

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 original (unbound) completed application (with ink signature) to the Administrative Office of the Courts. In addition, submit a digital copy with electronic or scanned signature via email to debra.hayes@tncourts.gov, or via another digital storage device such as flash drive or CD.

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

PROFESSIONAL BACKGROUND AND WORK EXPERIENCE

1. State your present employment.

I am self-employed at the Law Office of John D. Parker, Jr. in (Private Solo Practice)- Full Time and Part-Time Sullivan County Magistrate

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

1983 BPR#010276

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# 010276. I have been licensed since 1983, and my license is currently active. I am not licensed to practice law in any other state and never have been.

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 practiced law for Thirty Four (34) years as a full-time solo practitioner and I have been a part-time Sullivan County Magistrate for One (1) year and eight (8) months.

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.

My present practice consist of Criminal Law (approximately 40%), Domestic Law (approximately 25%) personal injury (approximately 25%) and approximately 10% of my practice is all varieties of different types of cases.

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.

I am a trial lawyer. I enjoy trial work. I have tried many jury trials over the past 34 years. During my career I have handled cases in Sullivan County, Hawkins County, Washington County, Sumner County, Hickman County, Knox County, Davidson County, Hancock County, Hamblen County, Coker County, Carter County, Greene County, Grainger County, Hamilton County, Blount County, Claiborne County, Jefferson County, Johnson County, Putman County, Sevier County, Smith Count, Unicoi County, Williamson County (all of the above listed counties are Tennessee Counties) and Scott County Virginia. I have appealed on briefs to the court of Criminal Appeals and been involved in a case argued before the Court of Civil Appeals. I handled mostly criminal cases during my first ten years of practice but have since then handled both contested and uncontested divorces, been a Plaintiff's attorney in many personal injury cases, and handled adoptions. All the while still representing clients in criminal cases. Further, I have been involved in workman's compensation, social security and bankruptcy cases. Most of the above cases I handled solo but I have also acted as Co-Counsel, I have been a guardian ad Litem, handled juvenile matters and Probate and Estate cases both contested and uncontested. I have prepared many briefs, copious numbers of motions and have argued voluminous motions before any number of Courts in most of the above mentioned counties. Also, I have tried countless jury and bench trials mostly criminal and divorce cases. I have mostly been a defense lawyer but have also acted as a Plaintiff's lawyer. I have handled some labor cases. I work fifty to sixty hours per week and sometimes more.

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

After thirty four (34) years of practicing law the two Criminal Court cases that are of special note to me are as follows: (A) My very first jury trial, was maybe six months after I started practicing law, resulted in a hung jury. Neither the defendant nor his family were satisfied with the way I handled the case so they went out and hired the most widely known and well respected criminal lawyer in this end of the state (nationally known, but now deceased). The result was a guilty

verdict. I at least got a hung jury and the other highly experienced lawyer, who by the way was a very good friend to both my family and me (he helped me tremendously over the years), got a guilty verdict. That stands out as a special note. Also, I represented a defendant who was charged with rape and being a habitual criminal. He was faced with a potential fifty year sentence. The evidence I thought was overwhelming against him but I was still able to work out a plea bargain that would have released him in approximately eighteen months. He told me to “stick my plea bargain” (you know where) that “I wouldn’t take forty five seconds”. Well, the jury convicted him and he received a sentence of fifty years. That I have never forgotten. He went on to sue almost everyone involved in the case, including the Judge, all the way to Federal Court. However, for whatever reason he did not sue me. He was quite a character. That case is of note. And finally, I handled by myself I think what is still the largest drug smuggling case ever in Sullivan County. It took over a week to try the case. Of all the criminal cases I have handled or been involved with this one had the most evidence I have ever seen against a defendant and the defendant had the least amount of evidence on his side. I secured what I thought was a very good plea bargain for the defendant as he was fifty four years old at the time. Again, he turned down the plea bargain, was convicted by the jury and was sentenced to forty four years in prison. So naturally that case is of special note to me. The administrative body’s cases sort of run together after all these years. The Appellate Court case that stands out of special note would be a divorce case which did not involve children. The husband testified (I represented the wife) that he and his wife had been having serious marital trouble for about a year and a half but in spite of that he withdrew \$65,000.00 of his retirement account which he converted to cash and took the cash and hid it between the mattresses in he and his wife’s bed (they were sleeping in the same room and in the same bed). He further testified that the cash disappeared and that he did not take it and that his wife must have taken it. The wife denied taking the money nor even knowing it was there. The case was tried and the wife (my client) won and was awarded her one half of the missing cash which the husband would have to pay her out of other cash and assets. The husband appealed and lost as he had possession and control of the cash and could have put it in a safe deposit box. What makes this case a case of note to me is the fact that it became a published case. Just being involved in a case that was later published makes it memorable to me.

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

A) I was born and raised next door to the Courthouse and jail. My father was a law enforcement officer for 40 years and my father’s brother (my uncle) was a Kingsport, TN Police Officer for 42 years. I was raised in a police family. At least 3 days a week (when not in school) I was with either my father or uncle (mostly my father) at the police department or at the jail or riding around with them since I was old enough to walk so I have been around the law enforcement community all of my life.

B) My first year in law school I lived and slept in my car because I wanted to be a lawyer so badly and could only afford to pay tuition. That experience taught me that I could do almost anything I set my mind to. At the beginning of my 2nd year of Law School I was

able to get a job as a deputy sheriff for Davidson County at Nashville, TN. I served for over 4 years. I worked full-time (40 hours per week) and went to law school at the same time. It was the hardest thing I have ever done.

C) I was the City Judge for Bulls Gap, TN for 2 years (1985-1987). I held Court one day a month and was paid \$50.00 per month. I did it because I loved being a Judge obviously not for the money).

D) I have sat in as Special Judge for Divisions I and II (and special Juvenile Judge) so many times over the years I have lost count. Not much anymore as they ask the young lawyers to do it and you can no longer have a hearing on a criminal case and find someone guilty or not guilty on a misdemeanor charge. Only the regular Judge can do that. All you can do it take guilty pleas, continue cases or hold Preliminary hearings. I loved being Judge and the pay was zero. You have to do it for free. I did it anyway because I liked it so much.

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

On one occasion in 2006 I submitted the proper paperwork to run for Division II, General Sessions Court Judge for Sullivan County at Kingsport, TN. However, being one of the main caregivers for my elderly mother I had to withdraw before my name was placed on the ballot because I would have had to abandon caring for her in order to run and effective campaign and that I was not willing to do. She passed away two weeks after the deadline had passed in order to run for Judge. Of course had I known that that was going to happen I would have stayed in the race.

Also, in 2014 I submitted the proper paperwork to run for Circuit Court Judge for Sullivan County. I came in a close second losing by a little over 800 votes but far outpacing the third and fourth place candidates.

I applied for the Position of Part-time Sullivan County Magistrate and got the job. I am presently serving in that capacity. I still practice law full time.

I applied and got the job of City Judge for Bulls Gap, TN and Served 2 years. (1985-1987).

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.

Bachelor of Science (B.S.) degree East Tennessee State University, Johnson City, TN (9/1/1970 thru

08/14/1975) with a double major (Psychology and Philosophy) some quarters on the Dean's List
Nashville School of Law, Nashville TN (9-1-1978 thru 06/02/1983) Honor Counsel Member
senior year, Doctor of Jurisprudence Degree. Passed the bar on my first try.

PERSONAL INFORMATION

12. State your date of birth.

I am 66 years old, my date of birth being December 11, 1950

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

I have lived in Tennessee my entire life.

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

I have lived in Sullivan County for Thirty Four (34) years continuously.

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

Sullivan County, Tennessee

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

Not applicable (No military service)

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.

Yes. Pled guilty to a misdemeanor citation of "possession of open beer". By paying the fine of \$25.00 dollars plus whatever the Court Costs were that was the same as pleading guilty. I did

not go to Court (sort of like a traffic citation [ticket]) nor did I appear in front of a judge. It was, as best I can recall, around June 5th, 1972. I was twenty one years old and cruising the main drag(Broad Street) with four of my friends as we all did at that age. Cruising Broad Street was a big deal in Kingsport at that time. We picked our designated driver and proceeded downtown. We hadn't been there twenty minutes when a Police Officer walking his beat saw me or one of my friends with a beer in his hand and motioned the driver over. We were all given the same citation. That was forty five years ago and even though I wish it was not on my record I believe I have more that made up for it many times over. Even though I have never had a problem with alcohol I took my last drink of alcohol on Monday, October 3, 1989 (almost 28 years ago). I was thirty eight years old. I don't miss it.

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.

Four (4)

On April 7, 2017, I ordered a print out from the Board of Professional Responsibility of the Complaints filed against me. I hope it gets here in time for me to get it to you. But setting that aside in 34 years of practicing law I think I have been reported four times. Three of which, as I recall, were dismissed. For one I received an "informal admonition" (see question number 22 for a full explanation as the answer and explanation to this question. (The facts are the same and the explanation is the same). That saves you from having to read it twice. As to the three cases that were dismissed the first one was a client which said I didn't give him his court date which in fact I did give him a court date. Another one was a lady who paid me \$1,500.00 to handle her case. After I had done all the work on the case and had gotten everything ready and had even been to Court for her once when she came by my office before her next Court date and out of the blue fired me and wanted her money back and I said no. Well, I didn't go to the next Court date and as I had been fired so another lawyer who was there and who also represented her in her pending Federal Court case reported me to the Board on her behalf without calling me first and asking me what happened. The Board ruled it was simply a dispute over the legal fee and I agreed (and she agreed) that I would refund her \$500.00 (which I did) and the case was dismissed. The other case involved a divorce case and unpaid expenses as I recall. I quoted the lady a fee plus court costs which she paid the fee but not the expenses. She was to pay me back any expenses. I got her divorce but when it came time to pay the rest of the money she came by my office when I

was not there and asked my secretary if she could see her file as she wanted a copy of something. When my secretary gave her the file she bolted out the door with the file and jumped in her car and left. I don't remember what exactly she complained about but without my file to be able to defend myself and her admitting to the board that she stole my file (I would have given her a copy of everything in it or given her the original and I would have kept a copy of the file) the case was dismissed.

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.

I, as a landlord, have been the Plaintiff in many instances where I had to sue my tenants to evict them in order to obtain possession of my property and collect for any back rent and/or damages if any. Also, I have had to sue a few of my clients in order to collect my fee. See the attached print out from the General Sessions (and circuit Court) Clerks Office. The Clerk's office can only go back to 1992 and get computerized records. I do not have the records before that time and certainly don't remember the cases before that, if any (to-wit: names, Court dates, Case numbers, dispositions, etc.)

Further, I was the Defendant in a legal Mal-Practice case filed against me when a lady claimed I allowed the Statue of Limitation to expire on her Medical Malpractice case. The case was dismissed in Federal Court on a simple motion filed by my attorney. That's as far as it went. The Plaintiff could have refiled in State Court but did not do so. Had she done so I have no doubt she would have lost. What happened is as follows: The plaintiff called my office and made an appointment which she kept. She sat down in front of my desk and I asked her what kind of case she had and what could I do for her. She replied that she had a potential medical mal-practice case against a pain clinic. I responded that I did not take nor handle medical mal-practice cases as she probably knew as much or more about that type of case than I did. I then

declined to take her case and recommended a lawyer to her that I knew handled Medical Malpractice cases. I gave her in writing his name, address, phone number and directions to his office which is just around the corner from mine. I told her to contact him that day in case the statute of limitations was about to run out. I told her I didn't know enough about Medical Malpractice cases to even know when the Statute of limitations might run out. She called the other lawyers office one time but didn't talk to anyone as far as I know. He does not have an answering machine (you cannot leave a message) but he does have a computer system that keeps a record of the phone numbers that have called him (a fancy caller ID system). At any rate that one ten to fifteen minute meeting with her (the Plaintiff) to where I turned down her case and sent her on her way was my only contact with her. She simply sat back for a year and let the Statute of limitations run out on her medical Mal-practice case and then tried to blame me for letting the Statute of limitations run. If she couldn't get money out of her doctor (she apparently didn't have a case) then she was going to get it out of me. It didn't work. On Friday, April 7, 2017, I ordered the necessary documents from the Eastern Federal District Court Clerks' Office to attach to this. I hope I get it in time.

And, I was sued by a Plaintiff over taking in some of her jewelry to hold for her for ninety days as her legal fee in a divorce. I took the jewelry, put it in a box and put it in a safe place at home. I got her divorce for her and a year or so later (after the ninety days the jewelry became mine for her fee and I did not have to return it) she came by my office with the money to pay me. Even though I could have kept the jewelry I had no need for it and didn't want it so I told her to have a seat and would run home and get it (I live one mile from my office). Well I couldn't find it. I had forgotten where I hid it. I told her just to be patient that I would find it and return it to her (that's if I could find it). She would not wait so she sued me. She lost her case in General Sessions Court and appealed to the Circuit Court. While the case was pending I found her jewelry. She came by my office, signed the proper documents, paid her legal fee, the jewelry was returned and the case was dismissed. In the mean time she had filed a complaint with the Board of Professional Responsibility (refer back to Question 19) for which I believe I received the "informal admonition" for, I think they said, improper accounting. Please find enclosed the Court documents pursuant to this case.

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.

None, I have spent my time helping take care of my family and spending my time with them.

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.

Not applicable

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.

Kingsport Bar Association (1984 to present)
American Bar Association (at one time)
Tennessee Bar Association (at one time)

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.

I have not received any honors, prizes, awards or recognition since graduation from Law School except I was voted 2nd best lawyer in Kingsport for two consecutive years (1998-1999) in a poll (or however they did it) taken by our local newspaper. I have taken great pride in building a successful Law Office and caring for my clients' needs and the needs of my family and caring my for elderly mother until her death which is a greater accomplishment to me than any 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.

I was appointed to the position of City Judge for the town of Bulls Gap, TN and served two years (1985-1987). On September 1st, 2015, I was appointed by the Sullivan County, TN Commission to the position of Sullivan County magistrate. I am presently serving in that position as well as practicing law. In the May, 2014 election I ran for the position of Circuit Court Judge and came in a very close second place far outpacing the third and fourth place candidates. And in 2006 I signed up to run for Sullivan County General Session Court Judge, Div. II, but after I got in the race I saw what it was going to take to win and that meant abandoning my responsibilities for being one of the primary caregivers for my elderly mother. I was not going to do that for any position so I dropped out of the race.

ESSAYS/PERSONAL STATEMENTS

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

I think I have the experience, knowledge, organization, fairness, impartiality, integrity and patience to be the type of Judge the council is looking for. Serving as a judge requires all of these traits plus being a good listener. Further, I would be “all in” at being the best judge I could be. I started my solo law practice in two rooms. I lived in one room and practiced law out of the other. I had \$400.00 in my pocket. I started with almost nothing. I have built that into a very successful law practice and now own my own building. Becoming a judge would be one way for me to give back to the legal system and my community that has been so good to me and my family. It would be a humbling experience to see a lifelong dream come true.

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)*

The judgeship I seek is for the Circuit Court of Sullivan County, Tennessee. The geographic area includes only Sullivan County, Tennessee. Suffice it to say that this judgeship handles any and all types of criminal cases and any and all types of civil cases. The number of judges is four. Two judges handle only civil cases. One judge handles only criminal court cases and one judge handles both civil and criminal cases (which is the one I am applying for). My selection would impact the Court in what I believe would be a positive manner. I think I have the knowledge, experience, fairness, impartiality, integrity and temperament for the job. Also, the first half of my practice was handling mostly criminal cases. The second half has been spent handling approximately 40% criminal cases, 30% of domestic relations, 20% personal injury and 10% everything else. I would bring 34 years of experience handling a wide array of cases. I have handled literally thousands of cases of all kinds.

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 would uphold the law even if I disagreed with the substance of the Law. A couple of examples from my experience are as follows:

- (A) A person can get caught misdemeanor shoplifting at Wal-Mart and subsequently be convicted and also be put on the Wal-Mart Banned list. A couple of years later the same person goes back to Wal-Mart and gets caught misdemeanor shoplifting again. They would then be charged not only shoplifting but also felony burglary. Eventhough I do not agree with the felony burglary charge if the person were convicted of burglary, given the present state of the Law, I would uphold the conviction and punish the person accordingly. I believe that the charge should not be felony burglary but misdemeanor criminal trespassing.

(B) Using Wal-Mart again, if a person is caught misdemeanor shoplifting inside the Wal-Mart store and they are convicted of theft they do not lose their driver's license. However, if they are at the Wal-Mart gas pumps and fill their tank with gas and drive off without paying for their gas and are later caught they are not only convicted of theft but they also lose their driver's license. I do not agree with their losing their driver's license for one type of theft but not the other. What's the difference? Theft is theft. Even though I do not agree with the loss of driver's license for theft if I were the Judge hearing the case I would uphold the law as written.

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. Bud Hulsey-TN State Representative
B. Wayne Culbertson, Attorney at Law
C. Daniel Minor, Attorney at Law
D. John Clark, Mayor City of Kingsport
E. Jody Hamilton, Retired,

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 [Court] Circuit 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: _____, 20_____.

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.

Type or Print Name

Signature

Date

BPR #

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