

Tennessee Judicial Nominating Commission
Application for Nomination to Judicial Office

Rev. 26 November 2012

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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.

J. Collins Landstreet II, Esq.

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

1988; 013509

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; 013509; November 7, 1988; active; I am also licensed to practice in the U.S. District Court for the Eastern District of Tennessee, and the U.S. Courts of Appeal for the 4th and 6th Districts; *pro hac vice* in North Carolina and Ohio federal courts.

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).

Not applicable.

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).

Securities Analyst, Allen C. Ewing & Co. (1987-1989); Sole practitioner in the practice of law

(1989-present).

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.

General litigation; approximately 50% civil and 50% criminal. Also, I occasionally set up LLC's, draft powers of attorney, etc.

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.

During the course of my legal career, I have handled criminal cases, civil cases, administrative law cases and appellate matters, in both state and federal courts. In the area of criminal law, I have personally handled many hundreds of cases including, but not limited to, DUI's, major and minor drug cases, homicide cases, theft and embezzlement cases, child abuse cases, etc. In the civil arena, I have represented clients in diverse areas including, but not limited to, landlord/tenant and other real estate litigation cases, medical malpractice and personal injury, worker's compensation, social security disability and other administrative law litigation, bankruptcy, both filings of Chapters 7 and 13 and bankruptcy litigation, domestic relations, and major business litigation. To a lesser extent, I have also handled some transactional matters, e.g., deeds, powers of attorney (general, health care and limited), and forming LLC's and drafting

Operating Agreements for LLC's.

In all of these cases, being a sole practitioner, I have done virtually 100% of the work involved, from making copies, to drafting my own pleadings, to conducting discovery depositions, to court appearances, to writing briefs and arguing appeals. Because I have been a sole practitioner and am not a native of East Tennessee (I was born and raised in Nashville and married my wife, Jennifer, who is from Johnson City), I have been forced to be imaginative and creative and take risks in my practice, both monetary and temporal. Many of the cases I have handled during my career have required significant expenditures of time and capital on my part, e.g., medical malpractice cases.

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

From approximately 2002 to 2009, I handled a case in which my client, an insurance mergers and acquisition specialist, sued Swiss Reinsurance (the largest reinsurance company in the world) over a business broker's fee. My client represented a privately held insurance underwriter in Columbus, Ohio, The Midland Company, whose owners wanted to sell. My client was engaged to sell the company. My client had procured an interested buyer, Life Reinsurance. During the due diligence period, the CEO of Life Re called my client and told him that the deal had to be called off, but that he could not divulge the reason at that time. Some months later it was disclosed that Swiss Re was acquiring Life Re for cash. Approximately one year later, just weeks after the Swiss Re/Life Re deal was closed, it was announced that Swiss Re was acquiring The Midland Company for cash. My client claimed that he was entitled to a fee on the theory that, but for his efforts in bringing Life Re to The Midland Company, the Swiss Re/Midland deal would not have happened. I tried to settle the case with Swiss Re's general counsel, Weldon Wilson, but Swiss Re claimed that the Swiss Re/Midland deal was done independently, the chain of causation had been severed and that the deal was not a result of my client's efforts. I recalled several real estate cases with similar facts from law school and thought that we had a meritorious cause of action. I put the case together, including organizing the documentary evidence and developing our witnesses, and persuaded a Columbus firm to go in on the case with me as local counsel on a contingency fee basis.

In Swiss Re's response to our request for production of documents, Swiss Re sent me thousands of documents which, when stacked up, were about four feet high. Eventually, I sat down and went through and read each and every page of the discovery materials. Several hundred pages into it, I found e-mail correspondence between Swiss Re and Midland executives showing that approximately one week after the Swiss Re/Life Re deal had been closed, Swiss Re executives had visited Columbus to perform due diligence on The Midland Company. That, plus the Life Re

CEO's favorable video deposition testimony, persuaded Swiss Re to settle with us for a significant sum.

Several years ago I represented a client in a child day care license revocation action instituted by DHS. After hearings in Johnson City in which DHS' position was upheld, we appealed the case to DHS in Nashville for trial before an ALJ and a five person hearing panel. According to counsel for DHS, Elizabeth Spondholtz, DHS tries on average one of these cases per year. DHS' counsel and numerous assistants made a career of this case for at least six to eight months. At trial on the top floor of the DHS building in Nashville, where the courtroom was filled every day with observers, DHS spent approximately five full days putting on its case and I cross examined its witnesses, both experts and DHS employees involved in the investigation. I put my case in chief on in approximately two hours, calling only my client and two of her day care clients. The panel ruled unanimously in my client's favor and the ALJ ruled that we had won the case so convincingly that he ordered DHS to pay my legal fees and my client's expenses. It was one of the most gratifying experiences of my career, since my client operated a very small day care operation, was of limited means, and I had taken the case on a very modest retainer.

The two appellate briefs that I submit in response to question 34 of this application are notable. In *Milton E. Sparks v. Gilley Trucking Company, Inc.*, argued before the U.S. Court of Appeals for the 4th Circuit, I got the district judge reversed on an evidentiary matter in a car wreck case. We settled the case during the second trial. In *Robert G. Crabtree, Jr., and Bonnie K. Hakey-Crabtree v. Jennifer L. Lund*, argued before the Court of Appeals on Knoxville, I got the trial judge reversed on the issue of the proper interpretation of Rule 4.01 (3), T.R.Civ.P., which had been amended relatively recently. I believe this was the first appellate ruling on this amended rule regarding delays in service of summons. I believe both of these cases I submit are reported cases.

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.

Several times in the past, I have served as a guardian ad litem for minors. I remember little of

these cases, except that it was rewarding representing minors before the court.

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

I have done a considerable amount of pro bono work over the years, though I have not claimed credit or acknowledgement for this work with any legal organization.

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.

Princeton University, B.A., 1972; University of Tennessee College of Medicine, 1978-1980 (I did not enjoy the clinical aspects of medicine, and thought I would be better suited to the law.); University of Tennessee College of Law, class of 1986.

PERSONAL INFORMATION

15. State your age and date of birth.

62 years old; September 26, 1950.

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

Since birth.

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

Since 1989.

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

Carter County.

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

Not applicable.

20. Have you ever pled guilty or been convicted or are you now on diversion for violation of any law, regulation or ordinance? Give date, court, charge and disposition.

I pled guilty to DUI in 1986 in Knox County, Tennessee in General Sessions Court.

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.

Not applicable.

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.

I received a public reprimand from the U.S. District Court for the Eastern District of Tennessee. I filed several Chapter 7 bankruptcy petitions in which the petitioners had not taken the required credit counseling course prior to filing, although they all completed the course several days after filing. I had been assured by these petitioners' prior counsel that they had taken the course and all of these clients had stated under oath that they had taken the course. All of these petitioners received a discharge. I contested the action and I had a hearing before Judge Collier, who issued the reprimand. I appealed the case to the 6th Circuit which ruled that Judge Collier had not abused his discretion in issuing the reprimand. The BPR issued a private reprimand related to this case.

I received a private reprimand stemming from a case described in answer to question 9, above.

After being apprised by the ALJ that I was entitled to attorney's fees, I requested from the ALJ, *ex parte*, the information required for such an award. The Board contended that this was substantive guidance in a pending case, which is certainly arguable. The Board also claimed that I "failed to report the disciplinary misconduct of the administrative law judge who engaged in a personal relationship with your client while the motion for costs was pending." I knew nothing about the nature of any relationship between the ALJ and my client, but I let the private reprimand stand.

I believe I received another private reprimand years ago, but I honestly do not remember the underlying facts.

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.

Not applicable.

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

Not applicable.

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.

Thomas E. Cowan, Jr., v. James Collins Landstreet II et ux., Jennifer Burgess Landstreet and Wiley Bros.- Aintree Capital, LLC, Circuit Court for Carter County at Elizabethton, Tennessee, #C-12271. The plaintiff is a person that I used to share office space with who was convicted of felony tax evasion and has been disbarred. In my opinion and that of my counsel, Earl Booze, there is no merit to this case. Mr. Cowan also filed a complaint with the Board of Professional Responsibility alleging the same facts. The complaint was dismissed by the Board.

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.

I am a member of Memorial Presbyterian Church, Elizabethton, Tennessee. I am a board member and counsel to Assistance and Resource Ministries, a non-profit corporation in Elizabethton, Tennessee that provides food, clothing, utility deposits, etc. to those less fortunate than we in the community.

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.

Not applicable.

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.

Tennessee Bar Association (current member); Carter County Bar Association (20 years; 1994-1996: President)

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.

Antitrust Law-The Clayton Act-The Regulation of Interlocking Directorates Between Competing Banks and Insurance Companies, 51 Tenn. Law Review 3, Spring 1984

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.

I ran unsuccessfully for Elizabethton City School Board in 2008.

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

Not applicable.

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.

Attached.

ESSAYS/PERSONAL STATEMENTS

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

I have had a very diverse law practice over my career. The advantage of having a general practice is that things rarely get monotonous and new cases inevitably offer new challenges, both academically and otherwise. Although it may seem selfish, one of the reasons I am seeking the position is that I want and am ready for a new challenge. Additionally, I think I would be a good judge. I am a fair minded person and have a good relationship with virtually all members of the bar in my district. I can be counted on to do the work necessary to fairly handle all cases before me.

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)**

As stated previously in answer to question 12, above, I have done a considerable amount of pro bono work over the years, although I have not kept records of this nor have I ever sought

acknowledgement for this work. Over the last several years, I performed work for an African American family in Johnson City, which would constitute approximately \$15,000 in legal fees from a paying client.

Also, I have taken literally hundreds of court appointed criminal cases and presently work one day a week for the District Public Defender, representing indigent clients. I do this because I enjoy it, I am able to do it, and because I believe that all people deserve competent, zealous representation when charged with a crime.

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

The judgeship I seek is criminal court judge for the 1st Judicial District. This court handles mostly felony cases, but has jurisdiction to handle misdemeanors as well. Presently, there are two criminal court judges in our district and one is retiring in March, thus the opening. I would attempt to move cases on the docket more efficiently than the retiring judge has done, while at the same time giving all cases the attention they deserve. The current judge has had a tendency to continue trials for seemingly trivial reasons. I think most members of the local criminal bar would concur.

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)**

For over ten years, I have been on the board and acted as counsel to Assistance and Resource Ministries (ARM), a local non-profit corporation. The board is comprised of local business leaders and volunteers. Essentially, what ARM does through charitable donations from local churches, individuals and businesses, is provide food, clothing and housing assistance, e.g., utility deposits, etc., to qualifying low income families in Carter County. ARM is well funded and well managed and has had a very positive effect on hundreds of needy families in our community. If appointed judge, I intend to continue my involvement with ARM.

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 have had a broad range of experiences during my life, both professional and otherwise. I was an NCAA All-American diver as an undergraduate at Princeton. I have been a musician (guitar) since I was a child, and played professionally for several years. Presently, I play guitar every Sunday with a praise group at my church, Memorial Presbyterian Church, Elizabethton, Tennessee. I have worked hard, both professionally and in these other areas to develop and hone my skills. I paid my way through most of medical and law school, through loans and work. I

understand hard and consistent work because I have done it. If I am appointed to the bench, consistent with my past record, I can be counted on to do my homework and always work to understand the cases before me.

I have been married for fifteen years to Jennifer Burgess Landstreet, who is a teacher in the Elizabethton City Schools, and we have ten year old fraternal twin girls, with whom I am very involved. Both the practice of law and raising girls has taught me the importance of listening, patience and maintaining equanimity during stressful periods. These are important qualities for any judge to possess.

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

I will. Years ago I was appointed to represent a defendant in a child sexual abuse case. The evidence in the case convinced me that my client was guilty, and, frankly, the allegations sickened me. Further, I was of the opinion that the criminal sanctions were not severe enough for this type of offense. Nevertheless, I was obligated to provide a zealous defense. We tried the case, in which I had to cross examine the juvenile victim, and got a hung jury. We subsequently settled for a guilty plea to a lesser charge.

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.Charles Nelson III: Broker for Wiley Bros.-Aintree Capital in Nashville, TN. [REDACTED] (office).

B.Peter J. Zimmerman: Co-owner and President, Kano Laboratories, Inc., Nashville, TN [REDACTED] (office).

C.Richard Roberts: Commissioner of Revenue, State of Tennessee. [REDACTED] (office); [REDACTED]

D.Charles Parks Pope, Esq. [REDACTED]

E.Hugh W. Entrekin, Esq., Tune, Entrekin & White, P.C. [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, 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: January 9, 2013.

/s/ James Collins Landstreet II
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.

James Collins Landstreet II

Printed name

/s/ James Collins Landstreet II

Signature

January 9, 2013

Date

013509

BPR #

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