I chose not to disclose my social security number, and the Department of Safety denied the renewal. I petitioned the court for the extraordinary relief of the Writ of Mandamus and was successful. The Court ordered the license renewed without the social security number on the form. This action was done pro se and was six years before attending law school.

Pierchoski v. Pierchoski, Oct 1989, Giles County Chancery Court, #7141. The parties were awarded an absolute divorce.

Stanley Pierchoski v. United States, June 1984, United States District Court E.D. of PA., CA 84-1650. While I was employed by General Electric as an Engineer and my marital status was single, I filed this suit to contest the determination of an arbitrarily assessed civil penalty after I properly adjusted Form W-4 Employee Withholding Allowances to minimize annual refund and over withholding. The case was voluntarily non-suited.

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.

Southern Tennessee Area Arts Repertory, Inc., Board of Directors, Treasurer 2008 – Present

Giles County High School Mock Trial Team, Attorney Coach 2004 - 2010

Boys and Girls Club, Member of Board of Directors, 2010

Boy Scouts of America, Assistant Scout Master

Giles County Chamber of Commerce

World Outreach Church

Men's CBS Bible Study

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.

Lawrence County Bar Association, Jan 2003 – Oct 2006

Giles County Bar Association, Oct 2006 – Present

Tennessee Bar Association, Jan 2016 - Present

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

Nashville School of Law Cooper's Inn Award

Nashville School of Law Moot Court Award

Giles County High School Mock Trial Team, Best Attorney Coach Award

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.

From 11/13 to 8/14, Candidate for Giles County General Sessions Judge, elective position

ESSAYS/PERSONAL STATEMENTS

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

For 16 years I have been a trial attorney. I have experience with and have been exposed to every aspect of our Circuit Court and Chancery Court. It has always been my practice to research issues and brief the court. I enjoy research and writing, and I excel at it. A Circuit Court Judge must be familiar with all legal issues to be able to effectively rule from the bench. A judge would also take many decisions under advisement, which is what I am good at. I would review the case, review any memoranda filed by the parties then do my own research and type my own orders or judgments. I would be an effective judge that would in turn be an asset in reducing the ever-increasing criminal dockets in this district.

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 one of the four Circuit Court Judgeships for the 22nd Judicial District. This position hears Circuit Criminal, Circuit Civil and Chancery cases in four counties. The vast majority of the collective docket is criminal and seems to get larger every year. I personally know the other three judges and have no doubt I could work with them. I would bring to the court 16 years of circuit court experience, during which time I have tried and participated in all types of cases from DUI to first-degree murder including my representation of a death penalty case. My civil experience has seen cases from divorce to adverse possession to corporate law. I believe my extensive trial experience has prepared me to hear oral arguments, preside over jury trials and write opinions in any type of criminal or civil case. Furthermore, I bring to the court a passion and enthusiasm for Tennessee jurisprudence.

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

Yes. I represented a client in a multiple burglary and theft case. He had made a very detailed confession of how, when and where he broke into the store and stole the merchandise. The interviewing police told him he didn't need an attorney and promised him he would fare better if he confessed to some recent unsolved burglaries. He confessed in great detail to more than 10 burglaries and thefts. One of the victim businesses was owned by a friend of mine. I zealously attacked the confession in accordance with the law and convinced the court at a suppression hearing that it was inadmissible. All charges were dismissed for lack of evidence. My ethics bound me to the rules of evidence, which made the confession illegal even though we all heard his words of unconditional guilt. I did not like freeing a defendant who violated the law and deserved to be punished, but I upheld the law.

Another example was a DUI case where the DA brought to my attention that the breathalyzer read-out showed the officer did not wait the required 20 minutes as determined by law in *State v. Sensing* and offered to amend to reckless driving. Upon my own inspection, I discovered that the DA was wrong and had incorrectly read the 24-hour time stamp. In fact, the officer had waited 24 minutes to administer the test. I felt ethically bound to bring the mistake to the court's attention, even to the detriment of my client.

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. Crystal Greene, Chancery Court Clerk and Master, [REDACTED] Pulaski, TN 38478, [REDACTED]
B. Natalie Oakley, Circuit Court Clerk, [REDACTED] Prospect, TN 38477, [REDACTED]
C. William Eledge, Attorney, 9 Public Square, Lawrenceburg, TN 38464 [REDACTED]
D. Dan Runde, Assistant DA, Retired, [REDACTED] Columbia, TN [REDACTED]
E. Pastor Ricky Keith, First Assembly of God of Pulaski [REDACTED] Pulaski, TN 38478 [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 Circuit Court of Giles County of Tennessee, and if appointed by the Governor, agree to serve that office. In the event any changes occur between the time this application is filed and the public hearing, I hereby agree to file an amended questionnaire with the Administrative Office of the Courts for distribution to the Commission members.

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

Dated: August 27, 2018.


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.

Stanley Kurt Pierchowski
Type or Print Name

Stanley K Pierchowski
Signature

8/27/18
Date

022235
BPR #

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

United States Patent
and Trademark Office

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