

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.

Attorney, Associate

The Bosch Law Firm, P.C., a private law firm, 712 S. Gay Street, Knoxville, TN 37902

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

1981

Admitted to practice by Tennessee Supreme Court: January 6, 1982

BPR # 009645

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.

Admitted to practice in Tennessee by the Tennessee Supreme Court: January 6, 1982

BPR# 009645

License is currently 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).

1981 to 1983: Attorney with Law Offices of Wilson S. Ritchie, Knoxville, Tennessee

1983 to 1999: Attorney with Law Offices of Herbert S. Moncier, Knoxville, Tennessee

July 2000 to May 2007: Judicial Clerk to the Honorable James Curwood Witt, Jr., Judge, Tennessee Court of Criminal Appeals at Knoxville, Tennessee

June 2007 to Present: Attorney with the Bosch Law Firm, P.C., Knoxville, Tennessee

2011 to 2012: Adjunct Faculty, University of Tennessee College of Law

1996 to 2009: Assistant to the Tennessee Board of Law Examiners (Drafted & Graded Bar Exam questions)

2000 to Present: Director & Vice President, Fayco Lumber & Supply Company, Inc., Oak Hill, West Virginia. Fayco is a small, family owned retail lumber and hardware supply store. My father started the business over 60 years ago.

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.

For slightly more than six months (January to July, 2000), I temporarily ceased the active practice of law to care for my terminally ill husband and to help my young daughter adjust to her father's death. I did continue my work with the Tennessee Board of Law Examiners because of the February 2000 bar examination, and I followed through on grading the examination booklets.

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.

Approximately 98 percent of my present law practice is in the area of criminal defense at all state and federal levels, with an emphasis on appellate representation. The remaining one to two percent of my present practice varies greatly but has included representation of Knox County Commission and specialized Appellate Rules 9 and 10 interlocutory appeals in the civil context.

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.

Over the course of my legal career, I have been involved in trial and appellate defense of misdemeanors and felonies, DUI cases, narcotics offenses, violent crimes, white collar and fraud-type offenses, state and federal post-conviction proceedings, and state habeas corpus proceedings. I have also worked solely at the appellate level, both as retained and appointed counsel. I have volunteered to author appellate Amicus Curiae Briefs on important criminal law matters, and occasionally, I am retained to consult on criminal cases being defended by other attorneys. I have been qualified and testified three times as an expert on ineffective assistance of counsel.

On the civil side and in the years prior to 2000, I was involved in trial and appellate matters covering a variety of areas, such as personal injury, civil rights violations, workers' compensation, bankruptcy, Public Records Act requests, copyright, real estate covenants and restrictions, property forfeiture and confiscation, and some employment related matters.

In terms of the details of my work, regardless whether a case is civil or criminal, my current office uses a team approach (as did my prior legal employment) for most cases that reach the criminal court level in state court and the initial indictment level in federal court. My responsibilities include issue identification, researching and preparing pretrial motions, arguing pretrial motions, organizing documents and exhibits for trial, preparing proposed jury instructions, helping to formulate trial strategy consistent with relevant legal issues, anticipating likely evidentiary objections, and keeping detailed notes of the trial proceedings to preserve legal and factual issues for post-trial proceedings and appeal, if necessary. At the appellate stage of litigation, I am solely responsible for all research and work in connection with preparing and filing the appellate briefs and any necessary appendices. Depending on the client's wishes, I am either lead counsel at oral argument or co-counsel.

At both the trial and appellate stages, my expertise is in the areas of legal research and writing and issue development. For that reason, my daily work routine includes (either in the morning or last thing in the evening) checking for and reading the newest appellate opinions, which are posted daily on the AOC website. I pay particular attention to decisions by the Tennessee Supreme Court and Court of Criminal Appeals, and I skim the opinions released by the Tennessee Court of Appeals for significant legal developments. I also keep up with opinions that are released daily by the United States Court of Appeals for the Sixth Circuit and with U.S. Supreme Court decisions. For the U.S. Supreme Court, I regularly monitor www.SCOTUSblog.com, which discusses recent developments in Supreme Court jurisprudence, including what writs of certiorari have been granted and what issues have been accepted for

review.

I am proficient in doing on-line legal research through LEXIS, which I access many times a day.

Because I type and do on-line research, I often take work home at night. Even when I was a Judicial Clerk, I took work home. In addition to my office computer, I have a personal laptop and have added a smart phone and iPad to my regular equipment. I have the Tennessee Code Annotated downloaded on my iPhone, and I once negotiated a plea with a prosecutor as we both poured over the T.C.A. software application on our smart phones. I devote whatever time and attention is required to produce a timely, accurate, and well reasoned brief or other pleading. I am not a slave to technology, but I do make it work for me.

In my opinion, it is inevitable that all state appellate filings will be done electronically in the future. I am familiar with the federal courts' electronic document filing system. I know how to electronically file and access federal pleadings and appellate briefs. Because of electronic filing, I am already comfortable reading pleadings and briefs on my computer. Even transcripts are filed electronically in the federal system, and I also read them on my computer. Being able to immediately access a digitally stored record drastically reduces the amount of paperwork carried back and forth from home and office and facilitates being able to work when out of town.

In private practice as well as serving as a Judicial Clerk, I have handled large records efficiently. In the early 1990s, I was involved in the defense of a 401-count federal indictment; that case is reputed to be the largest indictment ever returned in the Eastern District of Tennessee. The case settled, but it required much document management and highly concentrated legal research concerning Fourth Amendment law issues. For the Tennessee Court of Criminal Appeals, the largest records tend to involve appeals from post-conviction proceedings in death penalty cases. The records are large because they consist of the original trial records and exhibits and the transcripts and exhibits from the normally extensive post-conviction proceedings. I am familiar with and comfortable managing those large records.

Last, in terms of my demeanor and respect shown to attorneys and litigants appearing in court, I have been asked throughout the years to sit and judge numerous "moot court" type proceedings, either as the sole appellate judge or part of a 3-member panel. I always prepare in advance, read any available student briefs, attempt to identify the "crux" of the case, and formulate relevant questions. I try to pose my questions in a measured way and to be patient to make sure my questions are clearly understood. I will quickly rephrase a question if it appears confusing. I am a naturally curious person, and I try to convey my interest in whatever issue is being raised and argued. I am also regularly asked to help "moot" colleagues' upcoming oral arguments, and part of that assistance involves anticipating what questions will be asked by the appellate judges and discussing how to directly and succinctly answer those questions.

I strive always to be respectful and courteous to the judges before whom I appear. In terms of arguing motions or other points of law, it is my practice to ask, "May I Respond," before spontaneously countering the arguments of opposing counsel. During trial, I may renew a motion, but I do not argue with the trial judge, debate, or express personal displeasure. I respect that trial judges have the final say unless or until reversed or modified on appeal. With opposing

counsel, I strive always to maintain a professional relationship and to keep lines of communication open. For any active litigation, I exchange all contact information (cell phone number; email address) with opposing counsel. I encourage opposing counsel to text me with any time-sensitive information and developments, and I do likewise. Before seeking Court intervention, I work in good faith to resolve disputes with opposing counsel. I have always had good professional relationships with the attorneys in the criminal division of the State Attorney General's Office who appear for argument before the Tennessee Court of Criminal Appeals and Tennessee Supreme Court.

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

In addition to being admitted to practice in Tennessee, and by virtue of my trial and appellate work, I am also admitted to practice before the following courts:

U.S. District Court, Eastern District of Tennessee: Admitted April 15, 1982

U.S. Court of Appeals for the Sixth Circuit: Admitted February 4, 1985

U.S. Court of Appeals for the Eleventh Circuit: Admitted July 15, 1986

U.S. Army Court of Military Review: Admitted July 25, 1990

(In 1994, the Court was renamed United States Army Court of Criminal Appeals)

U.S. Court of Military Appeals: Admitted July 9, 1991

(In 1994, the Court was renamed United States Court of Appeals for the Armed Forces)

United States Supreme Court: Admitted November 28, 1994

Noteworthy Appellate Work

Tennessee Supreme Court: I have been counsel of record and/or authored the appellate briefs in the following noteworthy cases decided by the Tennessee Supreme Court.

State v. Sherman, 266 S.W.3d 395 (Tenn. 2008). This is the leading case in Tennessee analyzing under what circumstances our criminal code envisions that a person (not a parent or guardian) standing in loco parentis to a child may be subject to criminal liability for child neglect based on the failure to provide medical care to the minor. The trial court had dismissed the indictment finding that the defendant had no legal duty to provide medical care. That ruling was reversed on direct appeal. I drafted both the Rule 11 application to ask the Tennessee Supreme Court to review the case and drafted the opening and reply briefs on behalf of the defendant/appellant. The Tennessee Supreme Court affirmed the decision of the Tennessee Court of Criminal Appeals.

State v. Martin, 950 S.W.2d 20 (Tenn. 1997). The defendant was convicted of voluntary manslaughter. I authored the opening and reply briefs submitted to the Tennessee Court of Criminal Appeals and to the Tennessee Supreme Court. This appeal raised questions of first impression regarding the rights of self-incrimination and to counsel in the context of a court-ordered mental evaluation. The Tennessee Supreme Court held that when a defendant asserts a defense based on his or her mental state, a court-ordered mental evaluation does not violate the

right against self-incrimination, provided any statements made during the evaluation, and any “fruits” derived from such statements, are used by the prosecution only for impeachment or rebuttal of the defense. The Court also held that the defendant does not have the right to counsel during the mental evaluation itself.

Griffin v. City of Knoxville, 821 S.W.2d 921 (Tenn. 1991). This is one of the leading decisions in Tennessee interpreting Tennessee’s Public Records Act. The case had an unusual fact pattern. A public official committed suicide; the police investigated and found notes from the official. Journalists sought the notes and the investigative file, but the city refused. The city argued that the police had already concluded that there was a suicide when they took custody of the notes and that they were taken from the home for safekeeping, not for evidentiary purposes. I authored the appellate briefs for the intervening complainant widow to the Tennessee Court of Appeals and to the Tennessee Supreme Court. The Tennessee Supreme Court ruled that the test was whether the notes were obtained pursuant to law or in a transaction involving official business by a governmental agency so as to make them public records. The Court concluded that the notes were taken as a result of an official investigation that was not completed when the notes were found. The notes, therefore, were public records subject to inspection and copying.

Appman v. Worthington, 746 S.W.2d 165 (Tenn. 1987). This case is another leading decision in Tennessee, frequently cited by trial and appellate courts, interpreting Tennessee’s Public Records Act. I authored the appellate briefs to the Tennessee Court of Appeals and the Tennessee Supreme Court for the plaintiffs who had requested the records. This case also had an unusual fact pattern and raised a question of first impression. Plaintiffs-Attorneys were representing inmates in connection with criminal charges involving the death of another inmate. Attorneys filed Public Records Acts requests for the Department of Correction’s internal-affairs investigative file on the inmate’s homicide and were denied access to the file. Although the records were not exempt from inspection under the Public Records Act, the Tennessee Supreme Court held that under Rule 16(a)(2) of the Tennessee Rules of Criminal Procedure, which governs discovery in criminal cases, the materials in the administrative assistant’s possession were not subject to inspection.

Allen v. McWilliams, 715 S.W.2d 28 (Tenn. 1986). I authored the Amicus Curiae Brief on appeal on behalf of the Tennessee Association of Criminal Defense Lawyers. The case involved “an issue of great importance to the legal profession and to the public.” The Court held that the General Assembly intended compensation for counsel for indigents at all stages of felony proceedings, including those before local committing magistrates such as general sessions or municipal courts. Rule 13 of the Rules of the Supreme Court of Tennessee governing the appointment and compensation of counsel for indigent defendants was stricken in its entirety and rewritten.

Tennessee Court of Criminal Appeals: I have been counsel of record and/or authored the appellate briefs in the following noteworthy cases decided by the Tennessee Court of Criminal Appeals.

State v. McLain, No. E2012-01082-CCA-RM-CD, 2013 Tenn. Crim. App. LEXIS 167 (Tenn. Crim. App., Knoxville, Feb. 26, 2013). I was co-counsel with another law firm on this matter,

representing the defendant. The case had a convoluted procedural history. The defendant's DUI conviction was affirmed by the court of criminal appeals and became final in 2005. Trial counsel, however, misrepresented the result of the appeal, advising the defendant that his conviction had been dismissed and expunged. By the time the defendant learned his appeal had been unsuccessful, the time for seeking permission from the Tennessee Supreme Court to appeal had expired. Moreover, the statute of limitations precluded the filing of a petition for post-conviction relief. I was enlisted to prepare a petition to be filed with the trial court to grant the defendant a "delayed appeal" to the Tennessee Supreme Court. The petition was granted, and I then authored a Rule 11 Application asking the Tennessee Supreme Court to accept the case but then remand it for reconsideration in light of a major change in the law in 2008. The Supreme Court remanded the case, and the court of criminal appeals in 2013 reversed the conviction based on the 2008 change in the law.

State v. Ownby, No. E2011-00543-CCA-R3-CD, 2012 Tenn. LEXIS 274 (Tenn. Crim. App., Knoxville, May 3, 2012). I was enlisted and became co-counsel of record in the first instance to ensure that, following entry of a guilty plea, the defense properly reserved certified questions of law for appellate review, pursuant to Rule 37(b)(2)(A) of the Tennessee Rules of Criminal Procedure. I authored the opening and reply briefs on direct appeal for the defendant/appellant. The decision on appeal was noteworthy because of the frequency with which officers discover sleeping drivers inside their parked vehicles. The concurrence provided guidance thusly: "In James David Moats, the presence of a sleeping or inattentive person in a vehicle that is not parked so as to suggest that an impaired driver parked it did not, without more, justify a reasonable suspicion to seize the person. By contrast, in the present case, the defendant was not only sleeping or unconscious in his vehicle but also had apparently parked it in a manner that suggested his impairment."

State v. Sweet, No. E2008-00100-CCA-R3-CD, 2009 Tenn. Crim. App. LEXIS 591 (Tenn. Crim. App., Knoxville, July 21, 2009). In this case, the appellate court upheld an order of consecutive sentencing because the record established a statutory basis for consecutive sentencing, even though the trial court erroneously relied on the fact that the case involved more than one victim in imposing the consecutive sentence. The case also contains noteworthy discussions regarding AOC sentencing statistics and allowable victim impact materials. I authored the opening and reply briefs for the defendant/appellant.

State v. Dillmon, No. M1997-00080-CCA-R3-CD, 1999 Tenn. Crim. App. LEXIS 1282 (Tenn. Crim. App., Nashville, Dec. 28, 1999). The court of criminal appeals held that the defendant was not entitled to protection of the "public duty" defense. This is the first and only appellate opinion to have considered T.C.A. § 39-11-610, which provides that "conduct is justified if the person reasonably believes the conduct is required or authorized by law, by the judgment or order of a competent court or other tribunal, or in the execution of legal process." I authored the opening and reply briefs for the defendant/appellant and argued before the Tennessee Court of Criminal Appeals.

State v. Patton, 898 S.W.2d 732 (Tenn. Crim. App. 1994). Both the state and the defendant were granted Rule 9 interlocutory review of issues of first impression. Anderson County officers had "loaned" marijuana to the Kingston Police Department without first acquiring the approval of the

court. The court of criminal appeals held that a violation of T.C.A. § 53-11-451(d)(4) does not preclude the state from introducing marijuana as evidence at trial. The appellate court also held that the act of discarding marijuana during flight from law enforcement does not constitute the crime of evidence tampering. I authored the appellate briefs for the defendant/appellant/appellee.

State v. Murphy, C.C.A. No. 55, 1987 Tenn. Crim. App. LEXIS 2323 (Tenn. Crim. App., Knoxville, Sept. 9, 1987). This appeal resulted in a holding of first impression that a defendant's deportment as an inmate after imposition of sentence is a proper factor in the consideration of a Rule 35(b) motion to reduce sentence. I authored the appellate brief on direct appeal for the defendant/appellant.

State v. Vineyard, C.C.A. No. 1030, 1986 Tenn. Crim. App. LEXIS 2387 (Tenn. Crim. App., Knoxville, July 18, 1986). This appeal addressed an issue of first impression; the court of criminal appeals concluded that the statute of limitations is not tolled by "retirement" of existing charges. The defendant's conviction was reversed and dismissed. Although not listed as counsel of record, I authored the opening and reply briefs for the defendant/appellant.

Tennessee Court of Appeals: I have been counsel of record and/or authored the appellate briefs in the following noteworthy cases decided by the Tennessee Court of Appeals.

Abraham v. Knoxville Family Television, 757 S.W.2d 8 (Tenn. Ct. App. 1988). This case contains a helpful discussion of the distinction between intended and incidental third-party beneficiaries to a contract in the context of an action for wrongful discharge from employment. I represented the employee and authored the appellate brief to the Tennessee Court of Appeals.

Cunningham v. Golden, 652 S.W.2d 910 (Tenn. Ct. App. 1983) This appeal was significant because it resolved a common law issue of first impression and held that a third party cannot petition to legitimize a child conceived and born to a married woman. I represented the defendant/mother who had been granted summary judgment by the trial court. I authored the appellate brief for the mother/appellee and argued the case on appeal. The Court of Appeals' ruling prevailed until 1997, as explained by then Judge Koch, writing for the court of appeals in State ex rel. Cihlar v. Crawford, 39 S.W.3d 172, 183 (Tenn. Ct. App. 2000): "Tennessee's pre-1997 law governing disputes over the parentage of children born to married women, like the law in many other states, was a curious admixture of ancient, common-law presumptions, statutes, judicial interpretations of these statutes, and legislative acquiescence in the judicial interpretations. Both this court and the Tennessee Supreme Court had recognized the General Assembly's authority to permit putative biological fathers of children born to married women to establish their parentage but had concluded that the General Assembly had chosen not to do so. See Evans v. Steelman, 970 S.W.2d at 434; Cunningham v. Golden, 652 S.W.2d at 911, 913. In 1997, the General Assembly exercised its prerogative to repeal the former paternity and legitimation statutes and to replace them with the current parentage statutes. These new statutes mark a watershed in this state's recognition of the right of putative biological fathers to establish their parentage notwithstanding the marital status of the child's mother." (Citation omitted).

Federal Courts of Appeals: I have been counsel of record and/or authored the appellate briefs

in the following noteworthy cases decided in the federal appellate courts.

United States v. Vonner, 516 F.3d 382 (6th Cir. 2008). I authored the Amicus Curiae Brief on behalf of the National Association of Criminal Defense Lawyers. In this case, the *en banc* Sixth Circuit discussed and analyzed in depth federal sentencing practices in the wake of United States v. Booker, 543 U.S. 220, 125 S. Ct. 738 (2005), and Rita v. United States, 127 S. Ct. 2456 (2007).

Schledwitz v. United States, 169 F.3d 1003, 1011 (6th Cir. 1999). This case involved the suppression of exculpatory evidence, the test for which had been set out in the then-recent decision of the United States Supreme Court in Kyles v. Whitley, 514 U.S. 419, 115 S. Ct. 1555 (1995). The defendant's mail fraud conviction was vacated, and on remand, the District Court dismissed the prosecution. I represented the defendant/appellant, authored the opening and reply briefs, and argued the case on appeal. The decision has been cited and/or discussed in over 100 cases. It is most frequently cited for the proposition that the government's Brady obligation includes disclosing evidence that could be used to impeach the credibility of a witness. In 2003, I was invited to speak to Assistant U.S. Attorneys in the criminal division of the U.S. Attorney's Office in Nashville about this case and its background; the topic was "Preparing the Prosecution by Understanding the Defense Perspective."

In re Caldwell, 895 F.2d 1123 (6th Cir. 1990). This bankruptcy case made two trips to the Sixth Circuit. My clients were judgment creditors following a Tennessee state court judgment against Caldwell for false arrest, malicious prosecution, and false imprisonment. The judgment was the result of what became known in Knoxville as the "Santa Claus Caper." I authored the appellate briefs for the judgment creditors who were appellees and cross-appellants and argued the case on appeal. The Sixth Circuit held that when the debtor's reorganization plan proposed paying only 36 percent of a debt incurred through his tortious conduct, and when the debt was not dischargeable in liquidation, the debtor did not propose the plan in good faith. The term "good faith" is not statutorily defined, and this case is significant because the Sixth Circuit articulated a list of non-exclusive factors as part of the totality of the circumstances analysis to determine whether a Chapter 13 plan was proposed in good faith.

United States v. Nathan, 816 F.2d 230 (6th Cir. 1987). This case was, at the time, a leading Sixth Circuit decision holding that notes of an interviewing agent, FBI 302s, did not constitute Jencks Act material because the notes were never shown, read or explained to the witness. I authored the appellate brief for the defendant/appellant on appeal.

United States v. Smith, 746 F.2d 1183 (6th Cir. 1984). The Sixth Circuit reversed the defendant's conviction for conspiracy to rob a postal employee. The case discusses the proper procedure for a hearing on a disputed request for Jencks Act material. The case is also significant for its holding that it was improper for the trial judge to have allowed into evidence a hearsay taped confession of the defendant's brother after the brother pleaded guilty and was severed from the case. I authored the appellate brief for the defendant/appellant on appeal.

United States v. SFC Holt, 33 M.J. 400 (C.M.A. 1991). The Court of Military Appeals (now the United States Court of Appeals for the Armed Forces) found that the defendant had received

ineffective assistance of counsel at the sentencing phase of his general court-martial in Germany and ordered a rehearing. SFC Holt's family lived in the East Tennessee area and retained my office to handle the appeal. I authored the appellate briefs and argued before both the United States Army Court of Military Review (now the United States Army Court of Criminal Appeals) and the Court of Military Appeals (now the United States Court of Appeals for the Armed Forces). This appeal required that I quickly learn and orient myself to the Uniform Code of Military Justice. As civilian counsel, I was required to have military appellate co-counsel, but I was responsible for researching and drafting the appellate briefs.

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.

1. In re: Katharine E. Simpson: A guardianship for my minor daughter established after her father's death and filed in 2000 in the Chancery Court for Knox County, Tennessee, Docket No. 146637-2. An Order approving a final accounting was entered on December 18, 2012.

2. In re: Estate of Bettie Short Hawkins, Deceased: A petition for elective share filed by my stepfather in 2001 in the Probate Court of Bedford County, Tennessee, Docket No. 23,200. As Co-Executor of my mother's estate, I signed an Agreed Order in 2001 for my stepfather to be awarded an elective share.

3. Katharine Elizabeth Simpson, b/n/f Ann C.S. Bowers (Parent and Guardian) v. Fort Sanders Regional Medical Center: An action for injuries resulting in the death of my minor daughter's grandmother filed in the Circuit Court for Knox County, Tennessee, Docket No. 2-764-02. As parent and guardian, I approved a Final Settlement Order on Minor's Claim in March 2009.

5. In re: Helen Elizabeth Campbell Simpson: A conservatorship filed in the Chancery Court for Knox County, Tennessee, Docket No. 154564-3. I served as conservator for my mother-in-law during her extended hospitalization and nursing home care. After her death, the conservatorship was closed out in January 2007.

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

When my husband, Bob Simpson, died March 3, 2000, the welfare of my daughter was my paramount concern. I worried that remaining in private practice would not be in my daughter's best interest because of an unpredictable schedule and long office hours that can extend routinely into the evenings. I realized that I had to make a career change, but I wanted to remain current on criminal law issues. I applied for a judicial clerkship with the Tennessee Court of Criminal Appeals located in Knoxville. I interviewed with the two Judges who had not already selected judicial clerks for the upcoming year, and I accepted a clerkship offer from the Honorable James Curwood Witt, Jr. of Madisonville. I did not know Judge Witt prior to interviewing with him. My plan at that time was to clerk for one year and then return to private practice. My work with Judge Witt, however, was so interesting and rewarding that I did not want to leave at the end of my one-year term, and I ended up clerking for Judge Witt from July 2000 until the end of May 2007. I returned to private practice because in late 2006, my daughter applied to attend the Webb School of Bell Buckle, where I had graduated from high school as a day student living in Shelbyville. She was accepted, and knowing that my daughter would be a boarding student, I accepted an offer to practice with the Bosch Law Firm, P.C.

My tenure with Judge Witt provided a close view of the day to day workings of the Tennessee Court of Criminal Appeals. I liked the work, and I did not feel isolated. I interacted with the other Judges in the building, their staff, and those in the Clerk's Office on a regular basis. Each Judge on the Court in the Eastern Section manages his or her office much like a small law firm, and the job description for judicial clerks can and does vary from office to office. I found much to respect about Judge Witt's approach. Every page of an appellate record was read and summarized or abstracted to ensure that an opinion was factually accurate and to identify any procedural irregularities, such as an untimely notice of appeal, an improperly preserved certified question for appeal, or even if an issue could be pursued on direct appeal to the Court of Criminal Appeals. For each issue raised on appeal, the applicable standard of appellate review was identified and noted. Every draft was reviewed and edited by everyone in the office to arrive at a legally sound, clearly communicated opinion, which then was circulated to the other members of the panel for their consideration and critique. New opinions by other members of the Court of Criminal Appeals were reviewed daily, and new Tennessee Supreme Court decisions were discussed immediately to determine if the ruling would impact any pending appeals in the office.

During my time as a Judicial Clerk, I found myself researching legal issues that were new to me, such as lesser-included offenses, consecutive sentencing and sentencing in the post-Blakely legal world, state habeas corpus, and merger of offenses. On other occasions, my prior legal knowledge and experience facilitated my ability to analyze issues involved in an appeal, such as evidence admissibility, search and seizure questions, voluntariness of confessions, ineffective assistance of counsel, and jury instructions. By the time I returned to private practice in 2007, my base of criminal law knowledge had expanded considerably.

Judicial opinion writing is much more complicated than merely citing cases and reciting facts. Through my work with the Tennessee Court of Criminal Appeals, I appreciate that appellate judges should always be mindful of their reading audience. An opinion must be crafted with the litigants foremost in mind, because they are personally affected by the decision. Next, an

opinion should consider the reading public, because citizens deserve a transparent and understandable explanation for the decision. Finally, an opinion should provide guidance to the trial courts and supply a solid factual and legal foundation for the Justices of the Tennessee Supreme Court who may one day review the decision. An opinion must reflect that the authoring judge and the panel members have considered all points of view and that opposing arguments have been understood and seriously evaluated. Every judicial opinion contributes to a greater or lesser degree to the body of existing law and affects the public's perception of and confidence in the judiciary. I respect those principles, tried always to apply them in the work I did while a Judicial Clerk, and would continue to apply them if selected to serve on the Tennessee Court of Criminal Appeals.

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.

In August 1992, I submitted an application to the Tennessee Judicial Selection Commission for the position of Judge of the Tennessee Court of Criminal Appeals, at Knoxville. Judge John Byers of East Tennessee had retired from the Court of Criminal Appeals, and the Judicial Selection Commission evaluated the applicants to arrive at a list of three nominees for recommendation to the Governor. I was one of the three nominees recommended to the Governor for that vacancy.

On January 30, 1995, I was interviewed by the Tennessee Judicial Selection Commission for the position of Judge of the Tennessee Court of Criminal Appeals, at Knoxville. A vacancy had occurred when Judge Penny White was appointed to the Tennessee Supreme Court. I was not among the three nominees recommended to the Governor for that vacancy.

I did not apply in 2006 for the opening on the Tennessee Court of Criminal Appeals, at Knoxville, created by Presiding Judge Wade's appointment to the Tennessee Supreme Court. Being employed at that time as a Judicial Clerk for Judge Witt, I did not think it appropriate for me to apply at that time.

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.

Law School: The University of Tennessee College of Law (1978-1981); J.D. degree awarded
Editor-in-Chief of the Tennessee Law Review (1980-1981)

Member of the Giles Sutherland Rich Patent & Copyright Moot Court Team that represented in the College of Law in Chicago, Illinois in 1981

Research and Writing III Student Instructor at the College of Law

Undergraduate Schools: Centre College of Kentucky (1974-1977); B.A. Political Science & Economics

Oxford College, Oxford, England (Summer of 1977)
Summer Course Studies Credited to B.A. degree

Harvard University, Cambridge, Massachusetts (Summer of 1976)
Summer Course Studies Credited to B.A. degree

Vanderbilt University, Nashville, Tennessee (Summer of 1975)
Summer Course Studies Credited to B.A. degree

Other Graduate Schools: Vanderbilt University, Nashville, Tennessee (Fall of 1977)
I was enrolled in a Master's Degree program in Political Science.
No degree was awarded; I preferred to attend law school.

PERSONAL INFORMATION

15. State your age and date of birth.

56 July 16, 1956

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

Excluding my out-of-state undergraduate studies, I have lived continuously in Tennessee for 52 years.

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

35 years

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

Knox County, Tennessee

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

Not applicable

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

No

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

No

22. If you have been disciplined or cited for breach of ethics or unprofessional conduct by any court, administrative agency, bar association, disciplinary committee, or other professional group, give details.

No

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.

Please see Attachment 1. As a result of a Tax Department error, the State of West Virginia filed a tax lien against me that was later released and designated "Vacate From All Records."

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

No

25. Have you ever been a party in any legal proceedings (including divorces, domestic proceedings, and other types of proceedings)? If so, give details including the date, court and docket number and disposition. Provide a brief description of the case. This question does not seek, and you may exclude from your response, any matter where you

were involved only as a nominal party, such as if you were the trustee under a deed of trust in a foreclosure proceeding.

Yes.

1. Short v. Ferrell, 976 S.W.2d 92 (Tenn. 1988). Many years ago, I was appointed to serve as an “expert” to review trial counsel’s performance in a post-conviction case. The trial court’s order approved a set amount for my services but did not specify an hourly rate. I filed a petition for writ of certiorari to settle whether an attorney appointed to review the records in a post-conviction proceeding may exceed the maximum allowable rates for attorneys representing indigent defendants. The Tennessee Supreme Court held that an attorney serving as an expert had to obtain prior approval for an hourly rate in excess of the hourly rate provided for attorneys in Rule 13 and that the trial court should have explicitly set forth the approved “expert” hourly rate in its order.

2. Ann Claudia Short Bowers v. Frederick Allen Bowers: I filed for divorce in August 2009 in the Chancery Court for Knox County, Tennessee, Docket No. 175929-2. A final judgment of divorce was entered on April 4, 2011. The only contested issue was division of marital property. I was awarded a monetary judgment because Mr. Bowers dissipated the proceeds from the sale of my separate property. See Bowers v. Bowers, E2011-00978-COA-R3-CV, 2012 Tenn. App. LEXIS 313 (Tenn. Ct. App., Knoxville, May 17, 2012) (monetary judgment affirmed on appeal).

3. Allen Bowers v. Ann C.S. Bowers: Acting pro se, Mr. Bowers filed in 2009 a petition for an order of protection in the Fourth Circuit Court for Knox County, Tennessee. The petition was dismissed without terms on October 29, 2009, and the matter has been expunged. Mr. Bowers and I had verbally argued while on vacation in Florida. Mr. Bowers left during the night and took the car keys to my separate vehicle, which stranded me in Florida until I could have another key made. When I returned to Knoxville, I was served with an ex parte order of protection.

4. State v. Ann C. Bowers: I was arrested on October 21, 2001, in connection with an investigation of Mr. Bowers’ reckless boating. I, along with my daughter and two friends, had spent the afternoon on the lake. I was not operating the boat and did not know how to do so. Mr. Bowers docked the boat and left to run an errand. TWRA officers arrived, and when they could not locate Mr. Bowers, they took me off the boat and charged me with public intoxication. Please see Attachment 2, affidavits of witnesses that were provided to prosecution counsel and that attest to my sobriety, demeanor, and the circumstances surrounding the arrest. The charge was dismissed on December 3, 2001, without a hearing and without any conditions, terms or restrictions placed against me as a condition of dismissal. The matter has been expunged.

5. Reynolds et al. v. Eric Holder et al.: A civil rights action filed in the District Court for the Eastern District of Tennessee, Docket No. 3:11-CV-00337, by a former client against me, in my professional capacity as former defense counsel for Mr. Reynolds, and against numerous other individuals, including the Attorney General of the United States, multiple Assistant U.S. Attorneys, and all sitting Magistrate Judges and District Judges in the Eastern District of Tennessee. A Memorandum and Order was entered on March 21, 2012, granting a Rule 12(b)(6) motion to dismiss me from the case.

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.

2008 to Present: Board of Trustees, The Webb School, Bell Buckle, TN.
Member, Academic and Student Affairs Committee (2008 to Present)

2010 to Present: Leadership Knoxville, Class of 2010

2001 to Present: Junior League of Knoxville, Sustainer Status

2010 to Present: Board Member, Mariner's Point Homeowners Association

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.

Yes. I am a member of the Junior League of Knoxville, which is an organization of women committed to promoting voluntarism, developing the potential of women and improving the community through the effective action and leadership of trained volunteers. Its purpose is exclusively educational and charitable. Membership is by recommendation and then by invitation only.

If appointed, I would like to remain a member of the Junior League, as it allows me to remain active in educational and charitable endeavors in the community. It also allows me to meet new members of the community.

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.

1984 to Present: Tennessee Association of Criminal Defense Lawyers

President (1992 to 1993)
President-Elect (1991 to 1992)
Vice President (1990 to 1991)
Treasurer (1989 to 1990)

CLE Committee Co-Chairperson (1990 to 1991)
Ethics Committee Co Chairperson (1988 to 1989)
Publications Committee Chairperson (1988 to 1989)
Amicus Committee Chairperson (1984 to 1986), Member (2011 to Present)

1990 to Present: Member, National Association of Criminal Defense Lawyers

Various Times: Member, Tennessee Bar Association
Criminal Justice Executive Committee Member (2010 to Present)

1982 to Present: Member, Knoxville Bar Association; occasional social photographer for KBA

1991 to Present: Member, Knoxville Defense Lawyers Association

2007 to 2011: Board Member, Tennessee Post Conviction Defender Organization

2007 to Present: Member, Hamilton Burnett American Inn of Court

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.

I was privileged to serve (1992 to 1993) as the first female President of the Tennessee Association of Criminal Lawyers, the only statewide association of criminal defense attorneys with over 750 members. As a Past-President, I remain active in the organization and serve on committees as requested by the acting President.

My professional accomplishments also led to my invitation to join Leadership Knoxville, Class of 2010. That year-long program brings together a cross section of community leaders - from business, education, medicine, government, and religion -- who then build common ground through shared experiences and education. The alumni of Leadership Knoxville remain active and interested in the experience and the community.

As reported in the Knoxville CityView Magazine, "Top Attorneys Issue," for each of the past five years, I have been voted by my peers in the Knoxville community as one of the top attorneys in the area of appellate practice.

30. List the citations of any legal articles or books you have published.

Ann C. Short, Comment, *Criminal Law and Procedure – Fourth Amendment – License and Registration Spotchecks*, 47 Tenn. L. Rev. 447 (1980).

Bethany K. Dumas & Ann C. Short, *Linguistic Ambiguity in Non-Statutory Language: Problems in 'The Search Warrant in the Matter of 7505 Derris Drive,'* Forensic Linguistics: The International Journal of Language and the Law 5.2 (1988) [127-140].

Ann C. Short, *Toward More Persuasive Appellate Presentations*, Knoxville Bar Association DICTA Magazine (March 2009).

Ann C. Short & Stephen Ross Johnson, *Court Appointed Work (Part 2): The Legacy of Gideon v. Wainwright*, Knoxville Bar Association DICTA Magazine (November 2010).

Ann C. Short, *Tennessee's "Preservation of Religious Freedom" Act*, Tennessee Association of Criminal Defense Lawyers FOR THE DEFENSE Magazine (March/April 2011).

Ann C. Short, *"Step Out of the Vehicle" State v. Donaldson*, Knoxville Bar Association DICTA Magazine (December 2012).

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.

1996 to 2009:

The Tennessee Board of Law Examiners governs the examination and admission of attorneys who wish to practice law in Tennessee. In 1996, I was appointed and became an Assistant to the Tennessee Board of Law Examiners, for which I received yearly CLE credit. In my capacity as an Assistant, I drafted twice yearly one of the 12 essay questions that applicants sitting for the bar examination were required to answer in written form. The examination booklets (anywhere from 300 to 800 booklets) were then mailed to me, and I graded on a pass/fail basis each answer to the question I had drafted. The applicants were identified only by a pre-assigned number on each booklet to preserve anonymity in grading. My term of service as an Assistant expired in 2009. Since that time, the Board of Law Examiners has from time to time requested my assistance in proctoring the administration of the examinations.

2011 to 2012:

I taught as an Adjunct Professor at the UT College of Law's Innocence/Wrongful Convictions Clinic. The clinic takes on direct representation of defendants in Tennessee and provides pro bono legal and investigative assistance. Students form teams to investigate inmates' claims, and they commit to a full year of working on one or more clinic cases. Students work in teams of two or three, and they work under the supervision of adjunct professors. During my tenure, I was one of four Adjunct Professors and directly supervised six law students. The students I supervised and taught were involved in two significant appellate cases: *Gilley v. State*, No. M2010-02447-CCA-R3-PC, 2012 Tenn. Crim. App. LEXIS 899 (Tenn. Crim. App., Nashville,

Oct. 31, 2012), and Miller v. State, No. E2011-00498-CCA-R3-PC, 2012 Tenn. Crim. App. LEXIS 356 (Tenn. Crim. App., Knoxville, May 31, 2012).

August 2011:

CLE Lecture Topic: "Hitting the High Notes in Appellate Advocacy: Return to Sender," TACDL's 38th Annual Meeting & CLE Seminar

March 2010:

Participant, Panel Discussion on Ethical Destructive Devices
Federal Defender Services of Eastern Tennessee

June 2010:

CLE Lecture Topic: "Federal Case Law Update,"
TACDL, Legislative Update and Case Law Review

October 2010:

Participant, Panel Discussion on Appellate Advocacy
LMU, Duncan School of Law

2009:

Panel Moderator, "Ethical and Professional Considerations in High Profile Criminal Defense Representation,"
Hamilton Burnett American Inn of Court

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.

In addition to my answer to Question 13, in July 1990, I applied for the position of United States Magistrate Judge for the Eastern District of Tennessee. A Merit Selection Panel reviewed more than 60 applications. Of the group that applied, only 12 applicants were interviewed by the Panel, and I was one of the 12 selected to be interviewed for the position. I was not, however, selected.

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

No.

34. Attach to this questionnaire at least two examples of legal articles, books, briefs, or other legal writings which reflect your personal work. Indicate the degree to which each example reflects your own personal effort.

See Attached Writings.

Attachment 3: DICTA Magazine Article (March 2009), "Toward More Persuasive Appellate Presentations." I was asked by the Knoxville Bar Association to submit an article on appellate practice, and this article reflects my personal research and writing.

Attachment 4: DICTA Magazine Article (December 2012), "Step Out of the Vehicle *State v. Donaldson*." I was asked by the Knoxville Bar Association to submit a cover article on the Tennessee Supreme Court's recent decision, *State v. Donaldson*, 380 S.W.3d 86 (Tenn. 2012). This article reflects my personal research and writing.

Attachment 5: Rule 11 Application for Permission to Appeal in *State v. Sherman*, 266 S.W.3d 395 (Tenn. 2008). This application reflects my personal research and writing.

Attachment 6: Opening Brief of Appellant in *State v. Steven Q. Stanford*. The Tennessee Supreme Court granted Rule 11 review and appointed me to handle the appeal. After briefs were filed, the Court ultimately dismissed the Rule 11 application as improvidently granted. This brief reflects my personal research and writing.

Attachment 7: Comment, *Criminal Law and Procedure – Fourth Amendment – License and Registration Spotchecks*, 47 Tenn. L. Rev. 447 (1980). This Comment was written while I was in law school, and at that time, every law review casenote, prior to publication, was reviewed and edited by a Casenote Editor and a Law Review faculty advisor.

Attachment 8: Supplement to Petition for Grant of Review to United States Court of Military Appeals in *United States v. SFC Holt*, 33 M.J. 400 (C.M.A. 1991). This petition reflects my personal research and writing, with some assistance in correct military terminology and the procedural aspects of a general court-martial.

Attachment 9: Bethany K. Dumas & Ann C. Short, *Linguistic Ambiguity in Non-Statutory Language: Problems in 'The Search Warrant in the Matter of 7505 Derris Drive,'* Forensic Linguistics: The International Journal of Language and the Law 5.2 (1988) [127-140]. Dr. Dumas, who taught at the University of Tennessee, suggested that she and I co-author this article based on our joint experience in connection with a suppression motion litigated in federal court.

ESSAYS/PERSONAL STATEMENTS

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

My decision to apply is a career-long aspiration that I have been actively pursuing since 1992. From my recent Judicial Clerkship, I know that I can perform the required duties honestly, in a timely fashion, with respect for all colleagues and persons before the Court, and with clarity of the written word from which the appellate judiciary's powers derive. I am ready to accept what I know to be the enormous responsibilities of a Judge of the Tennessee Court of Criminal Appeals. I believe my background, which is immersed in writing and researching both civil and criminal law issues and which is grounded in litigation, uniquely qualifies me to serve on the Tennessee

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)*

Throughout private practice, I have represented individuals who I know could not afford to pay a fee but needed legal assistance. I have never charged an initial consultation fee, because I want the individual to leave my office better educated about the legal system, even if that person cannot hire me. I am always willing to “brainstorm” with attorneys who call asking my legal advice, and I freely share legal research, pleadings, and briefs with attorneys asking for help.

I have been active in the areas of legal reform and education. I have organized and spoken at many legal seminars, including a seminar in 1990 devoted entirely to appellate advocacy. I spoke to my daughter’s ethics class at Webb about the “How-Can-You-Represent-Those-People” question. From 1994 to 2000, I served at the request of the Tennessee Supreme Court on its Indigent Defense Commission to study the delivery of indigent services in Tennessee and recommend changes.

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

I seek a position on the Tennessee Court of Criminal Appeals, Eastern Section. This 12-member Court consists of four Judges from West Tennessee, four from Middle Tennessee, and four from East Tennessee. They sit in panels of three, and throughout the year, each Judge will sit with every other Judge at least once and will travel to each grand division. This arrangement encourages collegiality and uniformity of decisions. For fiscal year 2011-2012, the 12-member Court had 1,099 appeals filed (excluding interlocutory matters) and disposed of 1,097. This workload requires focused and consistent effort. With my selection and familiarity with the Court’s processes, I could begin immediately handling appeals. I personally know some members of the Court; I have appeared before all of them at some point; I respect their work. If selected, I foresee a good working relationship in a joint commitment to equal justice under the law.

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)*

I intend to continue to lecture and speak to legal groups and citizens about the judicial system and about legal topics of interest. I welcome the opportunity, if asked, to again teach as an Adjunct Professor with the University of Tennessee College of Law, and I will continue to write articles for the Knoxville Bar Association and other organizations. As I indicated previously, I

would like to maintain my Sustainer status with the Junior League of Knoxville to keep in touch with its community activities. I also wish to continue my involvement with Leadership Knoxville and my classmates, which has been invaluable in learning about and exploring the wonderful diversity of my community.

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 already explained many of my life experience and talents. I add only that I have a sincere and abiding love of the law and respect for the written word. For 26 years in private practice, I have enjoyed helping people who usually are at the lowest points of their lives. I never found a cookie-cutter method to solve clients' problems. To borrow from Justice Kennedy every case is "a unique study in the human failings that sometimes mitigate, sometimes magnify, the crime and the punishment to ensue."

I took from my experience as a Judicial Clerk a belief that I am qualified to serve on the Tennessee Court of Criminal Appeals. What I lack in terms of prior judicial experience is not a handicap. I have spent many, many days and weeks of my life "in the trenches." I understand the intricacies of trials and evidentiary hearings and juries and guilty pleas. Coupled with my research and writing skills, that understanding gives me solid footing to serve ably on the Tennessee Court of Criminal Appeals.

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)*

Yes, I will.

Perhaps the clearest examples I can give are from procedural-driven rules: the requirements and time limits for filing notices of appeal; the time limits for filing new trial motions; the consequences of failing to raise issues in a motion for new trial; and the requirements for appealing a certified question of law. Each of these procedural rules, if not followed, can have disastrous consequences for clients. When I reviewed appellate records as a Judicial Clerk, I would detect such irregularities from time to time. Despite my belief that the rules can, at times, be overly technical and that litigants should not suffer because of their attorneys' mistakes, the rules had to be enforced, and I always brought those irregularities to the Judge's attention.

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. Honorable Thomas W. Phillips United States District Court Judge, Eastern District of Tennessee 800 Market Street, Ste. 145, Knoxville, Tennessee 37902 Office (865.545.4255)
B. Thomas S. Scott, Jr., Attorney at Law Former Chair, Tennessee Board of Professional Responsibility 550 W. Main Street, Ste. 601, Knoxville, Tennessee 37902 Office (865.525.2150)
C. Donald A. Bosch, Attorney at Law The Bosch Law Firm, 712 S. Gay Street, Knoxville, Tennessee 37902 Office (865.637.2142)
D. Tammy S. White, President/CEO Leadership Knoxville 17 Market Square, Knoxville, Tennessee 37902 Office (865.523.9137) twhite@leadershipknoxville.com
E. Foster D. Arnett, Jr., Knox County Clerk Knox County Courthouse, 300 Main Street, Knoxville, Tennessee 37902 Office (865.215.4719) foster.arnett@knoxcounty.org


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] of Criminal Appeals, Eastern Section, 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: June 10, 2013.



Signature

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



TENNESSEE JUDICIAL NOMINATING COMMISSION

511 UNION STREET, SUITE 600
NASHVILLE CITY CENTER
NASHVILLE, TN 37219

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

WAIVER OF CONFIDENTIALITY

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

Ann C. Short
Type or Printed Name

Signature

June 10, 2013
Date

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

Tennessee BPR # 009645

009645
BPR #