

The Governor's Council for Judicial Appointments

State of Tennessee

Application for Nomination to Judicial Office

Name: Ray Hal Jenkins

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(including county)

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(including county) 37914

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INTRODUCTION

The State of Tennessee Executive Order No. 54 (May 19, 2016) hereby charges the Governor's Council for Judicial Appointments with assisting the Governor and the people of Tennessee in finding and appointing the best and most qualified candidates for judicial offices in this State. Please consider the Council's responsibility in answering the questions in this application. 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 Council 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 Council requests that applicants obtain the Microsoft Word form and respond directly on the form using the boxes provided below each question. (The boxes will expand as you type in the document.) Please read the separate instruction sheet prior to completing this document. Please submit your original, hard copy (unbound), completed application (*with ink signature*) and any attachments to the Administrative Office of the Courts. In addition, submit a digital copy with your electronic or scanned signature. The digital copy may be submitted on a storage device such as a flash drive that is included with your hard-copy application, or the digital copy may be submitted via email to ceesha.lofton@tncourts.gov. See section 2(g) of the application instructions for additional information related to hand-delivery of application packages due to COVID-19 health and safety measures

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

PROFESSIONAL BACKGROUND AND WORK EXPERIENCE

1. State your present employment.

General Sessions Magistrate, Knox County, Tennessee

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

1998, BPR 019113

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 019113

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).

I took voluntary inactive status in 2002 due to the death of my grandmother and other family issues that prevented me from completing required CLE. I was re-instated in 2003.

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).

From 1998 until 2014 I was engaged in the private practice of law. I specialized in intellectual property, technology-related transactional work, family law, and small business transactional work.

I was appointed a Magistrate for the General Sessions court in Knox County in 2014. In that capacity I am 100% focused on criminal practice. As a Magistrate, I am the first line of criminal prosecutions. In my 8 years, I have reviewed and evaluated 30,000 applications for arrest warrants, thousands of search warrants, and thousands of arraignments and bail hearings.

I was instrumental in the establishment of the Pre-Trial process in Knox County where we established a formal evaluation of an offender's criminal history – in Knox County, in Tennessee, and across the country – to decide if, instead of bail, they can be placed under the supervision of the Pre-Trial office instead of a bail bondsman.

I also initiated a review of the bail-setting process in Knox County, bringing our process in line with the statute in Tennessee and the US constitution.

During this time, I was also a consultant to Computer Sciences Corporation, managing technology projects- software development, infrastructure upgrades, and movement of hardware from client datacenters into company-owned centers. These projects involved P&L responsibility of millions of dollars and directing hundreds of engineers and technicians.

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.

N/A

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.

I am not currently in the private practice of law.

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 Council 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 Council. Please provide detailed information that will allow the Council 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.

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

N/A

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.

N/A

11. Describe generally any experience you have serving in a fiduciary capacity, such as guardian ad litem, conservator, or trustee other than as a lawyer representing clients.

I have not served in this capacity.

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

N/A

13. List all prior occasions on which you have submitted an application for judgeship to the Governor's Council for Judicial Appointments or any predecessor or similar 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.

I applied to be appointed to the position of Circuit Court judge in the 6th District in 2013. I was not referred to the Governor.

EDUCATION

14. List each college, law school, and other graduate school that 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, 1978, transfer
Walters State Community College, 1979-1980, transfer
Tennessee Technological College, 1980 – 1983, BS Computer Science
Nashville School of Law, 1988 – 1997, JD

PERSONAL INFORMATION

15. State your age and date of birth.

61, [REDACTED] 1960

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

1960 – 1983, 1987 - present

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

1960 – 1972, 2000 - present

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

Knox

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.

N/A

20. Have you ever pled guilty or been convicted or placed 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.

N/A

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. 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.

N/A

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.

Divorce, 1995, Coffee County, TN

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 that you have held in such organizations.

Free & Accepted Masons, Bright Hope Lodge, 557. Master Mason.

27. Have you ever belonged to any organization, association, club or society that 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.

F&AM is a male only organization. There is a sister organization for women called Eastern Star. I do not plan to resign.

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 that you have held in such groups. List memberships and responsibilities on any committee of professional associations that you consider significant.

Knoxville Bar Association, 2020 – Present

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

Pro Bono Award 2012

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

N/A

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.

N/A

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.

Chairman, Knox County Republican Party, 2009 – 2013. Elected by delegates.

Magistrate, Knox County General Sessions Court. Nominated by General Sessions Judges and appointed by Knox County Commission 2014, 2017, 2021

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

No.

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

See below

ESSAYS/PERSONAL STATEMENTS

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

I am motivated by public service. I do think that my last 8 years as a Magistrate, I have been prepared for the position of Judge on the Court of Criminal Appeals.

It is a matter of public service. In my current position, I serve the people of Knox County. This position would allow me to serve the entire Eastern Section of Tennessee.

I believe I have a unique perspective to bring to the Court.

36. State any achievements or activities in which you have been involved that 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 have provided Pro Bono services for many organizations that could not have otherwise obtained legal help. The services ranged from minor criminal defense to divorces to business matters.

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 am seeking appointment to the Court of Criminal Appeals for the Eastern Section. The full state-wide Court has 12 judges, divided by the Three Grand Divisions. This Court is the intermediate appellate court in Tennessee for appeals from the criminal trial courts.

I have gained a unique perspective in this area of the law in that, as Magistrate, I am on the front line of criminal cases. I evaluate applications for arrest warrants. In doing so, I not only review statutes, but also evaluate any case law that interprets those statutes in deciding whether to approve those applications.

This perspective gives me insight into the audience of any opinions I would author and the need for clarity and consistency.

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 am currently a Master Mason at the Bright Hope Lodge #557.

I used to be on the Board of Directors at Angelic Ministries, Intl. where I was also a mentor for some of the men going through their 12 step program.

I was a driver, delivering food, for the Love Kitchen.

I taught Sunday School at Riverdale Baptist Church, where I also sang in the choir and served as Trustee.

Since being a Magistrate involves night and weekend work, I have had to curtail my activities..

In all of these endeavors, I sought to improve myself by serving others. Many of the people served by these organizations have experienced hardships, sometimes by being part of the criminal justice system. It is important that people in that situation trying to recover be treated with respect.

I intend to continue and re-engage in these activities if appointed.

39. Describe life experiences, personal involvements, or talents that you have that you feel will be of assistance to the Council in evaluating and understanding your candidacy for this judicial position. *(250 words or less)*

The entirety of my experiences gives me a perspective most do not have. As a manager in public and private situations, I developed the ability to work with laborers as well as managers and executives. My law practice was diverse. I had to stay abreast of many aspects of the law as well as learn the businesses of the people I was helping. Now, as Magistrate, I am immersed in the criminal practice of law. Every day I am evaluating the statutes and case law against an ever changing set of facts, making a determination of Probable Cause.

Through my work on Pre-Trial and Bail reform, I have proven that I have an eye to solve problems and make things better for all concerned.

With this background, I believe I can add to the depth and diversity of the Court

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)*

I certainly agree to do so. I do this on a daily basis in my position as Magistrate.

Within the last few years, the District Attorney in the 6th District (Knox County) started prosecuting thefts as burglaries if the suspect has been placed on a no trespass list for the business. These cases have been appealed and have been found to be legitimate.

I believe the legislature had previously put processes in place to make misdemeanor thefts felonies in the theft statutes. There is no indication that they intended the burglary statute to be used in such a fashion.

Given all that, I do sign burglary charges in these situations.

Second, I do not agree with the statutes authorizing asset forfeiture without a criminal conviction. I believe it is an unlawful taking.

However, I perform asset forfeiture hearings almost every day.

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 Council or someone on its behalf may contact these persons regarding your application.

A. US Rep. Tim Burchett, [REDACTED]
B. Doug Trant, Attorney, [REDACTED]
C. Tony Earl, Director of Angelic Ministries, [REDACTED]
D. Robert Cole, Knox County Magistrate, [REDACTED]
E. Judge (Ret.) Bob McGee, ([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] Court of Criminal Appeals, Eastern Section of Tennessee, and if appointed by the Governor and confirmed, if applicable, under Article VI, Section 3 of the Tennessee Constitution, 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 application with the Administrative Office of the Courts for distribution to the Council members.

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

Dated: February 17, 2022.



Signature

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



**THE GOVERNOR'S COUNCIL FOR JUDICIAL APPOINTMENTS
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 Governor's Council for Judicial Appointments to request and receive any such information and distribute it to the membership of the Governor's Council for Judicial Appointments and to the Office of the Governor.

Ray Hal Jenkins
Type or Print Name

Signature

February 17, 2022
Date

019113
BPR #

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

WRITING EXAMPLES

**IN THE CHANCERY COURT FOR THE SIXTH JUDICIAL
DISTRICT
AT
KNOX COUNTY, TENNESSEE**

JOHN THOMAS AMMONS)
)
 Plaintiff,)
)
 Vs.) No.178387-3
)
 WILLIAM C. LONGWORTH,)
 TAMARA LONGWORTH)
)
 Defendants.)

**BRIEF IN SUPPORT OF DEFENDANT’S
RESPONSE TO PLAINTIFF’S MOTION TO ALTER AND AMEND
&
MOTION TO DISMISS**

In support of Defendant’s Response, Defendants respectfully offer:

**I
MOTION TO ALTER OR AMEND GARNISHMENT**

On September 11, 2017, The Court ordered the Garnishment action filed by Plaintiff QUASHED. In doing so, The Court rightly reminded Plaintiff that the original judgment in this case allowed for recovery ONLY from Mrs. Longworth’s interest in the house and property on Wilnoty Drive.

Plaintiff's Motion to Alter or Amend challenges The Court's action by claiming Mrs. Longworth has no interest in the Wilnoty property. Whether true or not, this would not affect the Order in the Garnishment action. The Court's original order was valid and remain so today. The Court rightly quashed the Garnishment action as not conforming to the original order and, respectfully, should deny Plaintiff's Motion to alter or Amend that decision

II

MOTION TO ALTER OR AMEND ORIGINAL ORDER

On September 2, 2011, this Court found Mrs. Tamara Longworth responsible to repay a loan to Plaintiff. Notably, the Court did not find Mr. William Longworth responsible. The Court acknowledged the difficulty Plaintiff might have in executing on its Order, given the Tenants by the Entirety issues at that time:

“So through either an equitable or legal theory, the Court believes that a judgment against Mrs. Longworth should go down in the amount of \$193,000, secured by a judgment lien against the Wilnoty Drive house. I'm not today going to order a sale of that house. I'll let the parties try to work that out, how that will be executed upon or sold; that the Court believes that a judgement in that amount, secured by that house and that house only. The testimony also seems to be that Mr. Ammons was willing to take a loss on this deal; if the house sold for less than the \$193,000 and he was land marked, and the Court's going to enforce that as well. So, the \$193,000 is solely owned by a judgment lien against the Wilnoty Drive house, and I'll let you counsel decide how you're going to execute against the Wilnoty Drive house, and I'll let you counsel decide how you're

going to enforce that judgment lien. ... That gets into the question of tenancy by the entirety and a whole lot of other questions that I know I'm not ready, willing or able to answer today. When we get to the point of – if the Court has to intervene any further, to figure out how to enforce this money judgment, we'll take that up at that time. Right now, I'm saying there's a \$193,000 ~~possession~~ Judgement against Mrs. Longworth that's secured by her interest or half interest, I don't know. I'll let you guys work that out, or we'll take that up another day, all right?"

-Memorandum Opinion

On February 6, 2012, The Court heard and denied Plaintiff's Motion to Alter or Amend. There was no appeal. To emphasize, there was NO appeal as proscribed by the Tennessee Rules of Civil Procedure. The judgment became final, again, according to TRCP.

In the intervening years, Plaintiff has tried to skirt the judgment, due to the difficulty of execution. First by filing a lien against the Longworth's home on Nichols Drive. In that action, The Court found that the lien against any other property than the Wilnoty property was improper.

Next, the Plaintiff filed a Motion to Sell. After hearing arguments, The Court declined to grant the Motion, again citing Tenants by the Entireties and the issue of satisfying the judgment against Mrs. Longworth without disturbing Mr. Longworth's interest in the Wilnoty property. In that case, The Court suggested Plaintiff's attorney research the issues of Transmutation and Commingling and return to the court. Since that time, Plaintiff has submitted no further filings nor has he requested any discovery.

Finally, Plaintiff filed the aforementioned Garnishment action against Mrs. Longworth's earnings as a Realtor. As discussed *infra*, The Court rightly quashed that action.

Now, Plaintiff comes before The Court, asking to Alter, Amend, Revise or Reconsider Judgements or Orders. With respect to the Plaintiff's attorneys, this "Omnibus Motion" is all over the place. Plaintiff seems to want to revisit the judgment of September 2, 2011. As justification, Plaintiff seems to argue The Court erred in restricting Plaintiff's recovery to Mrs. Longworth's interest in Wilnoty since, in the Plaintiff's argument, she has no interest in the Wilnoty Property.

In support of its argument, Plaintiff submits an Affidavit of James E. Bondurant Jr. Apparently, Mr. Bondurant did a title search on the Wilnoty property in 2014. His conclusion is that, since Mrs. Longworth is not on the recorded deed to the property, she has no interest in the property.

Mr. Bondurant makes several conclusory statements about Tenants by the Entirety, but makes no reference to statute or case law to support his conclusions. I assume Mr. Bondurant's Affidavit is submitted as expert opinion. Having not had the opportunity to cross examine Mr. Bondurant, Defendant respectfully request the Court reject the Affidavit as authority.

Since Plaintiff has consistently ignored the Court's admonition to "provide more proof" with regard to Tenants by the Entirety, Transmutation, and Commingling, I will address it here.

Transmutation & Commingling

“Separate property can become marital property subject to division, however, through the doctrine of transmutation. When the parties treat separate property in a way that manifests an intent that the property become marital property, transmutation occurs.” *Woodward v. Woodward*, [240 S.W.3d 825, 829 \(Tenn. 2007\)](#). Further,

“In addition to the provisions of Tenn.Code Ann. § 36–4–121(b)(1)(b), courts in Tennessee have recognized two methods by which separate property may be converted into marital property: commingling and transmutation. Although this Court previously has not addressed commingling and transmutation, several opinions of the Court of Appeals have explained the concepts as follows:

“[S]eparate property becomes marital property [by commingling] if inextricably mingled with marital property or with the separate property of the other spouse. If the separate property continues to be segregated or can be traced into its product, commingling does not occur.... [Transmutation] occurs when separate property is treated in such a way as to give evidence of an intention that it become marital property.... The rationale underlying these doctrines is that dealing with property in these ways creates a rebuttable presumption of a gift to the marital estate. This presumption is based also upon the provision in many marital property statutes that property acquired during the marriage is presumed to be marital. The presumption can be rebutted by evidence of circumstances or communications clearly indicating an intent that the property remain

separate.’”

Langschmidt v. Langschmidt, 81 S.W.3d 741, 2002 page 747
quoting:

2 Homer H. Clark, *The Law of Domestic Relations in the United States* § 16.2 at 185 (2d ed.1987); *Lewis v. Frances*, No. M1998-00946-COA-R3-CV, 2001 WL 219662, at *8, 2001 Tenn.App. LEXIS 140, at *24-25 (Tenn.Ct.App. March 7, 2001), *perm. app. denied* (Tenn. Oct. 8, 2001); *Sartain v. Sartain*, 03A01-9707-CH-00297, 1998 WL 751462, at *4, 1998 Tenn.App. LEXIS 722, at *9 (Tenn.Ct.App. Oct. 29, 1998); *Hofer v. Hofer*, No. 02A01-9510-CH-00210, 1997 WL 39503, at *3-4, 1997 Tenn.App. LEXIS 74, at *8 (Tenn.Ct.App. February 3, 1997); *Pope v. Pope*, No. 88-58-II, 1988 WL 74615, at *3, 1988 Tenn.App. LEXIS 449, at *7-8 (Tenn.Ct.App. July 20, 1988).

Further, *Preston v. Smith*, 41 Tenn.App. 222, page 239(1955) quoting *American Law of Property*, Vol. II, Sec. 6.6, page 25, as quoted in the brief of counsel for complainants, it is said:

‘Today, tenancy by the entirety arises only when the grantor or testator intends that it should. Husband and wife take as tenants in common or joint tenants if the conveyance so indicates. If the conveyance is to the husband and wife without any affirmative expression of how they are to take, there is a presumption that they take by the entirety.’

William Longworth acquired the Wilnoty property in 1999. Upon their marriage in 1999, Mr. and Mrs. Longworth lived in the Wilnoty house as

husband and wife and the Wilnoty property was treated as their marital home. They raised their 3 children there, as well as Mrs. Longworth's child from a previous marriage. Mrs. Longworth lived in the home, providing support to Mr. Longworth and her family for 10 years, until 2009 when they moved to their current residence.

During that time, Mr. and Mrs. Longworth borrowed against the property at least six (6) times. BOTH Mr. and Mrs. Longworth signed the Trust Deeds as Grantor, reference Exhibits A-F. This information was gathered pursuant to a 5-minute phone conversation with the Deputy Knox County Register of Deeds. While the Trust Deeds may not conclusively establish a Tenancy by the Entireties, it is a further demonstration by Mr. Longworth to treat the property as a marital asset. The estimated value of the property when Mr. Longworth acquired it was approximately \$93,000. While the Longworth family occupied the family home, its value improved to over \$200,000. This increase in value includes improvements made to the home with family assets as well as the substantial contributions of both Mr. and Mrs. Longworth in maintaining the property.

In determining whether separate property has become marital property, TENN CODE ANN §36-4.121(b)(D) offers this definition of "substantial contribution":

As used in this subsection (b), "substantial contribution" may include, but not be limited to, the direct or indirect contribution of a spouse as homemaker, wage earner, parent or family financial manager, together with such other factors as the court having jurisdiction thereof may determine;

There is no question that Mrs. Longworth in her role as homemaker and parent made substantial contributions to the Wilnoty property within the contemplation of the statutory definition as well as the cases cited.

Also of note:

“A “[t]enancy by the entirety is a form of property ownership unique to married persons.” *Catt v. Catt*, 866 S.W.2d 570, 573 (Tenn. Ct. App. 1993). Under this form of ownership, “each party owns the whole, and on death of one of the parties, the survivor takes no new title or estate because the survivor is in possession of the whole from its inception.” *Id.* (citation omitted). “[I]t is well-settled in Tennessee that personal property, as well as realty, may be owned by spouses by the entirety.” *Id.* (citations omitted). Moreover, this Court has previously noted that once a tenancy by the entirety is created, it can only be terminated when “both [spouses] convey, when one spouse dies and the survivor becomes owner of the whole, or when the survivorship is dissolved by divorce and the parties become tenants in common in the property.” *White v. Watson*, 571 S.W.2d 493, 495 (Tenn. Ct. App. 1978).”

For these reasons, the Defendant respectfully requests This Honorable Court to DENY Plaintiff’s Omnibus Motion.

III MOTION TO SELL

Still unresolved is Plaintiff’s MOTION TO SELL the Wilnoty

Property.

Given that Mr. and Mrs. Longworth own the Wilnoty property as Tenants by the Entirety, to force a sell of that property would work no good for Plaintiff. As noted, *infra*, a conversion of the Entirety from realty to personalty would not change the nature of the property. *White v. Watson*. Also, “It is well settled in this state that personal property as well as realty may be owned by spouses by the entirety. *Campbell v. Campbell*, 167 Tenn. 77, 66 S.W.2d 990 (1934); *Smith v. Haire*, 133 Tenn. 343, 181 S.W. 161 (1915).” *Griffin v. Prince*, 632 S.W.2d 532, 535 (1982)

For these reasons, the Defendant asks that the Plaintiff’s MOTION TO SELL be Denied as well.

Respectfully submitted, this 21st day of February, 2018,



Ray H. Jenkins, BPR #019113
Attorney for Defendants
9114 Brownlow Newman LN
Knoxville, TN 37914
(865) 548-7456

CERTIFICATE OF SERVICE

I certify that a true and exact copy of the foregoing provided to the Plaintiff's Attorneys, Douglass Dunn and Donald Vowell this 21st day of February, 2018.



Ray H. Jenkins, BPR # 019113

Angelic Board By-Laws

(November 11, 2017)

1. Purpose Statement

The founding purpose of Angelic Ministries is to spread the gospel of Jesus Christ to those in spiritual and physical need in the name of and with the love of Jesus Christ. This purpose forever supersedes all other purposes and programs of the ministry. Furthermore, the IRS 501(C)(3) will be dissolved should this purpose be unsustainable, or is no longer the primary purpose of the ministry.

The secondary purpose of the ministry is to provide housing, accountability, mentoring, life-skills/job training, and spiritual support in a Christ-centered environment for at-risk men. In exchange, these men work at the ministry, providing it with the manpower needed to run the day-to-day operations of the ministry. This secondary purpose forever supersedes any other purposes (except the founding purpose) unless changed by a vote of the Full Board.

2. Board of Directors

A. Composition

- 1) The Board will consist of a minimum of 7 voting members, and a maximum of 13 voting members, but at all times the number shall meet any state and/or federal requirements for non-profits. The minimum or maximum number cannot be changed without a vote of the Full Board.
- 2) All Board Members (including permanent positions) must be professing and practicing Christians, and must at all times be able to affirm and support Angelic Ministries Statement of Faith and Purpose Statement.
- 3) The Executive Director position is a permanent member of the board, and votes on all issues except those pertaining to his/her position.
- 4) The founder of Angelic Ministries (Betsy Frazier) holds a permanent position on the Board. This "Founder's Seat" will pass on to the next person Betsy Frazier assigns. This position is assignable in like manneras long as Angelic Ministries remains an IRS 501(C)(3).
- 5) Mike and Betsy Frazier and their heirs, as long as the property at 1218 N. Central, Knoxville, Tennessee, is loaned to Angelic Ministries (see Letter of Agreement), hold 2 Board positions, or 20% of the Board positions, exclusive of the Founder's Seat, whichever is greater, per the terms of the agreement.

- 6) Other Board members will consist of a broad spectrum of the Christian community, the Knoxville City and Knox County ethnic, racial, and gender makeup, and also represent a wide variety of gifts and skills that can benefit Angelic Ministries.
- 7) At all times, no more than 49% of the Board members shall be compensated in any way by Angelic Ministries, or a lesser amount, if state/federal law requires.

B. Selection, Removal, Resignation, and Terms of Office

- 1) Board Members shall be nominated by current, active members of the Board, and shall be approved by $\frac{3}{4}$ of the Full Board.
- 2) Board Members shall be removed upon Motion by a Board member and a $\frac{3}{4}$ vote of the Full Board, if they can no longer support Angelic Ministries Statement of Faith and/or Vision/Mission Statements, or if they fail to attend in person or on the phone a majority of the Board's annual meetings (unless extenuating circumstances exist and are Board - recognized).
- 3) Board Members shall be removed by a $\frac{3}{4}$ vote of the Full Board for other reasons such as non-Christian conduct, failure to perform Board Member duties, etc.

C. Meetings

- 1) Frequency
 - Meetings will be held a minimum of once/quarter.
 - Meetings will be called by the Chairman of the Board, or in his/her absence, the Board Member appointed by the Board Chair.
 - The first meeting of each year will serve as the annual meeting required by state or federal law.
- 2) Quorum
 - A Quorum will consist of a 51% majority of the Board Members, but in no cases less than 3 Board Members.
 - A quorum does not allow a vote on any of the Board decisions that require a greater number/percent of Board members present, as outlined in other places within this document.
- 3) Agenda
 - Prayer (open and close each meeting)
 - Minutes of Previous Meeting Approved

- Old Business
 - Regular Reports
 - New Business
- 4) Meeting Minutes and Board Decisions
- Meeting minutes shall be taken and kept on file for at least 3 years.
 - Binding Board decisions (binding by formal Board vote) will be kept on file for the life of the organization.

D. Board Decision-Making Responsibility/Authority

- 1) The Board is responsible and has sole authority for
- Setting/Revising the long-term purpose and strategy of the ministry (except where prohibited by the purpose statement).
 - Creating and revising all long-term policies and procedures of Angelic Ministries.
 - Approving/revising the annual budget.
 - Entering into any legal or contractual obligations.
 - Making all decisions whose impact carries over beyond the current fiscal year, or where there is potential legal or public relations ramifications.
 - Major Fundraising strategies and events.
 - The selection, evaluation, and removal of the Executive Director.
- 2) The Board Chair shall be elected by $\frac{3}{4}$ of the Full Board. The Board Chair term shall be 3 years, and can be renewed for as many 3-year terms as the Board approves. The Board Chair will also provide advice, counsel, and direction to the Executive Director in between Board meetings.
- 3) The Board shall delegate day-to-day decision-making responsibility and authority to the Executive Director, who will also directly or indirectly oversee all paid and volunteer positions at the ministry.
- 4) Board decisions are valid if a quorum exists, and if the decision is approved by $\frac{2}{3}$ rd majority of the quorum, except for decisions in the purpose statement or in this document that require a greater degree of Board approval.
- 5) If a quorum does not exist, and a decision must be made for the ongoing operation of the Ministry, a decision may be made by less than a quorum. However, that decision is subject to review and reversal/revision at the next Board meeting where a quorum exists.

3. Modifications to By-Laws

All modifications to these By-Laws must receive approval by the Full Board.

4. Effective Date

These By-Laws become effective on the date approved by the Board as required in paragraph 3.

5. Publication of Board Minutes, Discussions, Deliberations, and Decisions

All Board minutes, discussions, deliberations, and decisions shall remain confidential unless publication is approved by a majority vote of the Board.

DEFINITIONS:

Full Board

When a voting requirement of a “full board” is called for, it requires that 100% of the voting board members vote on the matter, either in-person, in-writing, or over-the-phone when the rest of the board is present.