

Tennessee Judicial Nominating Commission
Application for Nomination to Judicial Office

Rev. 26 November 2012

Name: William Erwin Phillips

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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.

Partner. Phillips and Hale Attorneys.

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

1976. BPR #04235

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.

4. Have you ever been denied admission to, suspended or placed on inactive status by the Bar of any State? If so, explain. (This applies even if the denial was temporary).

No.

5. List your professional or business employment/experience since the completion of your legal education. Also include here a description of any occupation, business, or profession other than the practice of law in which you have ever been engaged (excluding military service, which is covered by a separate question).

I have been in the general practice of law with the firm of Phillips and Hale from 1976 to the present. I have also served as the City Attorney for the Town of Rogersville during the same time period. My practice includes appearances before all state courts and federal courts (Eastern District of Tennessee and 6th Circuit.) I have also been involved in the banking profession as secretary and chairman of the board of directors of Tennessee chartered banks.

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.

My practice principally involves business and real estate (30%), banking (25%), municipal law (25%) and domestic relations and estates (20%). I am involved in litigation in each of the areas of practice.

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 have represented both plaintiffs and defendants in all types of litigation and individuals and businesses, large and small, in transactional matters. During the first several years of practice I represented criminal defendants at the trial and appellate level. I was counsel for the defendant in *State v. Lakin*, 588 S.W.2d 544 (1979 Tenn), a case that changed the definition of "open fields" for purposes of a warrantless search.

I have represented litigants at the trial and/or appellate level in tort actions, contract actions, boundary line/real property disputes, governmental/statutory actions and municipal matters. I have represented clients before regulatory agencies including the Environmental Protection Agency, Tennessee Department of Environment and Conservation and the Tennessee and Virginia Departments of Occupational Safety and Health Agencies. I have represented both plaintiffs and defendants before the federal bench in civil rights matters.

I have been general counsel for two banks. I have represented many clients in large and small

transactional matters including the sale and purchase of businesses, drafting and negotiating manufacturing contracts and organizing real estate developments. I have closed hundreds of commercial and residential mortgage transactions.

My law firm, Phillips and Hale, currently consists of three lawyers including my brother, James O. Phillips, III and my son, William E. Phillips, II. The firm was organized in Rogersville in 1916 by my grandfather James O. Phillips who was later joined by my uncle, Winfield B. Hale, Jr., who served on the Tennessee Court of Criminal Appeals and as a Nuremberg War Crimes Tribunal trial judge. Other attorneys in the firm were Winfield B. Hale, III and my father James O. Phillips, Jr. who served as Chancellor for what is now the 3rd Judicial District.

My legal education and experience has been invaluable in my service as a director on the following boards:

Legal Services of Upper East Tennessee

Tennessee Humanities Council

Citizens Union Bank

Parks-Belk Companies

The Citizens Bank of East Tennessee

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

See answer to question no. 8.

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.

I have served for the last three years as a hearing panel member for the Board of Professional Responsibility, and I am advised by the Board that my name is being submitted to the Supreme Court for an additional three year term.

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.

I am currently the Trustee of the Kenneth E. Jenkins Trust and have served in such capacity for approximately three years. The trust has assets of approximately twelve million dollars. I have also served as Co-Trustee of the Joe H. Wilson Trust for the last fifteen years. I am currently serving as a Trustee of the Rogersville Presbyterian Church.

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

None.

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.

University of Tennessee `72 BS political Science.

University of Tennessee `75 Doctor of Jurisprudence.

PERSONAL INFORMATION

15. State your age and date of birth.

65. October 18, 1947.

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

My entire life with the exception of approximately three years of military service.

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

My entire life other than college and military service.

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

Hawkins.

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.

U. S. Army. 1968-1971. Served in Vietnam 1969-1970. Honorably discharged as E-5. Vietnam Service Medal, National Defense Service Medal, Army Commendation Medal with V affixation.

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.

In in early 1980s I received a private informal admonition for failing to timely release a file to a former client who had not paid my professional fees following a successful representation of the client before a trial court.

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)?

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.

I am a party in a suit by a borrower against the Citizens Bank of East Tennessee filed in the U. S. District Court for East Tennessee. I was the closing attorney as well as the chairman of the bank board. It is alleged that the bank forced the plaintiff into signing a personal guaranty for which she ultimately became liable to pay. The matter has been resolved and either has been or is to be dismissed with prejudice and without judgment against or loss to any defendant.

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.

United States Golf Association

Ducks Unlimited

Masons

American Automobile Association

National Rifle Association

Kentucky Colonels

Heritage Association of Rogersville

American Legion

Veterans of Foreign Wars

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.

No.

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.

Hawkins County Bar Association 1976-2013, President 1982-1984

Tennessee Bar Association 1976-2013

American Bar Association 1976-2009

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.

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.

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.

City Attorney-Town of Rogersville 1976-present, appointed.

Chairman, Hawkins County Planning Commission 1984-present, appointed.

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.

Attached. Principal author.

ESSAYS/PERSONAL STATEMENTS

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

I have practiced law for many years, and I believe that I have a breadth of experience that would be beneficial to the administration of justice at the trial level. In addition to experience in purely legal matters I have served and worked in numerous business and social capacities that have led to a better understanding of the nature of social interaction and the origin of disputes and the

ability to resolve those disputes in the least abrasive manner.

I also have a sense of duty and obligation to those who have preceded me and those who will follow me in my firm and profession to continue service to the law and to the profession in a manner that will lend respect to both.

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)*

I was a member of the organizational board of directors of Legal Services of Upper East Tennessee, an organization providing free legal services to indigent clients. I have continued to provide pro bono services to clients throughout my career. My practice has been principally in rural Eastern Tennessee. There are many people desperately in need of legal assistance who have no ability to pay. I feel it is my duty to provide an avenue to justice for those unable to afford the services of an attorney, and I have devoted scores of hours each year to that endeavor.

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 the office of Chancellor of the 3rd Judicial District. (Hawkins, Hamblen, Greene and Hancock counties). There is currently one Chancellor, three Circuit Judges who primarily handle civil matters and one Circuit Judge who presides over the Criminal Court. The district is generally rural. The types of cases heard in Chancery Court cover nearly all causes of actions other than those grounded in tort and for unliquidated damages for injuries to property not resulting from a breach of contract. Chancery also has probate jurisdiction. One Circuit Judge is from Hawkins County, and he has announced his retirement effective May1, 2013. One Circuit Judge is from Hamblen County and two from Greene County.

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 have been currently mostly involved in working with the Heritage Association of Rogersville (RHA) and the Rogersville Presbyterian Church (RPC). RHA has been in existence since the early 70s and has been the driving force behind the preservation of historic structures in Rogersville and the heritage of our area. RHA is the owner of several historic structures that the organization refurbished and saved from destruction including the Hale Springs Inn, an inn built in 1848 where three presidents have lodged. The Inn is now fully operational with an excellent restaurant on site. I have devoted many hours of volunteer legal services to the programs of RHA.

I am actively involved with RPC and its programs. I currently serve as a trustee of the church and have served as a deacon and elder. I have also been a member of the Rogersville Rotary Club and participated in its many community assistance and improvement programs.

I hope to continue my involvement in services to my community within the bounds of judicial propriety.

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)*

The primary experience that qualifies me for the judiciary is 37 years of law practice with what I believe is an untarnished reputation. I have zealously represented my clients within the rules of professional conduct while maintaining the respect and friendship of my colleagues. I have represented clients in a wide variety of matters and involving many different causes of action.

My life experiences include military combat which tends to evoke an appreciation for and an ability to cope with stress. My military experience also instilled a work ethic which has served me well in the practice of law and in life generally.

I appreciate and understand the necessity of family relationships as the core to a strong society. Yet I equally understand that there are many who must survive and succeed without the benefit of those relationships.

The ability to interact with people whose perspectives and beliefs differ from one's own and to appreciate those perspectives and beliefs and the conclusions drawn therefrom is an important element to a proper judicial demeanor. I have made an effort in my practice to achieve this ability. The general practice of law and my business experience have provided me with an insight into the practicalities of our society that should be compatible with a proper judicial demeanor.

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)*

It is not the duty of a judge to make new laws nor to dissect and parcel laws so as to obliterate their true meaning and intent. I will apply the law as written to the facts of each situation.

In my capacity as city attorney I have been required to enforce laws that many times seemed inequitable (particularly with reference to zoning issues) yet those laws are in effect and are required to be enforced. I have done so as duty requires.

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. Howard Vogel, attorney. O’Neil, Parker and Williamson, [REDACTED] [REDACTED]
B. Hon. Jim Sells, Mayor. [REDACTED]
C. William C. Bovender, attorney. Hunter, Smith and Davis, [REDACTED] [REDACTED]
D. Douglas E Rehm, President/CEO The Citizens Bank of East Tennessee, [REDACTED] [REDACTED]
E. Hon. Dennis H. Inman, Chief Magistrate Judge, E. D. of Tenn., [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 [Court] Chancery Court, Third Judicial District of Tennessee, and if appointed by the Governor, agree to serve that office. In the event any changes occur between the time this application is filed and the public hearing, I hereby agree to file an amended questionnaire with the Administrative Office of the Courts for distribution to the Commission members.

I understand that the information provided in this questionnaire shall be open to public inspection upon filing with the Administrative Office of the Courts and that the Commission may publicize the names of persons who apply for nomination and the names of those persons the Commission nominates to the Governor for the judicial vacancy in question.

Dated: March 8, 2013.

s/William E. Phillips
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.

William E. Phillips

____s/William E. Phillips
Signature

____3/8/13
Date

4235
BPR #

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