

**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](mailto: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.

Employed as an Assistant District Attorney General for the First Judicial District of Tennessee since 1998.

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

1997. BPR number 18561

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, licensed since 1997.

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).

Assistant District Attorney General, First Judicial District of Tennessee. 1998-present. During all but the first year of employment, I have been assigned to Criminal Court and have tried 88 jury trials, which is more than for any prosecutor in the four-county office in that time span. These trials have included several murder cases, child abuse, sexual offenses and every other type of case typically tried. In addition, I have made charging decisions, conducted suppression hearings and handled plea negotiations in countless other cases.

Private practice in Jonesborough, Tennessee. 1997-1998. I was appointed to many cases in General Sessions and Juvenile Courts. As a private practitioner, I also represented businesses and individuals for various legal needs.

Maryville Daily-Times, Maryville, Tennessee. 1994-1997. During law school, I worked as a part-time sports reporter, covering sporting events for local high schools.

Johnson City Press, Johnson City, Tennessee. 1988-1993. During my undergraduate years, I worked as a sports reporter, covering sporting events for local high schools, colleges and some professional events.

6. If you have not been employed continuously since completion of your legal education, describe what you did during periods of unemployment in excess of six months.

Not applicable.

7. Describe the nature of your present law practice, listing the major areas of law in which you practice and the percentage each constitutes of your total practice.

100 percent of my law practice consists of working in Criminal Court. Primarily I am stationed in Carter County, handling all cases before the Honorable Robert E. Cupp, Criminal Court Judge Part I. I am also responsible for various serious cases in other counties. Presently I am involved in the prosecution of murder cases in four counties (Carter, Johnson, Washington and Greene Counties).

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.

I graduated from law school in 1997, and after a year of general practice on my own, I accepted my present job with the District Attorney General's Office. At first, I worked General Sessions Court in Washington County, but I earned the opportunity to begin working in Criminal Court in 1999. As soon as I got assigned to Criminal Court, I began trying as many jury trials as anyone in our four-county district. While many of those initial trials were for lower-grade

felonies and DUIs, I gained experience quickly. With experience came wisdom -- the wisdom to discern the differences between good cases and not-so-good cases, the wisdom to know the proper approaches to use towards different juries and the wisdom to tell the difference between defendants who truly endangered society versus ones who might be changed by measures short of incarceration. In short, I quickly grew as a prosecutor and as a person.

By around 2005, I began to handle a greater load of serious cases. Today I am involved in the prosecution of most of the murder cases in the district. I have worked hard to handle the case load that I have assumed. Weeknights, weekends, even holidays have been spent doing the preparation necessary to bring complicated trials off the ground. Whatever was necessary to do the case right, I have been willing to do it. For instance, in many cases I have spent my free time transcribing interviews or jail calls as there was no one available to do the task. Many of the cases I have described in Question 9 have included massive amounts of pretrial preparation. I believe that my reputation is solid in the legal and law enforcement community as a prosecutor who is dedicated to his public service.

Having many years of experience in Criminal Court, I have observed the role of Criminal Court Judge to the point that I believe I am prepared to fulfill those duties. As much as I believe that I have helped my community as a prosecutor, I believe I can do more as Judge as I can ensure that a fair playing field is available district-wide in my court. My legal ability and experience are particular strengths – I am consistently consulted by other prosecutors in my office and law enforcement officers across the district concerning legal issues, both substantive and procedural. Also, I understand the importance of being deliberate in making decisions if necessary – instead of making the quick decision for the sake of making a quick one, I am willing to slow down and consider both sides of an argument and decide what is proper under the law. Many times when law enforcement officers have been asked my legal opinion on a matter, I have asked them to give me time to properly research the matter rather than risk giving the wrong advice. Finally, I believe my extensive trial experience and legal knowledge would be great aids in drafting jury instructions. The easiest way for a trial judge to be reversed on a jury conviction is from improper jury instructions, and I think my background has made me especially prepared to handle the duties of properly instructing juries on the law.

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

I have tried approximately 12 homicide trials. Among those that I have tried include the following (in all of these trials, I either tried them alone or served as first-chair prosecutor):

- Howard Hawk Willis, tried in 2010. This was a nine-day capital trial. Willis was found guilty of two counts of first-degree murder in the deaths of a young man and woman. Willis received the death penalty. The case is currently on appeal.
- Doris Whaley, tried in 2009. Opinion in 2011 WL 2519762 upholding conviction for first-degree murder.
- John Steele, tried in 2005. Opinion in 2007 WL 2681784 upholding conviction for

second-degree murder.

- Ryan Howard, tried in 2010. Convicted of second-degree murder and voluntary manslaughter in the deaths of two young men. I believe the case is on appeal. One of my attached legal writing samples is from this case.
- Dale Larkin, tried in 2011. Convicted of first-degree murder in the death of his wife. This case involved very complicated expert testimony from both sides concerning medical issues, making it extremely challenging. This case is on appeal. Another of my attached legal writing samples is from this case.
- Russell Long and Jessica Adkins, tried in 2011. Both parents were convicted of first-degree felony murder in the death of their two-month-old child who had skull and rib fractures in addition to the subdural hematoma that led to her death. This case also involved intricate medical proof to establish the cause and manner of death. This case is on appeal.
- Morris Marsh, tried in 2011. Convicted of first-degree murder in the death of a fellow inmate at Northeast Correctional Center in Johnson County. This case is on appeal.

I have tried many cases involving children as victims in addition to Long/Adkins. Some notable ones include:

- Richard Nance, tried in 2007. Opinion in 2010 WL 2290905. Convicted of two counts of rape of a child in the sexual abuse of his nephew.
- Patrick Hyder, tried in 2004. Opinion in 2005 WL 2387155. Convicted of aggravated sexual battery in the sexual abuse of his son. Recently I experienced the unforgettably satisfying moment of the victim of this case, now grown up, seeking me out to thank me for helping him.
- Robert Simons and Mary Tittle, tried in 2012. Both parents were convicted of aggravated child neglect of their daughter as well as four counts of felony child neglect of each of their four sons. When they were discovered by authorities, none of the children (ages 7 through 12) knew their alphabet or numbers. They had never been to school, having slipped through the cracks as their parents bounced from state to state. The daughter was nearing death from a kidney condition that was being left untreated so as to avoid being reported to authorities in Pennsylvania. This trial lasted seven days and involved a massive amount of pretrial preparation. The defendants are now in prison, and the children have since been adopted by their foster parents.

Other notable trials of mine include the following:

- Jonathan Hulse, tried in 2010. Convicted of aggravated rape and especially aggravated kidnapping and sentenced to 56 years. This case was especially challenging as the victim had passed away prior to trial, leaving me to prove the case with admissible forms of hearsay not barred by Crawford issues.
- David Wilcox, tried in 2010. Convicted of vehicular homicide.
- Danny Davis, tried in 2009 in a multiple-day bench trial. Opinion in 2011 WL 579200. Convicted of theft of property over \$60,000 for the theft of federal grant money while employed with the City of Johnson City.
- Nicholas Tipton, tried in 2008. Opinion in 2011 WL 4790945. Convicted of three counts of aggravated rape against a paraplegic woman and sentenced to 44 years.

- William Smith, tried in 2006. Convicted of solicitation of first-degree murder.
- Norman Lewis, tried in 2004. Opinion in 2006 WL 211800. Convicted of attempted first-degree murder.
- Kenneth Laws, tried in 2003. Opinion in 2004 WL 1299901. Convicted of aggravated assault.
- Michael Belcher, tried in 2000. Opinion in 2002 WL 661923. Convicted of aggravated burglary and sentenced to the maximum 15 years.
- Paul Ward, tried in 2000. Opinion in 2002 WL 65999. Convicted of two counts of sale of Schedule I drugs.

Last but not least, I am proud that I have been more than just a prosecutor who seeks convictions without being mindful that some accused persons could be innocent or that their constitutional rights might have been violated. I have not hesitated, if after a thorough review of the case, to stand up for what I believe was right on the behalf of the accused, as has been my ethical duty as a prosecutor. Examples include:

- Mitchell Call, accused of aggravated assault in what I determined to be an act of self defense. Footage of both Mr. Call and myself being interviewed for a local news broadcast can be seen in [http://www.tricities.com/news/article\\_6b7df36b-3e12-57f4-a589-a9a8774eee3e.html](http://www.tricities.com/news/article_6b7df36b-3e12-57f4-a589-a9a8774eee3e.html).
- Terry McIntosh, accused of first-degree murder along with fellow homeless man James Garner. I moved to dismiss the charge against McIntosh following a review of the file and requesting additional DNA testing to confirm my suspicion that McIntosh had told the truth -- that Garner attacked the victim and McIntosh had walked away. The DNA testing confirmed my opinion, and I convinced the arresting investigator that McIntosh was innocent.
- James Garner (see McIntosh above). In the pursuit of their suspects, investigators chose to handcuff Garner in order to take him to the police station for questioning. This effected a seizure that required Miranda warnings. Then at the station, questioning continued despite unequivocal statements by Garner that he wished to not speak. The defense filed a motion to suppress Garner's eventual inculpatory statements, and I conceded to the motion as I knew it had merit.
- Johnny Lopez, Jr. After two relatives of Lopez came into the police station to change their stories, exonerating Lopez in the death of his nephew, both the charging investigator and I believed they were being truthful in their new statements. I then dismissed the first-degree murder charge against Lopez.
- Christopher Johnson. After reviewing his videotaped statement more times than I can remember and even having other people watch it and tell me their opinions, we all believed his final statement. Thus I moved to dismiss the first-degree murder charge against him and proceed against his codefendant.
- The above are cases that I can remember off the top of my head. There are many more cases where I have made fair-minded decisions on behalf of defendants when justice required it. Whether that meant dismissing the case, presenting officers with my legal opinion on the facts, or simply fretting about the proof until it was obvious what needed to happen, I believe that I as much as any prosecutor in the land have followed the special

ethical guideline that prosecutors “should do justice.”

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.

Not applicable.

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

I have been actively pursuing this position for several months, having made my mind up over a year ago to run for this specific judgeship and against the incumbent judge. The reasons for that decision are mostly irrelevant now, and I respect Judge Lynn Brown for the service he has provided for my community. However, I do believe that my willingness to provide the First Judicial District with a choice in the race that would have occurred in 2014 speaks to my courage to do what I think is right and to the level of interest I have in a quality judiciary in our four counties.

Having noted this, I have spent a considerable amount of time contemplating how my presiding as the Part II Criminal Court Judge could benefit the district. Regarding the ideas I have to improve the office’s performance, I would like to cite the problems we face by the particular challenges of our four-county district. In three of the counties, we have multiple judges having to share courtrooms. Up until two years ago, the judges shared courtrooms in all four counties. Unfortunately, we are still using the same scheduling system in the district despite each judge having his/her own courtroom in Washington County, which has the biggest population and caseload of the four. Our courtroom schedule is completed in four-month increments: January-April, May-August, September-December. Since civil and criminal judges have to make this schedule in concert with one another, we tend to get the next schedule only one to two months in advance of the schedule starting (for instance, the May-August schedule may only be released sometime in March).

The problems presented by this scheduling system include the following, from the Criminal Court's perspective:

1. The capital murder trial of Howard Hawk Willis took around seven years to get to trial. Among the various reasons I would cite for this unreasonable delay was this calendar system. Let's say his trial was scheduled for mid-March with two weeks set aside for the Criminal Court Judge to conduct the trial in Jonesborough. Then let's imagine that a complication arose that cancelled the March trial date. By this time, the calendar for May-August would have already been completed or almost completed, and there would be no time set aside for the trial on that schedule. Thus the March date would get cancelled with the trial to be held on a date undetermined during the September-December schedule. However, no one would know the trial date until perhaps July, as the schedule had to be reviewed by multiple judges. This delay in getting the trial date complicated matters further as the parties might not have been able to get needed experts to set aside dates on their schedule, which could cause yet another continuance because notice could not go out to the experts until July. Some districts do not have this issue. In the Third District, for instance, each judge is assigned to a particular county each month, so if such a trial is being held in Judge Dugger's court and requires a continuance, he can immediately declare a new trial date that is just four months after the cancelled date. I believe that elements of the Third District's system should be adopted in the First District with certain weeks always being dedicated to each of the counties and the remaining bulk of the weeks being available to distribute among the judges as needed. When Howard Hawk Willis finally made his way to Death Row, he had spent more time between indictment and conviction than anyone on Death Row at the time. We in the First District should be ashamed of such notoriety.

2. Many cases on the Criminal Court dockets are violations of probation. Often, persons arrested on violations of probation must sit in jail waiting for one to two months before they ever see their Criminal Court Judge. Everyone involved would be better served by a system that gets the violators in front of the Judge more promptly: (1) the defendant who thinks he has a reasonable excuse for his violation would certainly like to be heard sooner, (2) the defendant who wants to plead guilty to the violation and serve his sentence would be able to start accumulating good-time credit sooner, and (3) the county has to assume all of the costs of the violator's incarceration pending disposition of the violation, so delaying the disposition costs the counties of the First Judicial District unnecessarily. We could build in more days where violations could be heard by a simple tweak of the schedule: Instead of always making a miscellaneous day for a judge to take place only in one county, sprinkle in a few days every schedule where there are joint miscellaneous days (judge is in Unicoi in the a.m. and moves to Washington for the p.m.; the same could be done for Johnson and Carter on other days) where violations and smaller matters are heard. With the extra potential days to hear violations, greater flexibility can be used to get the violations heard sooner.

3. Almost all of our private attorneys practice district-wide. Often the judges will double book their miscellaneous days, creating scheduling conflicts for some of the lawyers. For instance, one judge will be in Carter County and the other will be in Washington County on the same day. Invariably we will have defendants and victims sitting around in one courtroom waiting for the defense lawyer on their case to arrive after finishing his/her business in the other county. I have seen continuances being declared by the afternoon on such cases when the lawyer could not get free from the first county. This is inefficient and unnecessary. There should be



more instances where both of the judges are scheduled for miscellaneous days in Washington County on the same day. After all, each judge has his own courtroom there. The defense lawyers would be much better able to juggle their day between the two courts when they are separated by only a hallway. An additional improvement would be to attempt to avoid scheduling miscellaneous days for both judges in separate counties.

4. If matters before the court are handled efficiently, whether they are taking pleas of guilt, holding arraignments or hearing violations, some of those matters can be inserted into the beginning of a trial day. Having observed Special Judge Jon Kerry Blackwood in action, he can easily deal with 10-20 defendants before starting a jury trial and still be done with the day's business long before 5 p.m. Again, by having extra days where miscellaneous matters can be addressed, greater scheduling flexibility results and matters move through more expeditiously.

If I am offered the privilege of being appointed to Criminal Court Judge, Part II, I will work to have a scheduling system that works the best for all concerned. Sometimes "thinking outside the box" is useful. I hope that these additional words are useful to you in gaining insight as to why I believe I am an ideal candidate to handle to duties of a Criminal Court Judge.

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.

None.

### 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.

J.D./MBA joint degree, University of Tennessee College of Law, Knoxville, Tennessee, 1997. I made the Dean's List in each of my first four semesters in law school, earning the Corpus Juris Secundum Award for my property class. Also, I earned a position on the school's constitutional law moot court team that competed at William & Mary in 1997. In the MBA program, I gained valuable knowledge and experience in leadership and speaking as a substantial portion of the first year consisted of four team projects that culminated in lengthy team-produced reports and presentations. For the fourth and final project that was the most difficult of the year, I served as the team leader in preparing and presenting our proposal. I believe that the MBA experience has aided me greatly in handling large-scale trials.

Bachelor of Sciences degree, East Tennessee State University, Johnson City, Tennessee, 1992.  
Political science/economics double major. Minored in history.

**PERSONAL INFORMATION**

15. State your age and date of birth.

Age 42. Born July 19, 1970.

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

All of my life.

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

All of my life, except for the four years when I lived in Blount County while studying at the University of Tennessee-Knoxville.

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

Washington County.

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

Not applicable.

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

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.

No.

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

I did file under Chapter 13 in 2008, submitting a plan to pay 100 percent of the claims filed by creditors. During the plan, I paid a substantial portion of my monthly paycheck to pay the debts and completed the plan early, gaining a discharge in 2011. Since then, I have rebuilt my credit and stayed current on all debts (I have recently closed on a home refinance at a conforming interest rate).

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.

Divorce from first wife, 2003, Washington County Circuit Court, No. 8290. Aforementioned Chapter 13 proceeding was in United States District Court for East Tennessee in Greeneville, No. 08-51671. Also, I had judgments against me from creditors (including Washington County General Sessions Court Nos. 33525, W03343, W05311). Through my Chapter 13 plan, I paid all of the judgments in full.

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.

Region One Football Officials Association, 2004-2012. I have officiated football games from youth club to high school for nine years. I have consistently been assigned to work varsity football games for the past six years and have been honored to work playoff games and other special games. At levels below high school varsity, I work as head referee, leading a crew of three to five officials.

Tri-Cities Baseball/Softball Umpires Association, 2004-2012. I have umpired baseball games from youth level to high school for nine years. Again, I am assigned to a great deal of high school varsity games and have been honored to work many playoff games.

Washington County Republican Executive Committee. I presently serve as precinct chairman for my voting precinct. Previously I have served as Party Chairman for Washington County from 2001-2003, being responsible for leading the organization through a successful Lincoln Day Dinner and other dinners and a legislative fundraiser breakfast. Prior to that, I served as chairman of the Washington County Young Republicans.

I have also volunteered over the years as either a judge or a team coach for the local high school moot court competition.

27. Have you ever belonged to any organization, association, club or society which limits its membership to those of any particular race, religion, or gender? Do not include in your answer those organizations specifically formed for a religious purpose, such as churches or synagogues.
- a. If so, list such organizations and describe the basis of the membership limitation.
  - b. If it is not your intention to resign from such organization(s) and withdraw from any participation in their activities should you be nominated and selected for the position for which you are applying, state your reasons.

I have never belonged to any such organization.

### 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.

Not applicable.

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.

None other than various gifts and/or notes from victims of crime thanking me for my efforts trying their cases. Most recently, the family of a two-year-old homicide victim for whom I tried his case in November of 2012 honored me with a framed portrait of the child with an inscription.

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

None.

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.

None other than three POST-certified lectures for law enforcement officers concerning areas of new criminal laws or search and seizure laws.

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.

None.

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.

I have attached two legal writings, both of which are my work alone. One writing is a response to a motion to suppress in a murder case (Ryan Howard) and the other is a response to a motion to disqualify a testifying expert in another murder case (Dale Larkin). I prevailed on both motions.

**ESSAYS/PERSONAL STATEMENTS**

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

I believe in justice -- justice for the wrongfully accused and the innocent victim. I believe that our constitutional rights should be protected. I believe in a judiciary that provides the parties involved a forum to hear their cases in a prompt and efficient manner.

In my 14+ years as a prosecutor, I have displayed the level of courage and hard work necessary to do the work of a Criminal Court Judge. I have repeatedly stood up for defendants that I believe were wrongfully accused, dismissing even serious cases. Meanwhile, I have worked however much was necessary to ensure that victims of crime got their justice from those who truly committed their crimes. I have responsibly wielded the power of a prosecutor, always being mindful of my ethical duty to do justice, whether that involved a conviction or a dismissal. I believe I can easily transition from that role to the role of a judicial referee who ensures that the parties are heard, the law is followed and that the process is not drawn out for unreasonable lengths of time.

36. State any achievements or activities in which you have been involved which demonstrate your commitment to equal justice under the law; include here a discussion of your pro bono service throughout your time as a licensed attorney. *(150 words or less)*

As a prosecutor for the majority of my career, I cannot cite pro bono service. However, I have sought justice for victims or defendants regardless of their lot in life. For instance, the effort I have given in homicide cases has not been dependent on the wealth or influence of victims' families – I have worked tirelessly for such victims in all cases. Likewise, I have gone to bat for defendants for whom I believed were innocent of serious charges, regardless of their position in society. An example of that is a murder case against a homeless man, Terry McIntosh. In that case, I requested DNA evidence be sent to the TBI Crime Laboratory to see if he could be exonerated after I had reviewed his videotaped statement and suspected he could be innocent. After the DNA evidence backed up my hunch, it was one of my proudest moments when I stood in court and asked the presiding judge to dismiss the charge and release Mr. McIntosh.

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)*

This Criminal Court Judge position encompasses Carter, Johnson, Unicoi and Washington Counties. The Criminal Court deals with a wide array of felony charges as well as any misdemeanor cases that require jury trials. Two judges serve the district in this capacity and have to work together in scheduling court as the judges must share the same courtrooms in three of the counties. Elsewhere in this application, I have cited many problems with our current system and how I might approach possible solutions. Also, in addition to running a fair courtroom, I intend to run a courtroom that is professional and respectful to all who come before

it. I believe a judge can be firm and authoritative without being rude or demeaning.

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)*

My primary community involvement the past several years has been in sports officiating. From being a football official at the youth club level on up to high school varsity as well as doing the same in baseball, I spend a considerable amount of my free time helping provide professional-type officiating so that area kids can play ball in a safe and fair manner. Such officiating requires my participation at many meetings for the two sports as well as spending considerable time on the ball fields. I hope to continue to at least work football if appointed as judge. Officiating keeps me grounded as an attorney, and I believe it can do the same for me as judge.

I have also participated in the functions of the Washington County Republican Party, having served one term as chairman. Our county party was quite active during my term. Currently I am a member of the executive committee. If appointed as judge, I will remain committed to the local party and participate in whatever capacity is ethically allowed for a sitting judge.

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 believe that lessons I have learned in sports officiating will lead me to a good judge. There are many parallels between the two. Both should show favoritism to no one. Both should perform his duties with decorum, even under the most trying of circumstances -- coaches or fans berate the referee unmercifully whereas unruly parties or attorneys raise the judge's blood pressure. As soon as a referee or judge loses his cool, he loses respect. Maintaining control on the field or in the courtroom requires proper temperament. Nine years of officiating has particularly prepared me for the challenges of running a courtroom.

Another strength that I believe I possess is a strong work ethic. I have assumed a heavy load of serious cases as a prosecutor. Currently I am responsible for murder cases in four counties. To get the job done in such matters, I work whatever time is necessary to ensure that victims get the best service possible. If appointed as judge, I will likewise work whatever time is necessary to provide both sides with a forum where they can have their cases tried fairly.

Lastly, I believe that I possess a heightened level of courage. I have not wavered in what I believe is my duty to do right – whether that is for a victim, a defendant, or to speak against wrongs that I have perceived in our local criminal justice system. One of the most important jobs of a judge is to rule according to the law regardless of the potential unpopularity of the decision. Courage is required for any judge to fulfill that role, and I believe that my record as an attorney proves that I possess that trait.

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)

The role of a Criminal Court Judge is to interpret and employ the law as it is written. It is the legislature's role to enact laws, and I believe judges should respect that division of authority.

It is difficult for me to provide an example that exemplifies this philosophy, having worked as a prosecutor for most of my career. One of the ethical guidelines for prosecutors is "to seek justice." This ethic can encompass situations where strict adherence to a law should be avoided if it produces unjust results. I have always followed and respected that ethic. However, I have prosecuted and enforced laws that I believe are more harsh under the law than need be, such as underage drinking, possession of drug paraphernalia, obtaining narcotics by fraud, introducing contraband into a penal facility, etc. I would love for some state legislators to give me the pen that could rewrite certain sentencing penalties so that I could make the aforementioned crimes less punitive and others more harsh, such as repeat shopliftings, repeat domestic assaults, and lower-grade homicides. If appointed as Criminal Court Judge, however, my job will be to follow the law, regardless of my opinions on the merit of such laws.

#### 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 Tony Clark, District Attorney General, First Judicial District. P.O. Box 90, Jonesborough, Tennessee 37659. [REDACTED]

B. Honorable Robert E. Cupp, Criminal Court Judge, Part I, First Judicial District. 108 West Jackson Boulevard, Jonesborough, Tennessee 37659. [REDACTED]

C. Honorable Joy L. Phillips, Administrative Law Judge. 108 Sunset Drive, Annapolis, Maryland 21403. [REDACTED]. Judge Phillips previously worked for several years in the First Judicial District of Tennessee as an Assistant Public Defender as well as an Assistant District Attorney General.

D. Kelly Wolfe, Mayor of Jonesborough, owner of Wolfe Development and elected member of the Tennessee Republican Executive Committee for Washington and Carter Counties, 806 East Jackson Boulevard, Suite 5, Jonesborough, Tennessee 37659. [REDACTED]  
[REDACTED]

E. Randy Hodge, Region One Football Officials Association, Past President and currently a Junior Assigning Officer, 201 Alfalfa Lane, Jonesborough, Tennessee 37659. [REDACTED]  
[REDACTED]



**AFFIRMATION CONCERNING APPLICATION**

Read, and if you agree to the provisions, sign the following:

I have read the foregoing questions and have answered them in good faith and as completely as my records and recollections permit. I hereby agree to be considered for nomination to the Governor for the office of Judge of the           Criminal Court, Part II           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 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.

\_\_\_\_\_  
Type or Printed 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.

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