

Tennessee Trial Court Vacancy Commission
Application for Nomination to Judicial Office

9/8/20

Name: Mark Lee Hayes

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INTRODUCTION

Tennessee Code Annotated section 17-4-301 et seq. charges the Trial Court Vacancy Commission with assisting the Governor and the People of Tennessee in finding and appointing the best qualified candidates for judicial offices in this State. Please consider the Commission's responsibility in answering the questions in this application questionnaire. For example, when a question asks you to "describe" certain things, please provide a description that contains relevant information about the subject of the question and, especially, that contains detailed information that demonstrates that you are qualified for the judicial office you seek. In order to properly evaluate your application, the Commission needs information about the range of your experience, the depth and breadth of your legal knowledge, and your personal traits such as integrity, fairness, and work habits.

This document is available in Microsoft Word format from the Administrative Office of the Courts (telephone 800.448.7970 or 615.741.2687; website www.tncourts.gov). The Commission requests that applicants obtain the Microsoft Word form and respond directly on the form. Respond in the box provided below each question. (The box will expand as you type in the document.) **Review the separate instruction sheet prior to completing this document. Submit by the noon deadline date an original (unbound) completed application (with ink signature) to the Administrative Office of the Courts.** In addition, submit a digital copy with electronic or scanned signature via email to ceesha.lofton@tncourts.gov, or via another digital storage device such as a flash drive. See section 1(g) of the application instructions for additional information related to hand-delivery of application packages.

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

PROFESSIONAL BACKGROUND AND WORK EXPERIENCE

1. State your present employment.

Private practice at Jenkins Dedmon Hayes Law Group LLP, 426 Troy Avenue, Dyersburg, Tennessee.

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

1982; 009988.

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 October 9, 1982, active; 009988.

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).

My law practice has been my primary occupation since completion of my legal education. I served as an adjunct faculty member at Dyersburg State Community College 1990–1992 teaching business law and general business courses. Additionally, I served as a part-time assistant district attorney general for the 29th Judicial District 1996–1997.

1982–1983 graduate clerk and associate at Arnett, Draper & Hagood, Knoxville, Tennessee.

1983–1988 solo practitioner, Tiptonville, Tennessee.

1988–1993 partner at Palmer & Hayes, Dyersburg, Tennessee.

1994–2016 partner at Wilkerson Gauldin Hayes Jenkins & Dedmon, Dyersburg, Tennessee.

2016–present partner at Jenkins Dedmon Hayes Law Group LLP, Dyersburg, Tennessee.

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

My law practice is a rural, regional general law practice focused on civil litigation (about 50%), mediation (about 20%) and real estate and transactional work (about 20%). The remaining ten percent of my practice involves estate planning and probate, some business planning and governmental work as the city attorney for Tiptonville and Ridgely. In the civil litigation, I focus on the defense of accident claims, premises liability claims, and first-party insurance claims. My civil litigation practice extends to almost every county in West Tennessee. I am an active Tennessee Supreme Court Rule 31 listed general civil (1997) and family law (1999) mediator, and my mediation practice covers almost all kinds of matters in a rural general practice. I also accept periodic criminal matters and am available when needed for court appointment. I just completed an appointed attempted first degree murder matter for the Circuit Court in Dyer County.

7. Describe generally your experience (over your entire time as a licensed attorney) in trial courts, appellate courts, administrative bodies, legislative or regulatory bodies, other forums, and/or transactional matters.

I have had primary responsibility or assisted in both civil and criminal jury trials in a substantial number of matters in both state and federal courts (including at least five first degree murder or homicide trials), and many more bench trials. I tried both jury and non-jury cases as an Assistant District Attorney in 1996–1997. I have handled multiple appeals in Tennessee courts, and the Sixth and Eighth Courts of Appeal. I have extensive experience in civil litigation practice, examining real estate titles, drafting contractual and transaction documents, and resolving real estate title issues. I have served as mediator in more than 850 mediations. In my earlier years of practice, I had a busy criminal defense practice and have continued to serve the court as appointed defense counsel when the Public Defender is conflicted out of representation. I have, additionally, accepted appointment as counsel for indigent Juvenile Court litigants and served as guardian ad litem for children in dependent and neglected cases.

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

I was appointed to represent an indigent defendant in a capital murder case in 1985. The case was tried by a jury and the defendant convicted and sentenced to death. I continued to represent him on appeal to the Tennessee Supreme Court; the conviction and death sentence were affirmed in *State v. Barber*, 753 S.W.2d 659 (Tenn. 1988). My representation was later the subject of the defendant's post-conviction petition. The petition was dismissed by the trial court and in the

Court of Criminal Appeals in *Barber v. State*, 895 S.W.2d 185 (Tenn. Crim App. 1997) (*perm. app. den.* 1995). The defendant ultimately filed a complaint against me with the Board of Professional Responsibility, which was dismissed after investigation. The defendant later apologized for filing the complaint, telling me that he felt he had to do it because he had exhausted all remedies available to him. My representation of Mr. Barber at trial and on appeal, and subsequently becoming the target of his complaints ran the full gamut of criminal practice and had a profound impact on my career and personal life.

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

I served as a member of the Board of Professional Responsibility from 1999 to 2005 and as Vice-Chair in 2005.

I currently serve as a Commissioner of the Tennessee Human Rights Commission and have participated in multiple matters in the review of the decisions of administrative law judges who hear and determine complaints of discrimination. As a Commissioner, I review the trial record of hearings and vote in a determination of confirmation, reversal, or remanding of discrimination claims.

I have been a presenter at continuing legal education events for organizations including the Dyer County Bar Association, Gibson County Bar Association, Obion County Bar Association, Dyersburg State Community College, West Tennessee Legal Services, Lawyers Association for Women, the National Bar Association Ben F. Jones Chapter, and the TennBarU Court Square Series.

I have conducted new lawyer interviews for the Tennessee Board of Law Examiners since 1989.

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

No previous applications.

EDUCATION

11. List each college, law school, and other graduate school which you have attended, including dates of attendance, degree awarded, major, any form of recognition or other aspects of your education you believe are relevant, and your reason for leaving each school if no degree was awarded.

- University of Tennessee College of Law; J.D. degree; May, 1982.

- University of Tennessee at Martin; B.S. degree in Business Administration–Municipal Management and Public Administration (with honors); 1979. Recipient of the Alpha Kappa Psi Scholarship Key and the UTM Pacer Award. Elected by the student body as Student Government Association Secretary of Finance, 1978–1979 academic year.
- Dyersburg State Community College; summer courses taken 1977 and 1978; no degree.

PERSONAL INFORMATION

12. State your date of birth.

██████ 1957.

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

64 years; since birth.

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

33 years.

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

Dyer County.

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

No military service.

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

No.

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

No.

19. Please identify the number of formal complaints you have responded to that were filed against you with any supervisory authority, including but not limited to a court, a board of professional responsibility, or a board of judicial conduct, alleging any breach of ethics or unprofessional conduct by you. Please provide any relevant details on any such complaint if the complaint was not dismissed by the court or board receiving the complaint. You may wish to request a report from the appropriate supervisory authority (or authorities) for a complete history.

One complaint with the Board of Professional Responsibility on September 13, 1995. Closed after investigation on July 30, 1996. This complaint was filed by a criminal defendant who I represented on appointment in a first degree murder trial.

20. Has a tax lien or other collection procedure been instituted against you by federal, state, or local authorities or creditors within the last five (5) years? If so, give details.

No.

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

No.

22. Have you ever been a party in any legal proceedings (including divorces, domestic proceedings, and other types of proceedings)? If so, give details including the date, court and docket number and disposition. Provide a brief description of the case. This question does not seek, and you may exclude from your response, any matter where you were involved only as a nominal party, such as if you were the trustee under a deed of trust in a foreclosure proceeding.

Mary Kelly McGavock Hayes and Mark Lee Hayes, Joint Petitioners, Dyer County Chancery Court No. 4674; Final Decree of Divorce entered November 12, 1999.

Mark Lee Hayes v. Ann Ashley Hayes, Lauderdale County Chancery Court No. 8670; Divorce Decree entered February 9, 1993.

Mark Hayes v. Elk Roofing Company, Lake County General Sessions Court, claim for defective roofing shingles; claim resolved without trial, 1984.

Mark Hayes v. James Matthews, Lake County General Sessions Court, action for recovery of money; I was the victim of check fraud, 1980.

23. List all organizations other than professional associations to which you have belonged within the last five (5) years, including civic, charitable, religious, educational, social and fraternal organizations. Give the titles and dates of any offices which you have held in such organizations.

Member, First United Methodist Church, Dyersburg, Tennessee (Lay Leader, 1999–2002; Senior High Sunday School Teacher, 2005–2017; Adult Sunday School Teacher, 1989–present; Church Council Chair, 2006–2009, 2021; Finance Committee 2014–2016, Staff-Parish Committee 2017–2019).

Member, Dyersburg Breakfast Rotary Club (President, 2004–2005 and 2013–2014; District 6760 Honduras Project participant, 2007–2019; District 6760 Service Award, 2009; District 6760 Humanitarian Award, 2012); Paul Harris Fellow; Rotary International Service Above Self Award, 2015.

Member, Board of Directors of West Tennessee Regional Blood Center since 2008 (Chair 2019–present; Vice-Chair 2014–2018; Member, Executive Committee and Compensation Committee; Chair, Strategic Planning Committee).

Alpha Kappa Psi Professional Business Fraternity, Life Member.

24. Have you ever belonged to any organization, association, club or society which limits its membership to those of any particular race, religion, or gender? Do not include in your answer those organizations specifically formed for a religious purpose, such as churches or synagogues.
- If so, list such organizations and describe the basis of the membership limitation.
 - 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 was a member of the Tiptonville Lions Club 1983–1989. At that time, membership was restricted to men.

I was a member of the Boy Scouts 1968–1973 and an assistant leader 2007–2011. During those periods, membership was restricted to males.

ACHIEVEMENTS

25. List all bar associations and professional societies of which you have been a member within the last ten years, including dates. Give the titles and dates of any offices which you have held in such groups. List memberships and responsibilities on any committee of professional associations which you consider significant.

Member, Tennessee Bar Association since 1982 (Member, House of Delegates, 1992–1997).

Member, Dyer County Bar Association since 1988 (Chair, Advisory Committee on Revision of Local Rules of Court, 1995 and 2004).

Fellow, Tennessee Bar Foundation, inducted 2008; Grant Review Committee member 2010–2012, committee chair 2015; Member, Board of Trustees 2014–2019 (Board Chair 2017–2018); General Counsel 2019–present.

Master of the Bench, Howell Edmunds Jackson American Inn of Court, 2018–present.

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

West Tennessee Legal Services Pro Bono 50-Hour Award, 2008; Law Day Pro Bono Award, 2014.

27. List any public office you have held or for which you have been candidate or applicant. Include the date, the position, and whether the position was elective or appointive.

City Attorney, Town of Tiptonville, 1984–1985 and 2011–present; appointed by Board of Mayor and Aldermen.

City Attorney, Town of Ridgely, 2007–present; appointed by Board of Mayor and Aldermen.

Commissioner, Tennessee Human Rights Commission, 2020–present; appointed by Governor Bill Lee.

Candidate, 29th Judicial District Chancellor, 2008; not elected.

Part-time Assistant District Attorney General for the 29th Judicial District, 1996–1997, appointed by the District Attorney.

Elected member, Town of Tiptonville, Tennessee, Board of Aldermen; 1985–1988.

Elected member, Lake County, Tennessee, Board of Education; 1984–1988.

ESSAYS/PERSONAL STATEMENTS

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

The position of Circuit Judge for the 29th Judicial District represents an opportunity for me to serve both the county of my childhood and the county where I have made my home for the past 33 years in a new and challenging role. I desire an opportunity to serve in the profession that I have practiced for 39 years and bring a strong work ethic, common sense, and substantial experience to the job. Appointment to the position would of course represent an advancement in my career, but one with a corresponding obligation to work hard, get the right result, and treat litigants fairly and respectfully in the process, with a goal to cultivate respect for the judicial process that impacts the lives of many citizens. I welcome both the opportunity and the responsibility that the position presents. I believe that I can resolve the case load which has built up from the pandemic in a timely manner, implement the use of technology to make the court more efficient, revitalize the recovery court and explore the potential for a veteran's court.

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

I am applying for the position of Circuit Court Judge for the 29th Judicial District, which includes Dyer and Lake Counties in Northwest Tennessee. The district has one Chancellor and one Circuit Judge. It is a rural district and includes, in Lake County, a Tennessee Department of Corrections prison. I am thoroughly familiar with the population and geography of both counties, having grown up in Lake County and been a resident of Dyer County since 1988. My extensive experience in both criminal and civil practice would provide me with the ability to make an impact from the first day on the job.

District-wide civil and criminal case filings are in the range of 1,500-1,800 annually. During 2019 and 2020, COVID restrictions on court operations caused a backlog of cases. My initial focus as Circuit Judge would be to dispose of back-logged cases and implement technology to operate the court as efficiently as possible going forward.

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

Yes. Like many lawyers in rural areas, I have been appointed to represent indigent defendants

and have accepted employment in criminal cases where I was able to secure an acquittal or an advantageous negotiating position for such person because the substance of the law provided relief or more protection to such persons than I felt they deserved. On one occasion, I was appointed by the Circuit Court to represent a man who had been accused of raping his granddaughter. The investigating agency failed to strictly conform the forensic interview with the requirements of the statute to qualify the interview for admissibility during the trial, and I was able to have the interview excluded from evidence. As a result, I was able to negotiate a more favorable outcome for the client, even though I knew he was guilty and deserved stronger punishment for his actions.

REFERENCES

31. List five (5) persons, and their current positions and contact information, who would recommend you for the judicial position for which you are applying. Please list at least two persons who are not lawyers. Please note that the Commission or someone on its behalf may contact these persons regarding your application.

A. Fred Collins, Collins Law & Mediation, [REDACTED] Milan, Tennessee, 38358-0679; Tel. [REDACTED]

B. Hon. Jason Hudson, Dyer County General Sessions Court Judge, Courthouse Annex, [REDACTED], Dyersburg, Tennessee, 38024; [REDACTED].

C. Mr. Larry S. White, Owner, White & Associates Insurance, [REDACTED], Dyersburg, Tennessee, 38024; [REDACTED]

D. Mrs. Judy Long, Chief Operating Officer, First Citizens National Bank, [REDACTED], Dyersburg, Tennessee, 38025-0270; [REDACTED]

E. William L. Jenkins, Jr., Attorney, Jenkins Dedmon Hayes Law Group LLP, [REDACTED], Dyersburg, Tennessee, 38025-0846; [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 [Court] 29th Judicial District Circuit Court 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: October 5, _____, 2021.



Signature

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



**TENNESSEE TRIAL COURT VACANCY COMMISSION
ADMINISTRATIVE OFFICE OF THE COURTS**

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

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

WAIVER OF CONFIDENTIALITY

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

Mark Lee Hayes
Type or Print Name

Mark L Hayes
Signature

October 5, 2021
Date

009988
BPR #

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

<u>Tennessee Department of Commerce and Insurance</u>
<u>Limited Title Insurance Producer-Attorney; license</u>
<u>number 694584 (2021)</u>